

**HOME AND COMMUNITY-BASED SERVICES
FOR INDIVIDUALS WITH MENTAL RETARDATION**

INSTRUCTIONS AND NOTICE OF RIGHT TO FAIR HEARING

If you are applying for Waiver services or an ICF/MR level of care, or if you object to an action taken affecting your claim for waiver services, you have the right to a county conference or fair hearing, or both if:

- You or your legal representative have not been informed of feasible Home and Community-based services including services funded under the Waiver, as an alternative to care in an ICF/MR (Intermediate Care Facility for individuals with Mental Retardation), and about services in an ICF/MR.
- You or your legal representative have not been offered the preference of Home and Community based services funded under the Waiver as an alternative to care in an ICF/MR.
- You or your representative have been denied your preference to receive Waiver-funded Home and Community based-services or ICF/MR.
- Your claim for services is not acted upon with reasonable promptness.
- You or your legal representative have been denied your choice of
 - (a) Home and Community-based services funded under the Waiver or
 - (b) qualified providers of Waiver funded or ICF/MR services.
- Waiver-funded services in your individual program plan were reduced, terminated or suspended without your consent.

You also have the right to appeal any action or failure to act and to have a hearing if you are dissatisfied with any decision to refuse, suspend, reduce or terminate Medicaid Home and Community-based Waiver services. However, you will not be granted a hearing if the action taken was solely caused by State or Federal law or regulations requiring a change in the type of services available to you.

If you want a conference to discuss your concerns or to have an independent mediation, please write or phone your County MH/MR program designee.

Your county designee will also help you in filing for an appeal before the Department of Public Welfare, Bureau of Hearings and Appeals, if you so request.

Your County Designee is: Kenneth Cruz

This County Designee can be reached at the following address and telephone number:

Address: Intellectual Disability Services
701 Market Street, 5th Fl., Suite 5200
Philadelphia, PA 19106-1532

Telephone Number: (215) 685-5996

If you choose to have a conference or mediation with the county MH/MR program, you may do so without forfeiting your appeal rights if you contact the county MH/MR program designee within 10 days of your notification of the contested action. You do not have to have a County conference or mediation if you want to go directly to a Department of Public Welfare hearing officer to have your appeal heard.

If you choose to have a County conference or mediation, services should not change until a decision on the conference or independent mediation is made, unless that change is based solely on Federal or State law, regulation or policy.

If you are not satisfied with the results of the conference or mediation, you may appeal to the Department of Public Welfare, Bureau of Hearings and Appeals within 30 days of you being notified of the County's decision. Your appeal must be sent first to the county MH/MR program, and they will forward it to the Bureau of Hearings and Appeals. If you are appealing a change in services which are already provided to you and if you appeal to the department within 10 days of the County's decision, services will, generally, continue without change until the department's hearing officer makes his/her decision. Services will not continue if the action is based solely on a change in Federal or State requirements.

If you decide to appeal directly to the Department of Public Welfare, Bureau of Hearings and Appeals, you must write the department's Bureau of Hearings and Appeals within 30 days of the decision or action being taken which you want to appeal using form MR 458. The appeal must first be sent to the County MH/MR program, and they will forward it to the Bureau of Hearings and Appeals.

If you are already receiving waiver services, waiver services will continue without change until the fair hearing decision is made if:

- You are appealing a decision to reduce, terminate or suspend Waiver funded services that you were authorized to receive in your individual program plan.
- You file the appeal within 10 days of being informed of the County's decision.
- The action is not done solely to comply with Federal or State law, regulation or policy.

The Department of Public Welfare, Bureau of Hearings and Appeals telephone numbers and addresses follow:

1. Bureau of Hearings and Appeals

Headquarters

Bureau of Hearings and Appeals
2330 Vartan Way, Second Floor
Harrisburg, PA 17110
Phone: (717) 772-2769

3. Bureau of Hearings and Appeals

Southeast Region

Bureau of Hearings and Appeals
801 Market Street, Suite 5071
Philadelphia, PA 19107
Phone: (215) 560-2378

2. Bureau of Hearings and Appeals

Central and Northeast Regions

Bureau of Hearings and Appeals
2330 Vartan Way, Second Floor
Harrisburg, PA 17110
Phone: (717) 772-2769

4. Bureau of Hearings and Appeals

Western Region

Bureau of Hearings and Appeals
Two Gateway Center, Suite 1125
603 Stanwix Street
Pittsburgh, PA 15222
Phone: (412) 565-5213

At the hearing, you can present to the hearing officer the reasons you disagree with the action or decision and present evidence and/or witnesses to support your case. You have the right to represent yourself or to have someone else represent you (see attached list of legal aid offices).

If you need legal counsel, the County MH/MR contact person will refer you to free counsel and advocates on request.

If you speak a language other than English or have problems in communicating and need an interpreter, you may bring an interpreter to the hearing. If you are unable to provide your own interpreter, you may request assistance on the appeal request form and/or by contacting the County contact person or the Bureau of Hearings and Appeals. You must request this in advance of the hearing.

If you need some other accommodation to attend or participate in the hearing, you may request assistance in obtaining such an accommodation, but you must make this request in advance of the hearing. These requests may be made by contacting your County designee.

The Bureau of Hearings and Appeals will hold a hearing for you either over the telephone or face-to-face. You may choose which type you want. If you do not have a phone, you can use the phone at the County MH/MR program or the phone of a friend, relative or neighbor. Indicate whether you want a telephone or face-to-face hearing on the attached Appeal Request Form.

The attached Fair Hearing Request Form should be used to file your appeal. Your County designee or representative may help you complete and mail this form to the Bureau of Hearings and Appeals.

Your County designee will copy your Fair Hearing Request Form and send a copy to both the Regional and State Offices of Mental Retardation. The State and Regional Offices of Developmental Programs addresses are as follows:

- 1. Southeast Region Office of Developmental Programs**
801 Market Street, Suite 5071
Philadelphia, PA 19107
- 2. Northeast Region Office of Developmental Programs**
100 Lackawanna Avenue
Scranton, PA 18503
- 3. Central Region Office of Developmental Programs**
Room 430, Willow Oak Building
Harrisburg State Hospital
Harrisburg, PA 17120
- 4. Western Region Office of Developmental Programs**
300 Liberty Avenue
Pittsburgh, PA 15222
- 5. Office of Developmental Programs**
Room 512, Health and Welfare Building
P.O. Box 2675
Harrisburg, PA 17105