



Understanding Medicaid Fair Hearings

Each state operates its own Medicaid program, following federal rules. **A Medicaid fair hearing** is an administrative process that lets people challenge certain Medicaid decisions made by their state, including if they think their Medicaid eligibility determination was wrong or not acted upon promptly. This factsheet explains the federal rules for Medicaid fair hearings (also referred to as an “appeal”) related to eligibility determinations that apply to all states and identifies areas where state practices may vary.

States are required to tell people about their fair hearing rights

State Medicaid agencies must inform people in writing of their right to ask for a Medicaid fair hearing, including specific steps on how to ask for a fair hearing, and the number of days from the date that notice of action is mailed for a person to make their request. This information must be provided when a person applies for Medicaid and in writing to the person anytime the state makes certain decisions about their Medicaid eligibility, or their benefits or services. Many states also post fair hearing information on their websites.

Anyone can ask for a Medicaid fair hearing

Anyone applying for or enrolled in Medicaid who disagrees with certain decisions made by their state Medicaid agency has the right to request a fair hearing about those decisions. This includes decisions to deny, suspend, terminate, or reduce a person’s Medicaid eligibility or services.

A person can ask for a fair hearing if:

- Their Medicaid benefits are denied, suspended, terminated, or reduced. This includes any action by the state Medicaid agency that affects their eligibility, services, or benefits; or
- The state didn’t make a decision about their eligibility within a reasonable time period.

People have the right to ask for an expedited (faster) fair hearing if they have an urgent health care need that could result in serious harm if it’s not treated soon. The agency’s decision notice must include information on how to ask for an expedited fair hearing.

Steps to ask for a Medicaid fair hearing differ by state

Each state operates its own fair hearing process. People in any state can ask for a fair hearing by mail or in person; some states also allow people to file a request by phone or online. In many states, Medicaid fair hearings are managed by a state agency other than the Medicaid agency; in those states, people may need to file their fair hearing request with that state agency instead of the Medicaid agency.

The number of days someone has to request a fair hearing also differs by state. In some states, a person must ask for a hearing within 30 days from the date on the notice of the action they're appealing; other states give up to 90 days to ask for a fair hearing.

For state-specific information about how to ask for a fair hearing, contact your state Medicaid agency. Get a list of Medicaid contacts for the states and territories at: [Medicaid.gov/about-us/beneficiary-resources/index.html](https://www.Medicaid.gov/about-us/beneficiary-resources/index.html).

What to expect during the fair hearing process

Once someone is granted a fair hearing, the state must give adequate written notice of the hearing date, which must be held at a reasonable time, date, and place. Hearings may be held in person, by phone, or by videoconference, depending on the state and the person's needs. The person who asked for the hearing must be given an opportunity to review their Medicaid record (case file and/or electronic account) at a reasonable time before the hearing date.

People have rights during their fair hearing

People who ask for a fair hearing have the right to:

- Represent themselves at the hearing, or use a lawyer, family member, friend, or someone else to represent them.
- Examine, both before and during the hearing, their case file and any documents or records the state will use at the hearing.
- Bring witnesses to the hearing.
- Present their case without undue interference.
- Question or refute the state's case and ask questions of the state's witnesses (cross-examination).
- Have an impartial hearing officer (the person who holds the hearing and issues the decision) who didn't play a direct role in the state's original eligibility determination.

Keeping Medicaid benefits during the fair hearing process

If someone who already has Medicaid asks for a fair hearing **before** the effective date of the agency's decision (also called the "date of action"), the state must continue the person's benefits until the final fair hearing decision is issued. There may be **as few as 10 days** between the date on the decision notice and the date of action. Some states may also reinstate a person's Medicaid benefits retroactively if they ask for a fair hearing **no more than 10 days after** the date of action.

If the result of the fair hearing upholds (agrees with) the state's original decision, some states may require a person to pay back costs for any services they got while the fair hearing was pending.

How long does the fair hearing process take?

In general, a state Medicaid agency must make a fair hearing decision and implement it **within 90 days** of receiving a fair hearing request.

As states continue to transition back to normal operations after the end of the COVID-19 public health emergency, the fair hearing process may take longer than 90 days. States granted temporary authority to take longer than 90 days must provide certain protections for people during the process, such as continuing benefits for anyone who requests a fair hearing and not requiring anyone to pay back the costs of these services if the fair hearing upholds the state's original decision. Get a list of states with temporary authority to take longer than 90 days at: [Medicaid.gov/resources-for-states/coronavirus-disease-2019-covid-19/unwinding-and-returning-regular-operations-after-covid-19/covid-19-phe-unwinding-section-1902e14a-waiver-approvals/index.html](https://www.Medicaid.gov/resources-for-states/coronavirus-disease-2019-covid-19/unwinding-and-returning-regular-operations-after-covid-19/covid-19-phe-unwinding-section-1902e14a-waiver-approvals/index.html).

What happens after the fair hearing is over?

After the hearing, the Medicaid agency must notify the person who asked for the fair hearing of the decision in writing. If the hearing decision is in the person's favor, the Medicaid agency must take corrective action right away and implement the decision retroactively, to the date of the incorrect action.

If the decision isn't in the person's favor, the notice must include information about any additional appeal rights the person has in that state (like the right to ask for judicial review).

Accessibility for people who don't speak English or have a disability

State fair hearing systems must be accessible to people with limited English proficiency and people with disabilities. For example, the state must provide language services that include oral interpretation and written translation at no cost to people with limited English proficiency. In addition, the state must provide auxiliary aid and services (such as text-to-speech technology and Braille materials) at no cost to people with disabilities. Get more information on accessibility requirements at: [Medicaid.gov/sites/default/files/2023-02/accessibility-unwinding-slides.pdf](https://www.Medicaid.gov/sites/default/files/2023-02/accessibility-unwinding-slides.pdf) and [HHS.gov/sites/default/files/medicaid-unwinding-letter.pdf](https://www.HHS.gov/sites/default/files/medicaid-unwinding-letter.pdf).

Get more information from your state Medicaid agency

For more information on your state's fair hearing process, use the contact information for each state and territory Medicaid agency at: [Medicaid.gov/about-us/beneficiary-resources/index.html](https://www.Medicaid.gov/about-us/beneficiary-resources/index.html).