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 beneficiaries 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. One 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 witnesses 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 choose 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 STATE FAIR HEARING

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

This form is for enrollees in a Managed Care Health Plan, MI Health Link* Plan, Community Mental Health Services Program (CMHSP)/Prepaid Inpatient Health Plan (PIHP), Healthy Kids Dental Health Plan or MI Choice Waiver Program

SECTION 1 – To be completed by the PERSON REQUESTING A STATE FAIR HEARING

Enrollee Name	Enrollee Telephone Number	Enrollee Social Security Number	
Address (No.& Street, Apt. No.)	City	State	Zip Code
Enrollee or Legal Guardian Signature	Enrollee Medicaid ID Number		Date Signed

☐ Managed Care Health Plan ☐ MI Health Link (*for Medicaid benefits only) ☐ CMHSP/PIHP
☐ Healthy Kids Dental health plan ☐ MI Choice Waiver

Name of Health Plan, CMHSP/PIHP or Waiver Agency that took the action: _____

Date of Notice of Appeal Decision (please include a copy of the notice): _____

☐ As of today's date, I have not received a Notice of Appeal Decision. I sent in an Internal Appeal on: _____

I am asking for a State Fair Hearing because: Use additional paper if needed.

_____

_____

_____

_____

Do you have physical or other conditions requiring special arrangements for you to attend or participate in a hearing?

☐ **No**
☐ **Yes** (If yes, please explain here.) _____

SECTION 2 – Have you chosen someone to represent you at the hearing?

Has someone agreed to represent you at a 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 Number	Relationship to Enrollee	
Address (No.& Street, Apt. No.)	City	State	Zip Code
Representative Signature	Date Signed		

SECTION 4 – To be completed by the AGENCY involved in the action being disputed by the enrollee

Name of AGENCY			AGENCY Contact Person Name
AGENCY Address (No.& Street, Apt. No.)			AGENCY Telephone Number
City	State	ZIP Code	State Program or Service being provided to Enrollee

REQUEST FOR STATE FAIR HEARING

This form is for enrollees in a Managed Care Health Plan, MI Health Link Plan (*for Medicaid benefits only), Community Mental Health Services Program (CMHSP)/Prepaid Inpatient Health Plan (PIHP), Healthy Kids Dental Health Plan or MI Choice Waiver Program

INSTRUCTIONS

A State Fair 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 an enrollee believes is wrong.

If you are enrolled in a Managed Care Health Plan, MI Health Link, CMHSP/PIHP, Healthy Kids Dental Health Plan or MI Choice Waiver program you MUST finish their internal appeal process before you can ask for a State Fair Hearing. If you do not receive a Notice of Appeal Decision within the mandated timeframe, you may also ask for a State Fair Hearing. You may 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 Administrative Hearing System for the Department of Health and Human Services or www.michigan.gov/LARA >> MI Administrative Hearing System >> Benefit Services.

If you asked for your benefit(s) to continue during the internal appeal process and you want them to continue during the State Fair Hearing process, you must ask for the State Fair Hearing and the Michigan Administrative Hearing System (MAHS) must receive your request within 10 calendar days of the date on the Notice of Appeal Decision.

General Instructions:

- Read ALL instructions before completing the attached form.
- This form should not be used for a request for a hearing related to:
  - Public Assistance (Medicaid eligibility, cash assistance, food assistance, or other assistance programs). For these hearing types, you must use form DHS-18, Request for Hearing available online at http://www.michigan.gov/documents/FIA-Pub18_14356_7.pdf .
  - A decision that does not involve a managed care entity on a Medicaid service or your application for a MI Choice Waiver program. For these hearings types you must use form DCH-0092, Request for Hearing for Medicaid Enrollees or Waiver Applicants available online at: www.michigan.gov/mdhhs >> Assistance Programs >> Medicaid >> Program Resources >> Michigan Administrative Hearing System for the Department of Health and Human Services or http://www.michigan.gov/mdhhs/0,5885,7-339-71547_4860-16825--,00.html.
- Please attach a copy of the Notice of Appeal Decision that you received from your managed care organization.
- Complete **Section 1** using the name of the enrollee (even if the enrollee has a guardian or is a minor).
- Complete **Section 2 and 3** only if you want someone to represent you at the hearing.
- Complete **Section 4** if the agency who took the action you are appealing did not fill this out.
- Please make a copy of this completed form for your records.
- If you have any questions, call: **517-335-7519 or** toll free at **800-648-3397**.
- After you complete this form, mail or fax (**no email**) to:

MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
PO BOX 30763
LANSING MI 48909
Fax: 517-763-0146

- You may choose to have another person represent you at a hearing.
  - This person can be anyone you choose but he/she must be at least 18 years of age.
  - You MUST give this person written and signed permission to represent you.
  - You may give written permission by checking **Yes** in **Section 2 and having the person who is representing you complete Section 3. You MUST still complete and sign Section 1.**
  - Your guardian or conservator may represent you. **A copy of the court order naming the guardian must be included with this request or it cannot be processed.**

If you do not understand this, call the Michigan Department of Health and Human Services at 877-833-0870.
Si no entiende esta información comuníquese al Michigan Department of Health and Human Services al 877-833-0870.
(وزارة الصحة والخدمات Michigan Department of Health and Human Services إذا كنت لا تفهم هذا، فعليك الاتصال بـ 877-833-0870 على رقم الهاتف الإنسانية) .

877-833-0870

Completion: Is Voluntary

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: