



PRO BONO LEGAL SERVICES PROGRAM - MEDICAID APPEALS

What are Medicaid Appeals?

Disability Rights North Carolina represents individuals with disabilities in their appeals of “adverse determinations”—i.e., denials, terminations, suspensions, or reductions—related to their requests for Medicaid services. Medicaid appeals are heard by an Administrative Law Judge in the Office of Administrative Hearings (OAH).

What happens before the hearing?

A person has the right to appeal an adverse Medicaid determination when they receive a written Notice of Decision. In appeals involving managed care, a Local Management Entity/Managed Care Organization (LME/MCO) contracts with the Department of Health & Human Services (DHHS) to provide Medicaid services and is the entity that decides requests for services. The recipient files an appeal by submitting a Hearing Request form provided with the Notice of Decision. After an appeal is filed, the LME/MCO must reconsider the appellant’s request and any additional documentation and render a decision within 45 days.

Pre-hearing mediation is automatically offered in every appeal but not mandatory. If mediation does not resolve the case, it goes to a hearing before OAH, which generally must hear the case within 55 days after the request for appeal. During that time, the parties conduct informal discovery; the recipient is entitled to see DHHS’s entire file and required to produce any documentation that supports their case.

What happens at the hearing?

Hearings before OAH are trials: both parties submit documents, present witnesses, and make legal arguments to the ALJ. The hearing is conducted remotely by video or telephone unless the appellant requests an in-person hearing. DHHS is the Respondent in a Medicaid appeal and is represented by an Assistant Attorney General. The appellant has the burden to prove by a preponderance of the evidence that DHHS or the LME/MCO erred in denying medically necessary services. Following the hearing, the ALJ will issue a written decision containing findings of facts and conclusions of law.

Why should I take a Medicaid appeal pro bono?

Medicaid appeals are a great opportunity to do good while gaining valuable training as an attorney. Although time commitment varies based on the complexity of the case, Medicaid appeals offer real trial experience—including witness examination and argument before a judge—in a timeframe that is generally shorter than for litigation in civil or criminal court. Disability Rights NC will co-counsel with pro bono attorneys to ensure they have the support they need, and offers a range of training programs on practicing Medicaid appeals.

I want to do pro bono work with Disability Rights NC. What are the next steps?

For more information or to get involved, contact Elaine Whitford at elaine.whitford@disabilityrightsn.org or 919-856-2195.

Disability Rights North Carolina is a federally-mandated protection and advocacy system with funding from the U.S. Department of Health and Human Services, the U.S. Department of Education, and NC IOLTA. It is a 501(c)(3) nonprofit corporation.