

# Preparing for a Medicaid Fair Hearing

DISABILITY RIGHTS TEXAS  
2019

## Medicaid Fair Hearings

- Informal
- Typically conducted by phone
- Hearings Officers are not lawyers or medical professionals
- No rules of evidence or procedure
- Usually last 2 to 3 hours

## Resources

- 42 C.F.R. 431 Subpart E (42 CFR 431.200-431.246)
- Texas Uniform Fair Hearing Rules (1 TAC Part 15 Chapter 357)
- HHSC Fraud and Fair Hearing Handbook
- Texas Medicaid Provider Procedures Manual (TMHP)
- MCO policies
- TAC provisions related to the services or benefits at issue

## PRE-HEARING: THE DENIAL NOTICE

- Must be mailed at least 10 days before the date of the intended action, and must include:
  - “A clear statement of the specific reasons supporting the intended action.” 42 C.F.R. 431.210(b).
  - The specific regulations that allegedly support the action. 431.210(c).
  - The date by which a fair hearing must be requested.
  - Information on how to request an internal appeal and a fair hearing.
  - The circumstances under which services will be continued if a hearing is requested. 431.210(e).

## INTERNAL APPEAL vs FAIR HEARING

- An internal appeal and a fair hearing are different
  - The internal appeal provides the health plan the opportunity to review its decision prior to proceeding to fair hearing
  - A different health plan doctor reviews the beneficiary's information, and decides whether the decision to reduce or deny services was correct

## INTERNAL APPEAL & FAIR HEARING TIMELINES

### Internal Appeal

- It is now required that the beneficiary go through the internal appeals process.
- Must request an internal appeal within 60 days from the date of the notice of adverse determination.
- The MCO has 30 days from the receipt of the appeal to make a decision on the appeal.

### Fair Hearing

- Must request a fair hearing within 120 days from the notice of adverse benefit determination.

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15<sup>th</sup> Annual Changes and Trends Affecting Special Needs Trusts session  
"Medicaid Appeals"