

P-I-18-13 Rights to Medicaid Appeal and Fair Hearing Developmental Disabilities (DD) Section

Original date: April 1, 2018

Updated March 31, 2026

The Right to Appeal

Individuals who receive developmental disabilities (DD) services funded by Medicaid have the right to appeal and ask for a fair review of any decision made by Health and Human Services (HHS) that denies, reduces, suspends or ends their services. These decisions are called adverse actions.

The appeal steps are:

- Notice of action is received
- Decision to appeal
- Submit appeal within 30 days
- Fair hearing held
- Judge's decision
- Appeal to other court options

This policy explains these rights. It also describes how people are notified, how to file an appeal and what happens during a fair hearing.

Notice of Appeal Rights

People are told about their appeal rights at these times:

- When they first join DD services
- During their yearly team meeting
- When an adverse action is taken

DD Program Managers (DDPMs) must give advance notice before any denial, reduction, suspension or end of services. Medicaid requires that the notice be sent at least 10 days before the change. Whenever possible, DDPMs try to give 30 days of notice.

Every written notice must include:

- What action is being taken
- Why the action is being taken
- How to request a fair hearing
- The law or rule that supports the action
- Information about when services may continue during the appeal

How to Request an Appeal

A person receiving services — or an authorized representative — may ask the DDPM for help filing an appeal.

Appeals may be submitted by:

- Phone
- Mail
- Email
- Fax
- In person

The appeal must be received or postmarked within 30 calendar days of the date on the notice.

Contact Information:

Appeals Supervisor
North Dakota Health and Human Services
600 East Blvd. Ave., Dept. 325
Bismarck, ND 58505-0250
Phone: (701) 328-2311
Toll Free: (800) 472-2622
ND Relay TTY: (800) 366-6888
Fax: (701) 328-2173
dhs1au@nd.gov

What Happens at a Fair Hearing

If a hearing is approved, the person will receive a letter with the time, date, and place of the hearing.

The hearing is led by an impartial administrative law judge. Both sides may present information and evidence. The judge gives a recommended decision, and HHS then accepts or rejects the recommendation before issuing the final decision.

A fair hearing includes:

- The individual or their representative
- HHS staff
- A lawyer from the Attorney General's Office representing HHS

Individuals may bring:

- Witnesses
- An attorney
- Another advisor or support person

HHS does not pay for legal representation. However, individuals may contact Legal Services of North Dakota or the Protection and Advocacy Project for possible assistance.

Individuals also have the right to:

- Review written materials related to their case
- Ask questions of anyone who testifies
- Present their own evidence

Outcome of a Hearing

If the decision supports the individual, services are restored if they are stopped.

If the decision supports HHS, the action stays in place.

The individual may appeal further to District Court and then to the North Dakota Supreme Court.

Continuation of Services During Appeal

If the appeal request is postmarked or received within 10 days of the notice, services may continue until the final decision is made — unless:

- The person withdraws the request
- The person does not attend the hearing without good reason
- The issue is an automatic change required by state or federal law

If services continue but the final decision is not in the person's favor, they may need to repay Medicaid for the services received during the appeal process.

Optional: Informal Conference

A person may choose to request an informal conference within 10 days of the adverse action notice.

This meeting does not delay or replace the right to a fair hearing.

It also does not stop the 30-day deadline to file an appeal.