

Wood County Board of Developmental Disabilities

PROCEDURE

Procedure #: 02-ALL-ALL-0604 (CR) Subject: Medicaid Due Process
Effective Date: 03-01-01 Last Revision: 1/19/2023
Person Responsible: Director of Service & Support Administration

Approvals/Date:

Brent Ober 1/19/23
Superintendent, WCBDD Date

Amy Brinkman 1/19/2023
Department Director Date

The following definitions will apply:

Adverse Actions – Approval, denial, reduction, and termination.

Eligible Individual – Medicaid eligible individual who meets TCM eligibility requirements per OAC 5160-48-01 and OAC 5123:4-02, or Medicaid Home and Community-Based Service (HCBS) Waiver eligibility as per OAC 5160-40, OAC 5160-41-17, OAC 5160-42-01 and OAC 5123-2-9-01 or PASSR placement per, OAC 5160-31-03.

Authorized Representative – Responsible party named by the individual to receive a copy of the notification and/or act on behalf of individual; county agency shall assist the individual in naming a responsible party when the person appears to be unable to understand or exercise the right to a state hearing due to factors such as limited mental capability or language barriers. Examples of authorized representative are legal or natural guardian or parent, legal counsel, relative, friend.

Good Cause – Circumstances which may justify delay in making a timely request for a state hearing, including death in the immediate family, sudden illness or injury of the individual or a member of the individual's immediate family, or other circumstances which reasonably prevented requesting a hearing within the 15-day period.

TCM is a part of Ohio's Medicaid plan. All services billed are medically necessary.

1. Persons served, when eligible, have their services funded through Medicaid (TCM, HCBS Waiver.) Whenever services funded through Medicaid are initiated, the **Service & Support Administrator (SSA)** of the individual's plan will provide written information to the individual, the parent of a minor, or the legal guardian regarding his/her Medicaid due process rights.

2. The **SSA** of the individual's plan will also provide written notification of Medicaid due process rights using **WCBDD Medicaid Due Process Brittco Form #03-ALL-ALL-1020** to person served, parent of a minor, or legal guardian whenever any adverse action (approval, denial, reduction or termination) regarding services funded through Medicaid is proposed. The notification will include a description of the action to be taken, the reasons for the action, the date of the action and the applicable regulations. This notification will be made **either in person, mail or electronic mail delivery** at least fifteen (15) days prior to the effective date of the proposed action.

3. Person served, the parent of a minor or the legal guardian will be informed that s/he may appeal the proposed adverse action directly to the Ohio Department of Job and Family Services, as found in Chapters 5160-80-1 through 5160-80-9 of the Ohio Administrative Code. In order to avoid unnecessary state hearings, the local county agency, the Wood County Department of Job and Family Services, also provides an opportunity to discuss and/or resolve disagreements. An explanation of how to initiate these appeal processes will be included with the notification of adverse action along with the telephone number of a person who can answer questions. Accessing a state hearing does not require requesting a county conference at the Wood County Department of Job and Family Services.

4. If the **SSA** of the individual's plan believes that the individual, parent of a minor or legal guardian will have difficulty understanding the mechanisms that can be used to appeal adverse actions, the **SSA** of the individual's plan will assist in identifying an authorized representative.

5. REQUEST FOR A STATE HEARING:

A. Only the individual, parent of a minor or legal guardian, or the authorized representative may request a state hearing. When notifying the individual, parent of a minor, legal guardian or authorized representative of his/her appeal rights, the **SSA** or the individual's plan will include the appropriate **Brittco form, #03-ALL-ALL-1020**.

B. If the individual, parent of a minor, legal guardian or authorized representative makes a verbal request for a state hearing, the **SSA** will transcribe the request on the **Brittco form, 03-ALL-ALL-1020**. Written authorization in the form of the signature of the individual, parent of a minor or legal guardian, or the authorized representative must accompany all requests for a state hearing.

C. If the individual, parent of a minor, legal guardian, or authorized representative requests a state hearing within fifteen (15) days of notice being given, the services in question will not be suspended until a decision is rendered regarding the appeal. If the individual, parent of a minor, legal guardian or authorized representative does not request a hearing within the fifteen (15) day period, he/she may request a state hearing within the ninety (90) day period following notification; however, services may be reduced or denied until such time that a decision is rendered regarding the appeal. If the individual, parent of a minor, legal guardian or authorized representative has "good cause" for missing the fifteen (15) day appeal period, services that were reduced or terminated will be reinstated to their previous level.

D. When an individual, parent of a minor, legal guardian, or the authorized representative requests a state hearing, the agency proposing the adverse action must complete an appeal summary. The agency proposing the adverse action shall make a copy of the appeal and appeal summary available to the individual, parent of a minor, legal guardian or the authorized representative, within a reasonable period before the hearing, may be considered good cause for postponing or continuing the hearing, if the individual has been materially disadvantaged by the failure. The agency proposing the adverse action will provide the appeal and appeal summary to the Bureau of

<p>State Hearings at least three (3) business days prior to the hearing.</p> <p>E. The individual, parent of a minor, legal guardian, or the authorized representative has the right to be represented by legal counsel at the state hearing. The Board will provide the individual with a telephone number for free legal services in the community.</p> <p>F. Once scheduled, a state hearing will take place unless the individual, the parent of a minor, legal guardian, or the authorized representative completes and submits a written withdrawal of the hearing request, signed by the individual, parent of a minor, legal guardian, or the authorized representative, before the state hearing decision is issued.</p> <p>G. The decision issued by the state hearing officer will include timelines for complying with the decision. Notice of the right to and the method of obtaining an administrative appeal will be included on the "state hearing decision."</p>
<p>6. REQUEST FOR A COUNTY CONFERENCE:</p> <p>A. If the individual, parent or minor, legal guardian, or the authorized representative wants to schedule a conference with the Wood County Board of Developmental Disabilities, the SSA of the individual's plan will provide information to assist him/her with initiating this process using the WCBDD Medicaid Due Process Brittco Form #03-ALL-ALL-1020. Wood County Board of Developmental Disabilities will convene a conference presided over by the SSA director or a designee. Both Wood County Board of Developmental Disabilities and the individual may bring whomever each reasonably wants to be at the conference. The outcome of the conference will be recorded, in writing, in the case record at Wood County Board of Developmental Disabilities.</p> <p>B. If a resolution is reached at the county conference and the individual, parent of a minor or legal guardian, or the authorized representative and the local agency representative wishes to withdraw a request for a state hearing, the request to withdraw must be made in writing. Any written request for withdrawal shall:</p> <ol style="list-style-type: none"> I. be signed and dated by both the individual, parent of a minor or legal guardian, or the authorized representative and the local agency representative; II. clearly set forth the resolution upon which the withdrawal is based; III. and be forwarded to the assigned hearings section within two workdays. One copy shall be given to the individual and one copy shall be retained in the case file.
<p>7. The eligible person may have a copy of any case record or document relevant to the appealed issue at no cost to them.</p>
<p>8. The SSA Director or designee, in conjunction with applicable staff, shall coordinate defense of the appeal.</p>

Attachments:

WCBDD Medicaid Due Process Brittco Form #03-ALL-ALL-1020

References:

5160-40, 5160-41-17, 5160-42-01, 5160-48-01, 5160-80-01-09, 5123-4-02, 5123-9-01, 5160-31-03; 5101:6

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