

Wyoming Administrative Rules

Health, Department of

Medicaid

Chapter 4: Medicaid Administrative Hearings

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CHAPTER 4
Medicaid Administrative Hearings

Section 1. Authority. This Chapter is promulgated by the Department of Health pursuant to the Medical Assistance and Services Act at Wyoming Statute § 42-4-101, *et seq.*

Section 2. Purpose and Applicability.

(a) This Chapter shall apply to all contested cases involving Medicaid in accordance with Medicaid rules, except as otherwise specified in the Department's Medicaid rules.

(b) The Department may issue manuals and bulletins to interpret this Chapter. The provisions contained in manuals or bulletins shall be subordinate to this Chapter.

Section 3. Definitions. Except as otherwise specified in Chapter 1 of the Wyoming Department of Health's Medicaid Rules, the terminology used in this Chapter is the standard terminology and has the standard meaning used in health care, Medicaid, and Medicare.

Section 4. Right to Hearing.

(a) An applicant has a right to a hearing if their application is denied or not acted upon within the time frames specified by the Department.

(b) A client has a right to a hearing if eligibility or services are denied, reduced, terminated or suspended.

(c) A provider has a right to a hearing regarding an adverse action following the request for reconsideration as specified in Chapter 16 of the Wyoming Department of Health's Medicaid Rules.

(d) Pharmaceutical manufacturers shall have the same rights to a hearing as providers.

Section 5. Notice of Right to Hearing and Adverse Action.

(a) Applicants and clients. The Department shall provide notice at the time of any adverse action. The notice shall include:

(i) An explanation of:

(A) The individual's right to request a hearing; or

(B) An explanation of circumstances where a hearing will be granted

based on a change in the law.

- (ii) The method for requesting a hearing;
- (iii) The individual's right to be represented by a legally authorized representative, including a lawyer admitted to practice in Wyoming, a relative, friend or other spokesperson;
- (iv) Notice that the individual shall notify the Department in writing that they will be represented;
- (v) The intended action;
- (vi) The effective date of the intended action;
- (vii) The reason(s) for the intended action;
- (viii) The specific regulations that support, or the change in federal or state law that requires the action;
- (ix) Where applicable, an explanation of the circumstances under which benefits may be continued if a hearing is requested pursuant to 42 C.F.R. § 431.231.

(b) Providers. The Department shall notify a provider of the right to a hearing following the request for reconsideration, at the time of the notice of adverse action, except when issuing a notice of claims payment or denial. The notice shall include:

- (i) A statement of the intended action;
- (ii) The effective date of the intended action;
- (iii) The reason(s) for the intended action;
- (iv) The specific regulations that support, or the change in federal or state law that requires the action;
- (v) The right to representation by a lawyer admitted to practice in Wyoming.

Section 6. Time of Notice.

(a) Applicants. The Department shall mail the notice after a final determination is made.

(b) Clients. The Department shall mail notice of adverse action at least ten (10) business days before the effective date, except:

(i) The Department may mail notice, not less than five (5) business days before the effective date if, the circumstance indicate probable fraud by a client, and if possible, there are facts that have been verified through secondary sources.

(ii) The Department may mail notice not later than the effective date if:

(A) The Department has been notified that a client is deceased;

(B) The Department receives a clear written statement signed by a client that:

(I) The client no longer wishes to receive services; or

(II) Provides information which requires termination or reduction of services. The statement must also include that the client understands that by providing the Department with the information, immediate termination or reduction of the client's services will result;

(C) The client has been admitted to an institution where the client is ineligible under the plan for further services.

(D) The client's whereabouts are unknown and the Department's mail is returned, indicating there is no forwarding address;

(E) The Department establishes that the client has been accepted for benefits by another local jurisdiction, state, territory or commonwealth;

(F) A change in the level of medical care is prescribed by the client's physician; or

(G) The notice involves an adverse determination based on preadmission screening requirements for individuals with mental illness or intellectual disability.

(c) Providers.

(i) The Department shall notify a provider of the denial or reduction of payments after the denial or reduction.

(ii) The Department shall notify a provider of a termination, suspension or other adverse action in accordance with Chapter 16 of the Wyoming Department of Health's Medicaid Rules.

Section 7. Request for Hearing.

(a) A client's request for a hearing shall be submitted electronically via email to the

Department, made verbally to the Department, mailed to the Department via certified mail, return receipt requested, or personally delivered to the Department within twenty (20) business days after the mailing of the notice of adverse action.

(b) A provider's request for a hearing shall be mailed via certified mail, return receipt requested, or personally delivered to the Department within twenty (20) business days after the mailing of the notice of adverse action.

(i) A provider's request for hearing shall state with specificity the reasons for the request. Failure to provide a statement of reasons shall result in the dismissal of the request with prejudice.

Section 8. Procedure after Request for Hearing.

(a) The Department shall evaluate the request and, within ten (10) business days following the receipt of the request notify the requesting party in writing whether the request has been accepted or rejected.

(b) Denial of hearing.

(i) The Department may deny a request for hearing if the action complained of is not an adverse action as defined, or the request does not meet the requirements of this Chapter.

(ii) A denial of a request for hearing is a final decision of the Department.

Section 9. Maintaining Services Pending Appeal.

(a) If the Department mails the required notice and the client requests a hearing before the effective date of the action, the Department may not terminate or reduce services until the final decision is rendered after the hearing unless:

(i) The Hearing Officer determines at the hearing that the sole issue is one of federal or state law or policy; and

(ii) The Department promptly informs the client in writing that services are to be terminated or reduced pending the final decision.

(b) If the adverse action is affirmed, the Department may institute recovery procedures against the client to recoup the cost of any services or goods furnished to the client, to the extent they were furnished solely by reason of this section, and may recover any overpayments made to a provider pursuant to 42 C.F.R. § 431.230(b).

(c) The Department shall reinstate and continue services until a decision is rendered if the action resulted from other than the application of federal or state law or policy pursuant to 42 C.F.R. § 431.231(c)(3).

Section 10. Hearing Procedures. In addition to the specific Sections to follow, all contested case hearings shall be conducted in accordance with the Office of Administrative Hearings Rules, specifically Chapter 2 of the Uniform Rules for Contested Case Practice and Procedure.

Section 11. Timing of Hearing. A hearing shall be held within forty (40) days of the request for hearing unless otherwise provided by law, by agreement of the parties, or if a contestant requests a continuance.

Section 12. Representation.

(a) Any applicant, client, or provider has the right to represent themselves, to be represented by a lawyer admitted to practice in Wyoming, or, by an authorized representative, if the contestant is an applicant or client.

(i) The contestant shall notify the Department in writing if the contestant intends to be represented for the hearing.

(ii) A non-lawyer authorized to represent an applicant or client may advocate for the applicant or client in a representative capacity, draft pleadings or other documents. However, this section does not authorize a person, who is not a lawyer admitted to practice in Wyoming, to provide legal advice or services, or represent any person before the courts of the State of Wyoming.

(b) A provider which is a corporation, professional corporation, limited liability company, partnership, governmental entity, or any other legal entity, may appear and be represented by a lawyer admitted to practice in Wyoming.

(c) If the contestant is represented by an attorney, payment of attorney's fees and costs associated with the representation are the responsibility of the contestant.

Section 13. Decisions.

(a) The hearing officer shall make proposed findings of fact and conclusions of law within twenty (20) business days of the close of the hearing and forward them to the Director for the final decision. This time may be extended if the parties or other interested persons are to submit briefs; but may not be extended by more than ten (10) working days, unless the parties stipulate, in writing or on the record at the hearing, to a later date.

(i) Within ten (10) business days of the close of the hearing, or such additional time as the hearing officer may allow, each party shall be allowed to file with the hearing officer any proposed findings of fact and conclusions of law, together with a supporting brief. Such proposals and briefs shall be served on all other parties.

(ii) Within ten (10) business days after the issuance of the hearing

officers proposed findings of fact and conclusions of law, any of the parties may submit exceptions. Such exceptions shall be filed with the Director and served on all other parties.

(b) Within ten (10) business days after the period for submitting exceptions, the Director shall make and enter into the record the final decision. The final decision shall be served on all parties to the proceedings.

Section 14. Appeals. Appeals from a final decision of the Department shall be in accordance with W.S. § 16-3-114 through 16-3-115, and Rule 12 of the Wyoming Rules of Appellate Procedure.

Section 15. Transcripts and Record.

(a) When a contested case is set for hearing, the Department shall assign a docket number to the case and enter the case with its number and date of filing on a docket. The Department shall maintain a separate file for each docketed case in which all pleadings, transcriptions, correspondence, papers, and exhibits for that case shall be maintained. All items shall have noted thereon the assigned docket number and the date of filing.

(b) All contested case hearing proceedings shall be recorded, electronically, through the use of a qualified court reporter, or any other appropriate means determined by the agency or the hearing officer. Transcriptions of oral proceedings or written transcripts of a witness's testimony may be obtained by contestant from the Department upon payment of the cost.

(i) In a nonpublic investigatory proceeding, requests for copies or transcripts may be limited to testimony of the requesting party.

(ii) Where a contestant can demonstrate indigence and cannot effectively perfect his or her appeal without a transcript, the Department may waive the payment of the fee.

(c) A stipulation resolving the matter shall not be part of the record unless otherwise agreed by the parties.

Section 16. Incorporation by Reference.

(a) For any code, standard, rule, or regulation incorporated by reference in these rules:

(i) The Department of Health has determined that incorporation of the full text in these rules would be cumbersome or inefficient given the length or nature of the rules.

(ii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in this section; and

(iii) The incorporated code, standard, rule, or regulation is maintained at the Department of Health and is available for public inspection and copying at cost at the same location.

(iv) The Department incorporates the administrative practice and procedure rules found in Chapter 2 of the Uniform Rules for Contested Case Practice and Procedure adopted by the Office of Administrative Hearings and effective July 20, 2017 found at: <http://soswy.state.wy.us/Rules/RULES/9644.pdf><https://rules.wyo.gov>, Reference Number 270.0001.2.07202017.