

# ABOUT YOUR APPEAL

Medicaid FAMIS



## **HOW TO REQUEST AN APPEAL/REVIEW**

You have the right to request an appeal or review of adverse actions related to initial or continued eligibility for Medicaid and FAMIS coverage. This includes delayed processing of your application, actions to deny your request for medical services, or actions to suspend, reduce or terminate coverage after your eligibility/services have been approved.

To request an appeal or review, notify us in writing of the action you disagree with within 30 days of receipt of the agency's notice about the action. You may complete an Appeal Request Form, send an email, or write a letter. Forms are available on the internet at [www.dmas.virginia.gov](http://www.dmas.virginia.gov).

Be specific about what you want us to review and include a copy of the notice about the action if you have it. Be sure to sign the letter or form.

Please mail appeal/review requests to the:

**Appeals Division  
Department of Medical Assistance Services  
600 E. Broad Street  
Richmond, Virginia 23219  
(804) 452-5454**

For suspension, reduction or termination of coverage, if your request is made before the effective date of the action and the action is subject to appeal/review, your coverage may continue pending the outcome of the appeal/review.

## **BEFORE THE HEARING**

You will receive a schedule letter from DMAS and an APPEAL SUMMARY from the agency that made the decision on your case. The Appeal Summary tells you how the agency made its decision. It will describe the facts and program policy that the agency used in the decision. PLEASE READ the Appeal Summary carefully. If you think that any of the information on the Appeal Summary is incorrect, please tell the Hearing Officer at the hearing.

You are not required to have an attorney. If you DO get legal help, please let the Hearing Officer know before the date of your hearing by submitting this information in writing.

If you cannot come to the hearing yourself, you may have a relative or other person present the facts as you see them. If you want someone else to do this, you must let the Hearing Officer know in writing before the hearing or on the day of the hearing.

Please remember to bring to the hearing all documents and people you need to present your case.

If you are unable to keep your hearing appointment, you must notify the Hearing Officer or the local agency before the day of the hearing.

## **AT THE HEARING**

Many hearings will be done by telephone. You may be asked to go to the agency that took the action, and the Hearing Officer will call you there. In some cases, you may be allowed to participate from your home telephone or another telephone that is available to you. You will be required to provide a telephone number for this purpose. You may request that the Hearing Officer attend the hearing in person. Whether the hearing is done by telephone or in person, the Hearing Officer will require that people at the hearing state their names, their titles, and purpose for attending the hearing. The Hearing Officer will explain the APPEAL ISSUE(S) and the procedures that the hearing will follow.

The hearing is informal, but will be recorded so that an accurate record can be made. The Hearing Officer will have an agency representative describe the action that was taken on your case and explain why the action was taken.

Next, the Hearing Officer will give you and your representative an opportunity to present facts and tell why you disagree with the agency's action. You may ask the agency representative(s) questions about the action they took. You may also give information or bring witnesses to the hearing to help explain why you disagree with the action. However, any information given must relate to the APPEAL ISSUE(S).

The Hearing Officer may ask questions of you and the agency representative(s). Before the hearing is over, the Hearing Officer will ask if you have presented all that you want to be considered.

The Hearing Officer will also ask you if all of your questions about the APPEAL ISSUE(S) have been addressed. Remember that all documentation and information must be presented at the hearing. The Hearing Officer will then explain how the appeal process continues, and if there are no questions, the hearing will be closed.

## **AFTER THE HEARING**

The appeal record will be evaluated by the Hearing Officer who will research policy and regulations related to your issue(s), write a summary of relevant facts, decide if the agency's action was correct, and send you the decision.

The appeal decision packet will include the Hearing Officer's decision, all evidence and documentation, and copies of policy and regulations used to make the decision.

### **THE HEARING OFFICER CAN**

- Decide if the agency correctly denied, suspended, or closed your case, or correctly reduced services under established policy.
- Make one of three decisions:
  - Sustain (agree with) the agency's decision.
  - Remand (send the case back) for more information and evaluation.
  - Reverse (overturn) the agency's decision.

Sometimes the Hearing Office will sustain a part of the agency's action, and remand a case for more evaluation of another part of the agency's action.

### **THE HEARING OFFICER CANNOT**

- Accept information that is submitted after the hearing record is closed.
- Rule on things that are brought up at the hearing that do not relate to the APPEAL ISSUE(S).
- Change income limits that are within the permissible range allowed by law.
- Change or make exceptions to policy or law.
- Give you a decision the day of the hearing, or give you a decision by telephone.

### **HEARING OFFICER MUST DECIDE WITHIN 90 DAYS**

The Hearing Officer must make a decision within 90 days from the date you filed your appeal or review request. If you need extra time and request that your hearing be rescheduled or that the record be held open, the Hearing Officer gets extra time to make the decision.

Delays requested or caused by you or your representative may extend the 90-day time frame by the number of days explained below.

1. If you ask to postpone the hearing within 30 days of the request for a hearing, the 90-day time limit will be extended by the number of days from the date when the first hearing was scheduled until the date to which the hearing is rescheduled.
2. If you ask to postpone the hearing within 31 to 60 days of the request for a hearing, the 90-day time limit will be extended by 1.5 times the number of days from the date when the first or most recent hearing was scheduled until the date to which the hearing is rescheduled.
3. If you ask to postpone the hearing within 61 to 90 days of the request for a hearing, the 90-day time limit will be extended by 2 times the number of days from the date when the first or most recent hearing was scheduled until the date to which the hearing is rescheduled.

The Hearing Officer will make all reasonable efforts to reschedule the hearing to the earliest date possible.

If you ask to keep the record open after the hearing, the 90-day time limit will be extended by the number of days the record is left open. The Hearing Officer will send you a letter telling you the number of days of delay and a new decision due date.

### **IF THE DECISION IS NOT ISSUED WITHIN 90 DAYS**

Call the Medicaid Appeal Line during regular business hours at (804) 786-6048 if your decision has not arrived within 95 days (90 days to issue the decision and 5 days for mailing). If you have asked for a delay, call this number when the decision is overdue. When you call, tell us the date your appeal was filed and the date your hearing was held. You may also appeal the delay to your local circuit court.

### **AFTER THE DECISION**

If you disagree with the Hearing Officer's decision, you may file an appeal with your local Circuit Court by following a two-step process provided by Rules 2A:2 and 2A:4 of the Rules of the Supreme Court of Virginia. First you must file a Notice of Appeal with the Director of the Department of Medical Assistance Services **within 30 days** from the date you receive the decision. The decision letter will include additional information about this process.