

**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 has been determined.

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 write a letter or complete an Appeal Request Form. 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) 371-8488**

**Appeal/review requests may also be faxed to:  
(804) 371-8491**

For 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 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 can 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 at least 3 days in advance.

## **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 telephonic or in person, the Hearing Officer will identify and introduce the people at 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 or your representative an opportunity to present facts and tell why you disagree with the agency's decision. You may ask the agency representative(s) questions about the decision. You may also give information or bring witnesses to the hearing to help explain why you disagree with the decision. 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 testimony and evidence will be evaluated by the Hearing Officer. He/she will research policy and regulations related to your issue(s), write a summary of relevant facts, 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's decision (to delay processing, to deny your request for eligibility or services, or to suspend, reduce, or terminate coverage after eligibility has been determined) was correct 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.

## **THE HEARING OFFICER CANNOT**

- Accept information that is submitted after the hearing record is closed.
- Rule on testimony or evidence introduced at the hearing that does 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 by telephone.

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

The Hearing Officer must make a decision within 90 days from the date the Appeals Division received your hearing request. If you need extra time and request that your hearing be rescheduled, the Hearing Officer gets extra time to make the decision.

Requests for delay by you or your authorized representative extend the 90-day time frame. The amount of extra time is explained below:

1. 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.
2. If you ask to postpone the hearing within 30 days of the request for 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.
3. 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 hearing was scheduled until the date to which the hearing is rescheduled.
4. 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 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 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 93 days (90 days to issue the decision and 3 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 hearing was held. You may also appeal the delay to your local circuit court.

If the Medicaid Appeal Line is long distance for you, call (804) 786-6048, leave your phone number, and ask for an immediate call back. Sorry! We cannot accept collect calls.

If the decision on your case has not been made on time, DMAS will immediately investigate your case. We will notify you and any authorized representative within three business days of the results of the investigation. We will tell you how to appeal the delay to your local circuit court. We will also give you the name, address and telephone number of a legal aid office in your area, which may be able to help.

### **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.