MEDICAID ADMINISTRATIVE HEARINGS WITH THE MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES (MDHHS)

Medicaid Appeals of adverse decisions made by Managed Care Health Plans, MI Health Link (Medicaid benefits only), Community Mental Health, Pre-paid Inpatient Health Plans, or MI Choice Waiver recipients.

You have a Right to Request a State Fair Hearing if:

- You are a Medicaid recipient and one of the above-mentioned agencies issued an adverse benefit decision[1]:
  - Denying or limiting the authorization of a requested service.
  - Reducing, suspending, or terminating a previously authorized service.
  - Denying, in whole or in part, the payment for a service.
  - Failure to provide service in a timely manner.[2]
  - Failure to resolve a grievance and provide notice to the affected parties within 90 days of receipt of the grievance.
  - Failure to resolve a local appeal and notice the affected parties within 30 days of receipt of the local appeal.
  - For residents in rural areas with only one managed care organization, the denial of his or her right to obtain services outside of the network.
  - Denial of an enrollee's request to dispute a financial liability, including cost sharing, copayments, premiums, deductibles, coinsurance, and other enrollee financial liabilities.

1 42 CFR 438.400(b)(1)-(7).
2 Timely manner is defined as 14 days from the authorization of the service under the State's Contract with the managed care organizations.

Local Appeal Requirement

- The local appeal is the first step of contesting an adverse benefit decision and must be completed before filing for a State Fair Hearing.
- You have 60 calendar days from the date of the written Notice of Adverse Benefit Determination to request a local appeal.[3]
- If you are a Medicaid recipient and request your local appeal within ten days of the adverse benefit decision, you will continue to receive your benefits until a hearing decision is reached (subject to limited exceptions).[4]
- You may request a local appeal orally or in writing.[5]
    - Oral appeals must be confirmed in writing unless the provider requests expedited resolution.
- At your local appeal you should have an opportunity, in person or in writing, to present evidence and testimony and make legal and factual arguments.[6]
- Notice of the decision on your local appeal must be provided within 30 calendar days from the date the appeal is received.[7]
- All local appeal decisions must be in writing and include[8]:
    - The results of the resolution and the date it was completed.
    - If the appeal is not wholly in favor of the consumer:
        - The right to a State Fair Hearing, and how to do so.
        - The right to request and receive continuing benefits while the hearing is pending, and how to make the request
        - Notice that the consumer may be liable for the cost of continuing benefits if the Administrative Law Judge (ALJ) upholds the adverse benefit decision.

How to Ask for a State Fair Hearing:

- You ***must*** file a local appeal and obtain an adverse decision before you can file for a State Medicaid Fair Hearing.
    - If you do not receive a decision on your local appeal request within 30 calendar days from the date the agency receives the appeal, and no extension has been granted, you may file a request for a fair hearing without obtaining a decision on your local appeal.
- A request for a State Fair Hearing must be in writing and it is recommended that you use the State approved form (MDHHS-5617-MAHS) for requesting a hearing. *See* Exhibit 1.

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3 42 CFR 438.402(c)(2)(ii).
4 42 CFR 431.230(a).
5 42 CFR 438.402(c)(3)(ii); 42 CFR 438.406(b)(3).
6 42 CFR 438.406(b)(4).
7 42 CFR 438.408(b)(2).
8 42 CFR 438.408(e)

- You must state the reason you are requesting a State Fair Hearing and sign the hearing request.
- You may have someone represent you at the hearing. The person representing you does not need to be an attorney.
    - The person representing you must be at least 18 years old and you must give them permission to represent you.

Hearing Request Timelines

- You must request a State Fair Hearing within 120 calendar days from the date of the notice of resolution of the local appeal decision.[9]
- If you are a Medicaid recipient and request your hearing within ten days of the local appeal decision, you will continue to receive your benefits until a hearing decision is reached (subject to limited exceptions).[10]
    - It is important to note, if MDHHS's decision is found to be correct, you may be responsible for paying back benefits you are determined to be not entitled to.

Before the Hearing

- You should get a notice in the mail with the date, time and location of the hearing. It will usually be held at the agency's local office with the judge appearing by telephone.
- The notice will tell you about your rights at the hearing. You may represent yourself or have an attorney, friend or other advocate do it for you. You would need to notify the Michigan Administrative Hearings System (MAHS) if someone will be representing you.
- If you cannot attend, contact MAHS to postpone. The notice will also say if the hearing will be by phone or in person. Your hearing will most likely be by phone but that can be changed if you send a request, in writing, to MAHS asking for an in-person hearing.
- If you need transportation or childcare while you are at the hearing you need to contact your case manager, social worker, or support coordinator. If this is not helpful, you may contact MAHS and request an accommodation.
- If your disability prevents you from fully participating in the hearing process and you need accommodations, you should request accommodations along with your request for hearing. *See* Exhibit 1, Section 1.
    - You may also submit a disability accommodation request using the MAHS ADA Request Form. *See* Exhibit 2.

9 42 CFR 438.408(f)(2).
10 42 CFR 431.230(a).

- If you have been denied an accommodation and think the denial was unlawful, you may file a complaint with the Michigan Department of Civil Rights. They may be contacted at:

  Michigan Department of Civil Rights
  110 W. Michigan Ave., Suite 800
  Lansing, MI 48933
  517.335.3165

- You should be provided with everything the agency that made the adverse benefit decision used to make its decision at least seven days before the hearing.
- You can provide any additional information you feel is relevant to the need for the services. When you submit additional information, be sure to reference the beneficiary's name and provide the case number and date of hearing (if you have it) on the cover sheet. Additional information should be submitted via mail (no email) or fax to:

  Michigan Administrative Hearing System
  PO Box 30763
  Lansing, MI 48909
  Fax 517.763.0146

- You have the right to call witnesses at the hearing and should arrange for those witnesses to come to the hearing. If a witness refuses to appear, you may request, in writing, that the ALJ subpoena[11] someone to testify at your hearing. Make sure you keep a copy of all documents you send to MAHS for your records.
- Be sure to submit your evidence to the ALJ before the hearing. Bring at least two copies of everything you want to be admitted into evidence. Once copy is for your reference and the other is for the agency's representative.
- It is a good idea to arrange everything you want to submit with page numbers so documents are easy for you to find and refer to at the hearing. A cover sheet that lists the title of each item in order is also helpful. Remember that the ALJ will likely be appearing over the phone so you should consider this when making your argument and referring to documents that have been submitted to MAHS.

11 A subpoena requires a witness's attendance at a hearing.

At the Hearing

- The hearing is tape-recorded. It begins with instructions from the ALJ. The judge will ask you to state and spell your name for the record and will swear in all witnesses who will be testifying.
- Each side can make an opening statement. The opening statement is not required, but it is a good idea to make a short statement letting the judge know what services are being affected.
    - Do not assume the judge has read all the information submitted before the hearing. Argue your case as if the ALJ knows nothing about you or the person you represent.
- All evidence that has been submitted will have to be entered into the record by the ALJ. You or your representative will have the opportunity to object to any information offered by the agency's representative.
- Usually the agency making the adverse benefit decision will give their argument first and will call their witnesses during this argument. You or your representative will have the opportunity to ask questions of any witness the agency's representative calls.
- You or your representative will then argue your side and can present any witnesses you have. The agency's representative will have the right to ask questions of your witnesses.
- Make sure everything you think is important is said or entered into evidence at the hearing so it will go into the record. If it is not, the ALJ will not consider it in making his or her decision.
- Both sides have the option to make closing statements. If you chose to make a closing statement, try to summarize what has been presented as evidence and make a final request regarding what action you would like the ALJ to take in the case.

The Decision

- The ALJ does not usually give a decision at the end of the hearing. Typically, the ALJ will issue a written decision and mail it to you and your representative.
- If you disagree with the ALJ's decision, you may appeal. The appeal rights will be on the last page of the Decision and Order.

Other Tips

- Try very hard to get to the hearing on time.
- Do not try to talk with the ALJ before the hearing. Do not interrupt when other people speak in the hearing.
- Answer all questions as honestly as you can, even if you say, "I don't know."
- Do not eat, drink or smoke during the hearing.

This information is a service of Disability Rights Michigan (DRM). It provides general information, based on the law at the time we wrote it, and is not legal advice. You do not have an attorney-client relationship with DRM. If you need legal advice, you should contact an attorney. If you would like more information about this topic or would like to receive this information in an alternative format call DRM at 800.288.5923 or visit our website, www.drmich.org.

Disability Rights Michigan (DRM) is mandated by federal and state law to protect the legal rights of individuals with disabilities in Michigan. DRM receives part of its funding from the Administration on Intellectual and Developmental Disabilities, the Center for Mental Health Services-Substance Abuse and Mental Health Services Administration (SAMHSA), the Rehabilitation Services Administration and the Social Security Administration.

Updated August 2020

EXHIBIT

1

REQUEST FOR HEARING FOR MEDICAID ENROLLEES, PACE ENROLLEES OR WAIVER APPLICANTS

Michigan Office of Administrative Hearings and Rules
Michigan Department of Health and Human Services
PO Box 30763, Lansing, MI 48909
Telephone Number: 800-648-3397 Fax: 517-763-0146

SECTION 1: TO BE COMPLETED BY THE PERSON REQUESTING A HEARING

Client Name			Client Telephone No.	Client Social Security No.
Client Address (No. and Street, Apt. No.)				Medicaid ID No.
City	State	Zip Code	Client or Legal Guardian Signature	Date
What agency took the action or made the decision that you are appealing? Make sure to attach a copy of the letter from the agency that told the client about their decision.				Client MDHHS Case No.

I WANT TO REQUEST A HEARING: The following are my reasons for requesting a hearing. **Use additional sheets if needed.**

Do you have a physical disability or other condition requiring special arrangements for you to attend or participate in a hearing?
☐ No ☐ Yes (If yes, please explain here.)

Will you need an interpreter?
☐ No ☐ Yes (If yes, language needed:)

SECTION 2: HAVE YOU CHOSEN SOMEONE TO REPRESENT YOU AT THE HEARING?

Has someone agreed to represent you at this hearing?
☐ No ☐ Yes (If Yes, have the representative complete and sign Section 3.)

SECTION 3: AUTHORIZED HEARING REPRESENTATIVE INFORMATION

Name of Representative (please print)	Representative Telephone No.	Relationship to Enrollee	
Address (No. and Street, Apt. No.)	City	State	Zip Code
Representative Signature		Date Signed	

SECTION 4: AGENCY INVOLVED IN THE ACTION BEING DISPUTED BY THE CLIENT

Name of Agency			Agency Contact Person Name
Agency Address (No. and Street, Apt. No.)			Agency Telephone Number
City	State	Zip Code	State Program or Service being provided to this client

REQUEST FOR HEARING FOR MEDICAID ENROLLEES, PACE ENROLLEES OR WAIVER APPLICANTS INSTRUCTIONS

A hearing is an impartial review of a decision made by the Michigan Department of Health and Human Services or one of its contract agencies that a client believes is wrong.

This form is to ask for a hearing if you are a Medicaid enrollee, or a PACE enrollee, or a Medicaid waiver applicant when the action has been taken by MDHHS or one of its contract agencies. You can also send in your signed hearing request in writing on any paper. This form is also available online at: www.michigan.gov/mdhhs >> Assistance Programs >> Medicaid >> Program Resources >> Michigan Office of Administrative Hearings and Rules for the Department of Health and Human Services or www.michigan.gov/LARA >> Bureau List >> Michigan Office of Administrative Hearings and Rules >> Benefit Services Hearings.

Do not use this form to appeal an action

- Taken by a Medicaid, Healthy Michigan Plan or MI Health Link health plan, Community Mental Health Services Program / Prepaid Inpatient Hospital Plan (CMHSP/PIHP), Healthy Kids Dental health plan, or MI Choice Waiver Agency. You must go through their internal appeals process first before you ask for a MDHHS-5617-MOAHR, Request for State Fair Hearing form. This form is also available online at the links above.
- Related to program eligibility, cash assistance, food assistance, or other assistance programs. Use the DHS-18, Request for Hearing form available online at www.michigan.gov/mdhhs >> Doing Business with MDHHS >> Forms and Applications >> Other, or go to www.michigan.gov/documents/FIA-Pub18_14356_7.pdf to download the form.

GENERAL INSTRUCTIONS

- Read ALL instructions before completing the attached form.
- Complete Section 1 using the name of the client (even if the client has a guardian or is a minor).
- Complete Sections 2 & 3 only if the client wants someone to represent them at the hearing.
- Complete Section 4 if the agency who took the action you are appealing did not fill this out.
- Attach a copy of the notice or letter from the Agency that told the client about the change that is being appealed.
- Please make a copy for your records.
- Questions can be answered by calling toll free: **800-648-3397**.
- After the form is completed, mail or fax page 1 to:

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES
PO BOX 30763
LANSING MI 48909
Fax 517-763-0146

- The client may choose to have another person represent them at a hearing.
  - This person can be anyone the client chooses but must be at least 18 years of age.
  - The client must give this person written permission to represent them.
  - The client may give written permission by checking yes in Section 2 and having the person who is representing them complete Section 3. The client must still complete and sign Section 1.
  - The client's guardian or conservator may represent them. A copy of the court order naming the guardian or conservator must be included with this request.

Completion: Is Voluntary.	

Michigan Department of Health and Human Services (MDHHS)

Please note if needed, free language assistance services are available.

Call 877-833-0870 (TTY users call TY: 711).

Spanish	ATENCIÓN: si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística. Llame al 877-833-0870 (TTY 711).
Arabic	ملحوظة: إذا كنت تتحدث اذكر اللغة، فإن خدمات المساعدة اللغوية تتوافر لك بالمجان. اتصل برقم 877-833-0870 (رقم هاتف الصم والبكم:- TTY 711).
Chinese	注意：如果您使用繁體中文，您可以免費獲得語言援助服務。請致電 877-833-0870 (TTY 711)
Syriac (Assyrian)	ܙܘܗܪܐ: ܐܢ ܐܢܬ ܟܐ ܡܡܠܠܬ ܠܫܢܐ ܐܬܘܪܝܐ، ܟܐ ܐܝܬ ܠܘܟ ܚܕܡܬ̈ܐ ܕܗܝܪܬܐ ܒܠܫܢܐ ܡܓܢܢܐܝܬ. ܩܪܝ ܥܠ ܡܢܝܢܐ 877-833-0870 (TTY 711)
Vietnamese	CHÚ Ý: Nếu bạn nói Tiếng Việt, có các dịch vụ hỗ trợ ngôn ngữ miễn phí dành cho bạn. Gọi số 877-833-0870 (TTY 711).
Albanian	KUJDES: Nëse flitni shqip, për ju ka në dispozicion shërbime të asistencës gjuhësore, pa pagesë. Telefononi në 877-833-0870 (TTY 711).
Korean	주의: 한국어를 사용하시는 경우, 언어 지원 서비스를 무료로 이용하실 수 있습니다. 877-833-0870 (TTY 711)번으로 전화해 주십시오.
Bengali	লক্ষ্য করুনঃ যদি আপনি বাংলা, কথা বলতে পারেন, তাহলে নিঃখরচায় ভাষা সহায়তা পরিষেবা উপলব্ধ আছে। ফোন করুন ১-877-833-0870 (TTY 711)
Polish	UWAGA: Jeżeli mówisz po polsku, możesz skorzystać z bezpłatnej pomocy językowej. Zadzwoń pod numer 877-833-0870 (TTY 711).
German	ACHTUNG: Wenn Sie Deutsch sprechen, stehen Ihnen kostenlos sprachliche Hilfsdienstleistungen zur Verfügung. Rufnummer 877-833-0870 (TTY 711).
Italian	ATTENZIONE: In caso la lingua parlata sia l'italiano, sono disponibili servizi di assistenza linguistica gratuiti. Chiamare il numero 877-833-0870 (TTY 711).
Japanese	注意事項：日本語を話される場合、無料の言語支援をご利用いただけます。877-833-0870（TTY 711）まで、お電話にてご連絡ください
Russian	ВНИМАНИЕ: Если вы говорите на русском языке, то вам доступны бесплатные услуги перевода. Звоните 877-833-0870 (телетайп 711).
Serbo-Croatian	OBAVJEŠTENJE: Ako govorite srpsko-hrvatski, usluge jezičke pomoći dostupne su vam besplatno. Nazovite 877-833-0870 (TTY Telefon za osobe sa oštećenim govorom ili sluhom 711).
Tagalog	PAUNAWA: Kung nagsasalita ka ng Tagalog, maaari kang gumamit ng mga serbisyo ng tulong sa wika nang walang bayad. Tumawag sa 877-833-0870 (TTY 711).

The Michigan Department of Health and Human Services (MDHHS) does not discriminate against any individual or group because of race, religion, age, national origin, color, height, weight, marital status, genetic information, sex, sexual orientation, gender identity or expression, political beliefs or disability. Further, MDHHS:

- Provides free aids and services to people with disabilities to communicate with us, such as:
  - Qualified sign language interpreters
  - Written information in other formats (large print, audio, accessible electronic formats, other formats); and
- Provides free language services to people whose primary language is not English, such as:
  - Qualified interpreters
  - Information written in other languages

If you need these services, contact the Section 1557 Coordinator. The contact information is found below.

If you believe that MDHHS has not provided the above services, or discriminated in another way, you can file a grievance with the Section 1557 Coordinator. You can file a grievance in person or by mail, fax, or email. If you need help filing a grievance, the Section 1557 Coordinator is available to help you.

MDHHS Section 1557 Coordinator
Compliance Office, 4th Floor
P.O. Box 30195
Lansing, MI 48909

517-284-1018 (Main), TTY 711, 517-335-6146 (Fax)

You can also file a civil rights complaint with the responsible federal agency.

If your grievance or complaint is about your Medicaid application, benefits or services you can file a civil rights complaint with the U.S. Department of Health and Human Services at https://bit.ly/2pBS4YG, or by mail or phone at: U.S. Department of Health and Human Services 200 Independence Avenue, SW Room 509F, HHH Building Washington, D.C. 20201 800-368-1019, 800-537-7697 (TDD) Complaint forms are available at https://bit.ly/2IKsHMS.	If your grievance or complaint is about your application for or current food assistance benefits, you can file a discrimination complaint with the U.S. Department of Agriculture (USDA) Program by: Completing a Complaint Form, (AD-3027) found online at: https://bit.ly/2g9zzpU or at any USDA office, or write a letter addressed to USDA at the address below. In your letter, provide all the information requested in the form. To request a copy of the complaint form, call 866-632-9992. Send your completed form or letter to USDA by mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410 Fax: 202-690-7442; or Email: program.intake@usda.gov

MDHHS is an equal opportunity provider.

EXHIBIT

2

Disability Accommodation for MAHS Hearings
Michigan Administrative Hearing System
Licensing and Regulatory Affairs

To be completed by Claimant:

Name: Hearing Date: Judge: Hearing Location/ Address:	Today's Date: Case Name: Docket/Case Number:

Accommodations	
☐	Translator ☐ Visually Impaired ☐ Hearing Impaired
☐	Reader
☐	Braille
☐	Large Font
☐	Recording
☐	Digital File
☐	Other Accommodation(s) needed to effectively participate in hearing:

To be completed by LARA/MAHS Staff:

Administrative Support Date:

Office Administrator: Date of Receipt:

Date Submitted to ADA Title II Coordinator:

Date Returned to MAHS: Date Completed:

Recommendations from ADA Title II Coordinator

☐ Request Approved ☐ Request Denied

Additional Comments: