



**State Fair Hearing
Companion Guide
For
Health Plans**

Revised 06-25-14

Previous Version Obsolete

BAYOU HEALTH PROGRAM – State Fair Hearing Companion Guide

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GENERAL INFORMATION

The Division of Administrative Law (DAL) is an independent state agency that is responsible for ensuring that State Fair Hearings are provided to members who are adversely affected by a determination made by a Louisiana Medicaid Bayou Health Plan (MCO).

Medicaid members are informed by the MCO in writing on the *Notice of Adverse Action* or *Notice of Disposition* of their right to a State Fair Hearing. The Medicaid Bayou Health State Fair Hearing Fact Sheet provides information about State Fair Hearings and is available to new members at the time of enrollment and to the public upon request. Information about State Fair Hearings, including forms for requesting a State Fair hearing, shall be available on the MCO's website, included in the MCO's Member Handbook and will be mailed to the member or his/her representative upon request.

Verbal explanation by MCO personnel shall be given about the State Fair Hearing process in any contact or discussion when such explanation is appropriate, particularly in contacts concerning denials, rejections, terminations, or reduction of Medicaid core benefits and services.

A Bayou Health member who exercises the right to a State Fair Hearing is called a claimant/appellant. The claimant/appellant may represent himself at the State Fair Hearing or be represented by any authorized representative such as a friend, relative, provider, legal counsel or other spokesperson with the member's written authorization.

While a State Fair Hearing is not a court procedure, the degree of formality is increased to comply with due process requirements of the Administrative Procedure Act. The following safeguards are necessary to accomplish a State Fair Hearing.

In the State Fair Hearing process, the claimant/appellant is:

- ◆ Provided with a written notice from the MCO, explaining the reason for the adverse decision by the MCO in response to the member's request for services, citing applicable MCO policies;
- ◆ Provided an opportunity to question MCO witnesses at the State Fair Hearing;
- ◆ Provided an opportunity to present arguments and evidence verbally;
- ◆ Provided an opportunity to appear with counsel;
- ◆ Guarantee that the hearing will be conducted by an impartial Administrative Law Judge;
- ◆ Guaranteed a decision based solely on the legal rules and the evidence offered as proof at the State Fair Hearing or obtained subsequent to the State Fair Hearing if agreed to by the parties; and

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- ◆ Provided with a written decision explaining the reasons for the decision of the Administrative Law Judge and indicating the evidence on which the decision is based.

Due process not only defines and protects the rights of the claimant/appellant, but also requires DHH and the DAL to observe principles of fair play in all contacts with claimants/appellants.

In State Fair Hearings, DHH and the MCO have the right to the essentials of fair play. Those rights are equal to those of the claimant/appellant in submitting evidence, examining witnesses, etc. The claimant/appellant has a duty to cooperate.

The primary goal in a State Fair Hearing is to assure that the policy applicable to the claimant/appellant's situation is correctly applied. For this reason, the MCO will assist the claimant/appellant or authorized representative and shall provide all documents relative to their request. The State Fair Hearing process also provides a feedback mechanism whereby DHH policy-making officials can determine if modifications to policies and procedures are needed.

DEFINITIONS

Adequate Notice: A written notice informing the enrollee of an action that has been taken at the time the notice is given. This notice also provides notice of the right to request a State Fair Hearing within the appropriate time period when MCO-level grievance and appeals process has been exhausted.

Administrative Law Judge (ALJ): An impartial attorney who is not an employee or contractor of the Bayou Health Plan, who is responsible for conducting a State Fair Hearing and issuing a recommended decision on the issues in question.

Advance Notice: A written notice of adverse action mailed to the applicant or enrollee prior to taking the action. The notice provides an opportunity to rebut the decision or to appeal the proposed action.

Advance Notice Period: The period from the date of the notice to the date the proposed action will be taken. If a member's benefits are terminated, reduced or suspended by a MCO and s/he requests a State Fair Hearing during the advance notice period, the benefits must be continued at their prior level unless the member specifically waives the right to continued benefits.

Agency: The Bureau of Health Services Financing, within the Department of Health and Hospitals, which is Louisiana's single state Medicaid agency.

Appeal Decision (State Fair Hearing Level): A written decision which makes specific findings of fact and conclusions of law. It identifies pertinent State or Federal regulations and gives the reason for the decision. It is the final written decision of the Department of Health and Hospitals on the issue in question.

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Appeal Reversed: Means that the original decision from the MCO or DHH or its agent is overturned and the member’s request is recommended for approval.

Appeal Upheld: Means that original decision from the MCO or DHH or its agent is confirmed.

Appellant: Person appealing the MCO’s or DHH or its agent’s decision.

Authorized Representative: Refers to any authorized person acting on behalf of a claimant/appellant. This can be the claimant/appellant’s friend, relative, attorney, paralegal, legal guardian, provider or any person the claimant/appellant chooses. The authorized representative must be acting with the written permission of the claimant/appellant unless the claimant/appellant is under an order of interdiction.

BAYOU HEALTH Program: Louisiana Medicaid program providing statewide leadership to most effectively utilize resources to promote the health and well being of Louisianans in DHH’s Bayou Health MCOs

Benefits: Any kind of assistance or payments made by the Agency on behalf of the member.

Bureau of Health Services Financing (BHSF): The agency within the Louisiana Department of Health & Hospitals, Office of Management & Finance that has been designated as Louisiana’s single state Medicaid agency to administer the Medicaid and CHIP programs.

Business Day: Traditional workdays, including Monday, Tuesday, Wednesday, Thursday and Friday. State holidays are excluded and traditional work hours are 8:00 a.m. – 5:00 p.m. , unless the context clearly indicates otherwise.

Calendar Days: All seven (7) days of the week. Unless otherwise specified, the term “days” in the Contract refers to calendar days. **NOTE:** The last day of the designated period shall be included unless it is a Saturday, Sunday, or a legal holiday in which event the designated period shall run until the end of the next day which is not a Saturday, Sunday, or a legal holiday.

Claimant: A member who has requested a State Fair Hearing.

Department of Health and Hospitals (DHH): The state agency that has oversight of the Bureau of Health Services Financing which has been designated as Louisiana’s single state agency to administer the Medicaid and CHIP programs.

Division of Administrative Law (DAL): An independent state agency which employs the Administrative Law Judges who are responsible for handling State Fair Hearings involving the appellant and the MCO or DHH or its agent.

Docket Number: A unique number that identifies a specific appeal.

Effective Date: The intended date on which a termination, reduction in benefits or other change becomes effective.

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Enrollee: Louisiana Medicaid or CHIP enrollee who is currently a member of a Bayou Health Plan.

Grievance: An expression of member/provider dissatisfaction about any matter other than an action, as action is defined. Examples of grievances include dissatisfaction with quality of care, quality of service, rudeness of a provider or a network employee and network administration practices. Administrative grievances are generally those relating to dissatisfaction with the delivery of administrative services, coverage issues, and access to care issues.

Health Plan: is a Managed Care Organization- MCO

Health Plan Reversal: The issue is resolved in the claimant/appellant's favor by the Health Plan.

Managed Care Organization: is a Health Plan-HP

Member: As it relates to the Louisiana Medicaid Program and this Guide, refers to a Medicaid or CHIP eligible who enrolls in a BAYOU HEALTH Plan.

Notice of Adverse Action: Any written notice informing the member of any MCO or DHH or its agent action which unfavorably affects his/her Medicaid benefits. This notice also provides notice of the right to request a State Fair Hearing within the appropriate time period after the MCO's internal grievance and appeals process is exhausted.

Notice of Disposition: A written letter explaining the outcome of an appeal with a Health Plan and explains the right to a State Fair Hearing. The notice of disposition also explains how to request a State Fair Hearing.

Official State Fair Hearing Record: Official transcript summarizing what transpired at the State Fair Hearing. It includes all evidence and other material introduced at the State Fair Hearing and the recommendations of the Administrative Law Judge.

Request for a State Fair Hearing: Any clear expression, either oral or written, made by the claimant/appellant or authorized representative indicating the wish to appeal a MCO or DHH or its agent decision.

Reversal: A decision made by the DAL directing the MCO or DHH or its agent to "reverse" its adverse action decision.

State Fair Hearing: A state-level administrative procedure during which a claimant/appellant or authorized representative may present evidence to show why it is believed the MCO or DHH or its agent action, proposed action, or inaction is not fair and should be reversed.

Subpoena: An order commanding a designated person to be present at a State Fair Hearing. Timelines, procedures and cost are available at: <http://www.adminlaw.state.la.us/forms.htm>

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State Fair Hearing Packet: A packet prepared by the Health Plan that includes at a minimum the State Fair Hearing Memorandum, Summary of Evidence, and other related documents.

Summary of Evidence: Documents in the State Fair Hearing Packet that provide the following information: the action claimant/appellant is appealing, explanation of action taken by the Health Plan and applicable policy; and related documents.

Withdrawal: A decision made by the appellant to terminate the appeals process. Verbal withdrawals are not acceptable withdrawals must be in writing.

WHO CAN REQUEST A STATE FAIR HEARING

Any MCO member, who believes he or she has been adversely affected regarding benefits or services under the BAYOU HEALTH Program, or Authorized Representative, with written consent from the member, acting on their behalf, may request a State Fair Hearing.

The DAL has the right to deny a request for a State Fair Hearing when:

- ◆ The member is receiving the maximum benefit allowed under the program;
- ◆ The member has not exhausted the Health Plans's grievance and appeal process;
- ◆ The request is outside of the jurisdiction of the DAL;
- ◆ The request for a State Fair Hearing is made after the time limit has expired;
- ◆ The sole issue is one of State or Federal law or regulation requiring automatic adjustment in benefits for classes of recipients; or
- ◆ The individual requesting the appeal is not the member or person authorized to act on his behalf.

When a State Fair Hearing request is accepted by the DAL, it may be disposed of without a State Fair Hearing and without a decision if:

- ◆ The request for a State Fair Hearing is withdrawn by the claimant/appellant;
- ◆ The claimant/appellant abandons his request for a State Fair Hearing. If the claimant/appellant or his/her authorized representative fails to appear for a State Fair Hearing and has made no contact with the DAL within 10 (ten) calendar days after the scheduled State Fair Hearing, the request for a State Fair Hearing will be considered abandoned. If the member later requests to reschedule, the request will be evaluated by the DAL for good cause; or
- ◆ A MCO or DHH reversal decision is made prior to a State Fair Hearing.

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TIME LIMITS FOR STATE FAIR HEARINGS

Requesting a State Fair Hearing

When a final decision is made by the MCO on an appeal, the member is notified and allowed thirty (30) days from the date of the notice to request a State Fair Hearing.

Health Plan Response

When a claimant/appellant, either orally or in writing, makes a request for a State Fair Hearing and the MCO's internal grievance and appeals process has been exhausted, the MCO must submit the State Fair Hearing Packet to the DAL within seven (7) calendar days of receipt of the request.

Rendering of a Decision

A prompt, definitive and final decision must be provided by the DAL within ninety (90) days from the date of the State Fair Hearing request. If the State Fair Hearing is delayed at the request of the claimant/appellant or authorized representative, this time limit is extended. The State Fair Hearing cannot be delayed more than thirty (30) days without good cause. The time limit for rendering a decision may be extended when the claimant/appellant wishes to present additional evidence.

CLAIMANT/APPELLANT RIGHTS

The claimant/appellant or authorized representative has the right to:

- ◆ Receive assistance from the MCO with filing and preparation;
- ◆ View specific case record documents or applicable policy necessary to determine whether a State Fair Hearing should be requested and/or the documents or policy necessary to prepare for a State Fair Hearing, without charge;
- ◆ Referral to available community legal services [Legal Aid Offices Telephone Numbers](#);
- ◆ A verbal explanation of the State Fair Hearing procedures in the native language of the claimant/appellant. If the claimant/appellant does not speak English, the MCO must provide interpreters who speak the appropriate language at no cost to the claimant/appellant;
- ◆ Review the case record. Upon request and at a reasonable time before the State Fair Hearing, the claimant/appellant or authorized representative must be allowed by the MCO to review the claimant/appellant's case record or any documents to be used by the MCO at the State Fair Hearing. Copies of these documents must be provided to the claimant/appellant upon request and without charge. The case record must be viewed in the presence of an MCO representative;

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- ◆ Present the case in person or with the aid of others, including legal representation;
- ◆ Request that a subpoena be issued. the DAL will evaluate such requests and issue subpoena, if appropriate;
- ◆ Request a postponement prior to the State Fair Hearing. The DAL will decide if a postponement is to be granted based upon good cause;
- ◆ Submit evidence and bring witnesses to the State Fair Hearing. The claimant/appellant has the right to advance arguments without undue interference and to question or refute any testimony or evidence. The claimant/appellant has the right to confront and cross examine witnesses; and
- ◆ Request to reschedule the State Fair Hearing within 10 (ten) days after failing to appear at the State Fair Hearing. The DAL will evaluate the requests to determine if good cause exists.

BENEFITS PENDING THE STATE FAIR HEARING DECISION

A member's benefits must be continued or reinstated to the prior benefit level if, after receipt of the adverse Notice of Disposition, he/she timely requests a State Fair Hearing and requests a continuation of benefits pending the resolution of the State Fair Hearing.. Exceptions to this rule are listed below:

- ◆ A determination is made that the sole issue is one of an existing or change in State or Federal law.
- ◆ A change unrelated to the appeal issue affecting the member's Medicaid eligibility occurs while the State Fair Hearing decision is pending and the member fails to request a State Fair Hearing after receiving the notice of change.
- ◆ Reduction or termination as a result of a mass change.

Benefits or services will continue at the prior level until Medicaid eligibility ends or until the resolution of the State Fair Hearing, whichever occurs first.

MCO

A MCO member can request a State Fair Hearing only after exhausting the MCO's internal appeal process and receiving an adverse Notice of Disposition. When the member initiates that internal appeal process by filing a timely appeal, the MCO must continue the member's benefits at the prior level **only** if:

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- ◆ The member files the appeal during the advance notice period;
- ◆ The appeal involves the termination, suspension or reduction of a previously authorized course of treatment;
- ◆ The services were ordered by an authorized provider;

If the MCO continues or reinstates the member's benefits while the internal appeal is pending, the benefits must be continued until one of the following occurs:

- ◆ The member withdraws the appeal.
- ◆ Ten (10) days pass after the MCO mails the Notice of Disposition, providing the resolution of the appeal against the member, unless the member, within the ten-day (10-day) timeframe, has requested a State Fair Hearing.
- ◆ The DAL issues a hearing decision adverse to the member.

If the final resolution of the MCO's internal appeal and/or the State Fair Hearing is adverse to the member, that is, upholds the MCO's action, the MCO may recover the cost of the services furnished to the member during the pendency of the internal appeal and/or the State Fair Hearing, to the extent that they were furnished solely because of the requirements for continued benefits.

MCO RESPONSIBILITY

MCO Review and Conference

When the claimant/appellant or authorized representative requests a State Fair Hearing or expresses dissatisfaction with the final decision of the MCO's internal grievance and appeals process, the MCO should review the member record. Medicaid and MCO's policy as well as specific case factors shall be reviewed.

The MCO may offer to hold the MCO conference, in person or by telephone, with the claimant/appellant in order to review the circumstances. This does not postpone the time frame for submitting a State Fair Hearing Packet. The conference must be held within 2 (two) business days of the request unless the claimant/appellant requests that it be held later. If the claimant/appellant cannot be reached by telephone, the MCO may send a letter within 2 (two) business days offering to hold a conference as soon as possible.

If the review or the conference reveals that the appeal can be resolved within MCO policy, the MCO must immediately correct the action. This must be confirmed with the claimant/appellant in writing. If the appeal cannot be resolved, the MCO must explain the State Fair Hearing procedures, the manner in which the claimant/appellant may be represented, and what specific issues might be settled in a State Fair Hearing. The MCO shall provide the member with the standard *State Fair Hearing Request Form* completed with the Health Plan's name, member's name and member address along with the *Notice of Disposition*.

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For appeals filed with the DAL, the MCO must provide the State Fair Hearing Packet within seven (7) calendar days of receipt of request for Summary of Evidence from DAL. All information shall be uploaded to the DHH State Fair Hearing Sharepoint Site in the Health Plan's folder.

NOTE: Except during the hearing, The DAL does not allow any direct communication with ALJs for any reason by anyone within DHH or the MCO. This includes e-mail, telephone or any other means of communication. Pursuant to instructions from the DAL General Counsel, all communications with the DAL by DHH or the MCO must go through the HH Clerk of Court. The telephone number is 225 342-0443, and the email address is HHProcessing@adminlaw.state.la.us

STATE FAIR HEARING PACKET

A. State Fair Hearing Cover Memorandum

The MCO shall complete and submit a State Fair Hearing Cover Memorandum which specifies or includes:

- The method by which the State Fair Hearing was requested (e.g. verbally, in writing and hand delivered, by mail, etc.). When the request is received by mail, the original envelope* must be routed within twenty-four (24) hours of receipt to the DAL with the request;
- *The postmark is used to establish the file date. When the envelope is not included, it is impossible to properly establish the file date with any degree of certainty.
- Whether benefits are being continued at the level prior to the request (if applicable);
- The name, address, and telephone number of the claimant/appellant's legal representative, if applicable;
- Any other information needed to complete the State Fair Hearing Cover Memorandum.

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B. Summary of Evidence

The MCO shall prepare and submit a Summary of Evidence unless:

- The request for a State Fair Hearing is not made within the time limits specified in applicable policy [The MCO shall notify the DAL of untimeliness and provide proof (i.e. copy of Notice)];
- The claimant/appellant withdraws the request (The MCO shall provide written confirmation from claimant/appellant to the DAL); or
- The appeal is resolved within MCO policy; the MCO has corrected the action and has confirmed this with the claimant/appellant in writing. A copy of the written confirmation shall be submitted to the DAL.

The Summary of Evidence is a critical document in the State Fair Hearing Packet. Its purpose is to provide information necessary to the claimant/appellant or his authorized representative in preparing for the State Fair Hearing. It shall be easy to read and understand. Abbreviations, acronyms, and terminology that may be unfamiliar to the claimant/appellant should be avoided. The claimant/appellant should be referred to by name rather than "the member", "the recipient", or "the enrollee". MCO actions being appealed should be explained in concise statements with precise references to policy and appropriate documents.

The State Fair Hearing Cover Memorandum, Summary of Evidence, and all documents referenced must be submitted to the DAL. One complete copy of the packet shall be retained in the MCO member record. One complete copy of the packet shall be mailed to the appellant.

The MCO shall utilize the Summary of Evidence Sample provided in this Guide unless an alternative version has been approved by DHH.

1) Summary of Evidence Format

The Summary of Evidence must be typewritten, labeled on top, and signed and dated at the bottom. Do not use Health Plan letterhead.

2) Summary of Evidence Content

◆ Identifying Information

This section must show the claimant/appellant/appellant's name, Medicaid ID #, Docket number, if known, and the Social Security Number, Health Plan's name, claimant/appellant's address and phone numbers. The Health Plan shall provide a

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copy of the Notice of Adverse Action (Shared) or *Notice of Disposition* (Prepaid), must also be included.

◆ Action Appealed

This section must show the following information.

- Basis of the claimant/appellant's appeal (denial of services, suspension or reduction in services, termination of services, failure of the MCO to act, etc.);
- Statement that internal resolution process was followed;
- General reason for the MCO's action or proposed action;
- Effective date of the action; and
- Status of the claimant/appellant's benefits. If benefits are continued at the same level because the applicant/enrollee appealed within the advance notice period, this fact must be stated.

◆ Explanation of Action and Applicable Policy

This section must concisely state the reason for the MCO action, and cite any Medicaid and/or MCO policy authorizing this action by specific reference number. This section should blend with the documents section so details are not unnecessarily repeated. Emphasis must be placed on citing facts and their impact. Case activity should be detailed in chronological order as they occurred.

◆ Related Documents

This section must list all documents relevant to the action under appeal. Each document should be identified by its official name (rather than by a form number), date, and relevance. The copies of the documents are to be labeled on the bottom right corner of the document with the word "exhibit" and alphabetically, such as Exhibit A page 1 of 10, Exhibit A page 2 of 10, etc.

The *Notice of Adverse Action* or *Notice of Disposition* must always be included. The MCO notice or other document on which the appellant requested a State Fair Hearing must be included, if applicable.

The complete packet shall be uploaded to the DHH State Fair Hearing SharePoint Collaboration Site. The MCO must also send a copy of the State Fair Hearing Packet to the appellant. If the appellant has retained legal representation, the MCO shall mail a copy of the State Fair Hearing packet to that individual as well. If the

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MCO is notified of legal representation at a later date, provide the State Fair Hearing packet promptly to that individual.

CLAIMANT/APPELLANT RESPONSIBILITIES

The claimant/appellant must mail the State Fair Hearing request directly to the DAL. The MCO shall provide the address, FAX and email address of the DAL and inform the claimant/appellant what must be included. The MCO shall inform the claimant/appellant that the copy of the Notice of Disposition should be sent with request for a *State Fair Hearing Request Form*.

The MCO shall advise the claimant/appellant of the time limit for submitting the request. The advance notice period must be stressed, if applicable. In these instances, the request date will be the postmark date on the envelope. The MCO will be contacted by the DAL within seven (7) calendar days when the request is received.

Any proposed action which has been postponed pending appeal, must be taken by the MCO if there has been no contact from the DAL by the end of the period for filing a State Fair Hearing request and having benefits continue until the outcome of the hearing.

Upon notification from the DAL of the receipt of a request for a State Fair Hearing, the member record must be reviewed promptly by a MCO representative in a supervisory capacity to determine if adjustments are necessary. The claimant/appellant may be contacted within two (2) business days to offer a MCO conference. If an action, proposed action, or inaction was incorrect, the error must be immediately corrected and the claimant/appellant must be notified in writing and a copy of this notification, along with the State Fair Hearing Cover Memorandum must be sent to the DAL. If the appeal originates with the DAL, the MCO must provide the State Fair Hearing Packet within seven (7) calendar days of receipt of request for the Summary of Evidence.

MCO RESPONSIBILITY PRIOR TO STATE FAIR HEARING

Administrative Controls

Administrative controls must be maintained to ensure that the MCO acts promptly upon receipt of a request for a State Fair Hearing. The MCO must maintain a central tracking system recording receipt of all State Fair Hearing requests including:

- ◆ Requests made in writing when the member visits the MCO's office;
- ◆ Written requests received by mail, FAX or e-mail;
- ◆ Requests expressed orally when the member visits the MCO's office;
- ◆ Requests expressed orally over the telephone; and
- ◆ Requests forwarded from DAL.

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Each State Fair Hearing request must be recorded within 1 (one) business day of receipt of notification from the DAL or date the claimant/appellant's request was received by the MCO. Each entry must show the following information:

- ◆ Date of receipt of the State Fair Hearing request;
- ◆ Date claimant/appellant's request forwarded to DAL (if applicable) ;
- ◆ Last date the appropriate response is due to the DAL (within 7 (seven) calendar days of receipt of the request); and
- ◆ Claimant/appellant's name, Medicaid ID #, docket number (if known), and Social Security Number of the head of the household.

Once the request is logged, a tracking system must be in place to monitor the preparation of the Summary of Evidence and its timely submission to the DAL.

Reporting Changes

Once the State Fair Hearing process begins and until a decision is rendered, the MCO must report changes in the claimant/appellant's circumstances to the DAL.

If a change in benefits for a reason other than the issue being appealed or the Enrollment Broker notifies the MCO of the member's disenrollment from the MCO, notice must be sent to the DAL. The MCO must promptly report to DAL any address change or other changes in circumstances which might affect the necessity of the State Fair Hearing.

The MCO must report changes to the DAL by memorandum prior to the State Fair Hearing being scheduled, by memo/email after the State Fair Hearing has been scheduled, or by memorandum after the State Fair Hearing has been held.

Postponement Requests

Any postponement request must be in writing if a claimant/appellant or his authorized representative contacts the MCO to request a postponement of the State Fair Hearing, the MCO shall inform the claimant/appellant that only the DAL can grant this request. The MCO shall relay the postponement request to the DAL on behalf of the claimant/appellant unless the claimant/appellant requests to directly contact the DAL. The DAL will notify all interested parties of the rescheduled State Fair Hearing date if granted.

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Withdrawals

The claimant/appellant may withdraw his request for a State Fair Hearing at any time prior to the State Fair Hearing. The withdrawal must be confirmed in writing. The claimant/appellant must notify the DAL if he/she wishes to exercise this right in writing.

It is not appropriate for an employee of the MCO to suggest that the appellant withdraw a State Fair Hearing request.

NOTE: The MCO shall inform the member withdrawals over the telephone cannot be accepted. If a written withdrawal is not received, the Health Plan is responsible to submit a State Fair Hearing Packet.

Witnesses and Documents

The MCO must arrange for witnesses or documents when testimony or a document is considered necessary and material to the case without being unduly repetitious of other evidence.

When the MCO's action and decision has been based on verbal collateral contacts, these persons must attend the State Fair Hearing to substantiate the MCO's action.

If the presence of a witness or a document cannot be arranged voluntarily, the MCO shall submit a request for a subpoena to the DAL. The Administrative Law Judge (ALJ) will evaluate requests and authorize the MCO to serve the subpoena, if appropriate, and will independently decide on the need to issue a subpoena.

Health Plan's Responsibility at the State Fair Hearing

The MCO representative is expected to present and document the MCO's case. This requires a complete knowledge of the case situation and a review of applicable regulations and policies. A conference between all involved MCO personnel may be held to prepare for the appeal. When clarification is required, such assistance must be sought without delay.

Evidence

The following types of evidence are listed in the order of importance.

1. Sworn testimony of a person's direct knowledge of a situation.
2. Written verification or critical information is obtained from the claimant/appellant or authorized representative.
3. Verbal Verification - Verbal statements are given no weight if they are disputed by the claimant/appellant. Statements attributed to unidentified sources should not be mentioned. If a person has given information used in the MCO decision being appealed, that person

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should attend the State Fair Hearing to present direct evidence and be cross examined by the claimant/appellant or his authorized representative. The claimant/appellant or his authorized representative has the right to cross examine witnesses.

To avoid delays or duplication, the MCO must organize all written and verbal evidence and plan for its presentation. The ability to effectively present the MCO's case in a professional way will be enhanced by organization and preparation.

No Show

When an appellant or an authorized representative does not attend a scheduled hearing, the ALJ and the MCO representative must go on record to confirm that the appellant or authorized representative did not appear for the scheduled State Fair Hearing or contact the MCO to reschedule the hearing, and that the appellant's notice was not returned to the DAL or MCO as undeliverable.

If the MCO does not call within fifteen (15) minutes of the scheduled time for the hearing, and the claimant/appellant calls in for the hearing, the DAL will proceed with the hearing and will issue a decision in favor of the appellant.

DIVISION OF ADMINISTRATIVE LAW RESPONSIBILITIES

The DAL has the sole responsibility for accepting or rejecting all requests for a State Fair Hearing in accordance with applicable rules, State statutes, and Federal regulations. The DAL must acknowledge State Fair Hearing requests made directly to that office by or for a claimant/appellant, or requests submitted by the MCO. All requests must be denied or accepted in writing. The MCO and the appellant will be sent appropriate notification.

Scheduling

The DAL will schedule all State Fair Hearings. The claimant/appellant, authorized representative and the MCO will be notified at least 10 (ten) days in advance of the time, place, and date of the State Fair Hearing. State Fair Hearings will be scheduled during regular business hours.

Postponements

The DAL grants State Fair Hearing may grant postponements. All postponement requests must be directed in writing to the DAL.

If a postponement has not been arranged with the DAL and the claimant/appellant does not attend the State Fair Hearing, a Conditional Order to the appellant or designated representative is sent. The appellant has 10 (ten) days to respond and show good cause for non – attendance. The hearing may be postponed if claimant/lappeallant request if he/she provides good cause. If the appellant fails to respond by the 10th day of the Conditional Order, the appeal is dismissed. If

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there is no response, the Conditional Order is the final notice to the claimant/appellant. The DAL will notify the MCO of all decisions regarding these matters.

DHH STATE FAIR HEARING SHAREPOINT SITE

MCO Information

The MCO shall designate a single point of contact for DHH and contact Erika.Williams@la.gov to obtain access authority and schedule training with the DHH IT on the SharePoint site.

Response to Request for Summary of Evidence/Documentation

The MCO is responsible to upload all information in the State Fair Hearing Packet, which the State Fair Hearing Cover Memorandum and Summary of Evidence.

The MCO is also responsible to upload withdrawals of hearing requests and agency reversals to the SharePoint site.

Decisions

After the hearing is held and a decision is reached by the DAL, decisions in favor of DHH are uploaded to the MCO's Final Decision folder in the DHH State Fair Hearing SharePoint site. The system will send an alert, notifying the Health Plan by e-mail that a final decision has been uploaded in the the Health Plan Final Decision folder.

Monitoring

It is the responsibility of the MCO to continuously monitor their folder to review decisions made and NOT be dependent upon email notifications.

Appendices

Appendix A

Notice of Adverse Action

Notice of Adverse Action

Member's Name/ID#:

Member Address:

Date:

Dear Member,

We are writing to tell you that your {describe benefits/services being received or being requested} has been denied as of (must state effective date).

The reason for this decision is {state the reason(s) for this decision}.

If you do not agree with this decision you can file an appeal with us and we will review your request again. You **must** do so by ____ (date) _____ [thirty (30) days from the date of this notice]. You can provide additional information to assist us in making the decision. We will consider the request again and let you know our decision within thirty (30) days. If you are not satisfied with our decision you can request a State Fair Hearing. The Request for a State Fair Hearing form is attached to this letter. If you request a State Fair Hearing, please include a copy of this letter along with the form and forward using one of the delivery methods as instructed on the form. If you ask for a State Fair Hearing, you have the right to:

- Review your case and/or any information that (you/ Health plan/Provider) plan to use before the hearing;
- Appear at the hearing;
- Represent yourself or have anyone else you choose to represent you. You may be able to get free legal help by calling the nearest legal assistance office at (800) 310-7029;
- Present your own evidence or witnesses; and
- Question any person who testifies against you.

If you accept this decision and do not file an appeal you cannot later request a State Fair Hearing.

If we or the State Fair Hearing judge find that the decision about your case is correct, you may have to repay the amount of any benefits you got that you were not eligible for.

If you have any questions that we may help you with please feel free to call us at _____.

DEPARTMENT OF HEALTH & HOSPITALS
REQUEST FOR STATE FAIR HEARING FORM

[Health Plan to INSERT Recipient Name]

[Health Plan to INSERT Street Address]

[Health Plan to INSERT City, State & Zip Code]

I want to appeal the decision [INSERT Health Plan Name] made on my case because:

Date: _____ Signature: _____

Recipient/Representative: _____

Your address if different from the address shown above: _____

Telephone No: _____

Social Security Number: _____

Email address: _____

Name, Address and Phone number of your Authorized Representative at the Hearing, if any:

MAIL THIS COMPLETED FORM TO: DIVISION OF ADMINISTRATIVE LAW—HEALTH AND HOSPITALS SECTION
P.O. BOX 4189
BATON ROUGE, LA 70821-4189

The postmark showing the date you mailed your appeal will be the date of your appeal request.

You may fax the completed form to (225)219-9823 or complete the form online at:
<http://www.adminlaw.state.la.us/HH.htm>

After you ask for a State Fair Hearing, the Division of Administrative Law will send you a Notice by mail of the date, time and location of your State Fair Hearing. If you are unable to mail or fax the attached form, you may phone (225)342-5800 to give the information for your appeal.

***** DON'T FORGET TO INCLUDE THE NOTICE OF ADVERSE ACTION LETTER WITH THIS FORM*****

Health Plan Name/Logo
Notice of Adverse Action

Member's Name/ID#:

Member Address:

Date:

Dear Member,

We are writing to tell you that your {describe benefits/services being received or being requested} has been (reduced, suspended or terminated [if reduction, suspension or termination must state effective date]).

The reason for this decision is {state the reason(s) for this decision}.

If you do not agree with this decision you can file an appeal with us and we will review your request again. You **must** do so by ____ (date) _____ [thirty (30) days from the date of this notice]. You can provide additional information to assist us in making the decision. We will consider the request again and let you know our decision within thirty (30) days. If you are not satisfied with our decision you can request a State Fair Hearing. If you accept this decision and do not file an appeal you cannot later request a State Fair Hearing.

If you ask us to review your request and you want to keep getting the benefits you are getting now, you must do so **prior to** ____ (date) _____ { ten days from the date of this notice or the effective date of (reduction/suspension or termination) of services whichever is later} in order to keep getting the benefits until a final decision is made about your case by us, or by a State Fair Hearing judge. If we or the State Fair Hearing judge find that the decision about your case is correct, you may have to repay the amount of any benefits you got that you were not eligible for.

If you have any questions that we may help you with please feel free to call us at _____.

Appendix B

Notice of Disposition

Health Plan Name/Logo
Notice of Disposition

Member's Name/ ID#:

Member's Address:

Date:

Dear Member,

Thank you for allowing us time to review our previous decision regarding {service\procedure}, which was (denied, reduced, suspended or terminated).

We have reviewed all of the information provided and our decision is:

- To keep the previous decision for the requested service\procedure. This means that we will not provide the requested service.
- To provide the service\ procedure. This means that your provider may provide the requested service. We are also sending a copy of this approval to your provider so please feel free to contact them to schedule your appointment.

If you disagree with our decision, you may ask for a State Fair Hearing. If you want to request a State Fair Hearing, you **must** do so by _____ (30 days from the date of this notice). The ***Request for a State Fair Hearing*** form is attached to this letter. If you request a State Fair Hearing, please include **a copy of this letter along with the form** and mail to the address on the form.

If you ask for a State Fair Hearing, you will have the right to:

- Review your case and/or any information (you, the Health Plan or the provider) plan to use before the hearing;
- Appear at the hearing;
- Represent yourself or have anyone else you choose to represent you. You may be able to get free legal help by calling the nearest legal assistance office at (800) 310-7029;
- Present your own evidence or witnesses; and
- Question any person who testifies against you.

If you have any questions that we may help you with please feel free to call us at:

_____.

***** DON'T FORGET TO INCLUDE THE NOTICE OF ADVERSE ACTION LETTER WITH THIS FORM*****

DEPARTMENT OF HEALTH & HOSPITALS
REQUEST FOR STATE FAIR HEARING FORM

[Health Plan to INSERT Recipient Name]

[Health Plan to INSERT Street Address]

[Health Plan to INSERT City, State & Zip Code]

I want to appeal the decision [INSERT Health Plan Name] made on my case because:

Date: _____ Signature: _____

Recipient/Representative: _____

Your address if different from the address shown above: _____

Telephone No: _____

Social Security Number: _____

Email address: _____

Name, Address and Phone number of your Authorized Representative at the Hearing, if any:

MAIL THIS COMPLETED FORM TO: DIVISION OF ADMINISTRATIVE LAW—HEALTH AND HOSPITALS SECTION
P.O. BOX 4189
BATON ROUGE, LA 70821-4189

The postmark showing the date you mailed your appeal will be the date of your appeal request.

You may fax the completed form to (225)219-9823 or complete the form online at:
<http://www.adminlaw.state.la.us/HH.htm>

After you ask for a State Fair Hearing, the Division of Administrative Law will send you a Notice by mail of the date, time and location of your State Fair Hearing. If you are unable to mail or fax the attached form, you may phone (225)342-5800 to give the information for your appeal.

***** DON'T FORGET TO INCLUDE THE NOTICE OF ADVERSE ACTION LETTER WITH THIS FORM*****

Appendix C

State Fair Hearing Memorandum

State Fair Hearing Cover Memorandum

Name of Submitter: _____

Date Request submitted: __/__/____ (MM/DD/YYYY)

Contact Phone Number: _____

Entity Submitting Summary of Evidence: (Check one) Enrollment Broker MCO Plan
 Medicaid Fiscal Intermediary DHH

Is Copy of denial notice included: No Yes If yes, specify the date the denial was issued __/__/____ (MM/DD/YYYY)

Entity Filing Request*

SPECIFY IF EXPEDITED HEARING IS BEING REQUESTED: No Yes

If request is filed by the:

Provider on the Recipient/Member's behalf: The filing of this request requires written consent from the Health Plan's member for the provider to file on their behalf. Is the written consent form included with the appeal request? Yes No

The filing of this request requires a copy of the appropriate denial notice (*Notice of Adverse Action or Notice of Disposition*) to be included with the appeal request. Is the Notice enclosed? Yes No

If request is filed for a Provider: (FFS)

The filing of this request requires a copy of the appropriate denied Medicaid claim. Is the Claim enclosed? Yes No

*This state fair hearing request may be rejected if complete documentation is not submitted.

** When the request is received by mail, the original envelope* must be routed to the Division of Administrative Law with the request.

Recipient/Member's Identification information:

(First Name) _____ (Last Name) _____

Recipient/Member's Medicaid ID#: _____

DAL Docket #: _____

Check all that apply: MCO Reversal Untimely State Fair Hearing Request Premature State Fair Hearing Request Withdrawal by Appellant

Provide the Benefit/Service(s) that was denied/terminated/reduced/suspended: _____

Have the benefits continued at the level prior to the request for State Fair Hearing? Yes No N/A

The recipient is a member of: (Check which MCO Plan **OR** if in Fee-for-Service Program)

MCO Plan*: Amerigroup United Health Care
 LaCare Community Health Solutions
 LA Healthcare Connections

Has the Member exhausted MCO Internal Appeals Process? Yes No

Fee-For- Service Program

If recipient is in a Health Plan, provide the Health Plan's ID#: _____

If the recipient is represented by legal representation the following information must be provided for the representative:

Name: _____ Telephone number: _____

Address _____

Other: (Please provide any additional comments you deem essential): _____

Attestation and Signature: The undersigned attests the above information is accurate and complete. I understand that providing false or inaccurate information may result in administrative actions to the entity as deemed appropriate by DHH.

Authorized Signature

Date

Appendix D

Summary of Evidence Sample

SUMMARY OF EVIDENCE

I. IDENTIFYING INFORMATION

Person's Name

SSN

Docket # (leave blank if one is not available)

II. ACTION CLAIMANT IS APPEALING

In this section explain who is appealing and what action caused the person to appeal.

Example: Jane Deaux is appealing the pre-authorization denial of her request for weight loss surgery.

III. EXPLANATION OF ACTION

In this section explain what transpired from the beginning up to the actual request for appeal. Date of action, what type of action and supporting documentation should all be described. The supporting documentation will need to be included in the packet and listed as "exhibits". The exhibits will need to be listed in Section IV (below) in the order in which it is referenced in this section (III).

Example: On February 14, 2011, an appeal was received from Jane Deaux for reconsideration of pre-certification denial for weight loss surgery. Jane Deaux's request included a letter describing the hardships she faced dealing with obesity (Exhibit A), progress notes from a visit with the XXXX Clinic (Exhibit B), and a radiology report from the American Legion Hospital (Exhibit C).

After review of the prior authorization information (Exhibit D), it was determined that prior authorization for Jane Deaux's procedure was denied for failure to submit the medical reason/reasons and documented proof of these reasons for gastric bypass surgery and failure to submit documentation that the patient's medical problems would be alleviated by the requested device/services (Exhibits E and F).

According to policy published in the 2007 Louisiana Medicaid Professional Services Provider Training Manual, "A letter documenting recipient qualifications and medical necessity from the physician must be submitted with the prior authorization request, and must include confirmatory evidence of co-morbid condition(s). The manual notes that in order for a recipient to qualify for a gastric restrictive surgery or gastric bypass, a recipient must:

- Be a minimal of 16 years of age;*
- Have a documented weight that falls in the morbidly obese range, as defined by a body mass index of greater than 40;*
- Have at least three failed efforts at non-surgical methods of weight reduction;*

- *Have a current obesity-related medical conditions(s) which is/are classified as being high risk for morbidity and mortality;*
- *Not have a current/recent history of alcohol abuse or abuse of other substance(s);*
- *Be capable of complying with the modified food intake regimen and prescribed program which will follow surgery (**Exhibit G**)*

In order for Jane Deaux's request for prior authorization to be considered, it is necessary for her medical provider to provide a written statement that details that she meets the aforementioned qualifications. This letter was not provided to the MCO Prior-Authorization Unit, and thus, the prior authorization request was denied appropriately.

I. RELATED DOCUMENTS

- Exhibit A: Jane Deaux's letter
- Exhibit B: Progress notes from XXXX Clinic
- Exhibit C: Radiology report from American Legion Hospital
- Exhibit D: Prior Authorization information
- Exhibit E: etc.
- Exhibit F:
- Exhibit G:
- Etc.....

Appendix E

State Fair Hearing Fact Sheet

State Fair Hearing FACT SHEET

What is a State Fair Hearing?

A state-level administrative procedure during which a claimant/appellant or authorized representative may present evidence to show why it is believed the MCO or DHH or its agent action, proposed action, or inaction is not fair and should be reversed.

Do I have a time limit to request a State Fair Hearing?

Yes, you have 30 days from the date of the decision by your Health Plan explaining the action taken on your case to ask for a Fair Hearing.

What can I do before I ask for a Fair Hearing?

As a member of a Health Plan you are provided a Member's Handbook which includes information on your Health Plan's grievance and appeals process. You are encouraged to review your Handbook to learn about your responsibilities in this process.

How do I ask for a State Fair Hearing?

You may ask for a fair hearing in any of these ways:

1. You may mail your request to:

Division of Administrative Law
Health and Hospitals Section
P.O. Box 4189
Baton Rouge, LA 70821-4189;
2. You may fax your request to: (225)219-9823;
3. Complete on line form:
<http://www.adminlaw.state.la.us/HH.htm>
4. If you are unable to complete numbers 1 thru 3, you may phone (225)342-5800.

May I ask for the hearing date to be delayed until later?

The Administrative Law Judge may grant a delay in cases of good cause only. So if you ask for a delay you must state in writing, your good cause reason.

Can I review my case file before the hearing?

Before the hearing you will get a copy of the State Fair Hearing Packet prepared by your Health Plan. The packet will tell you why they decided to take the action on your case. It will include the forms, information and the policies used to make the decision. You may contact your Health Plan's Member Services if you would like other information from your file.

Who will be the judge at the hearing?

An Administrative Law Judge from the Division of Administrative Law will be assigned to hear your case. The Administrative Law Judge will be impartial. The Administrative Law Judge did not make the decision that will be reviewed in your hearing and does not work for the Health Plan of which you are a member or for the Medicaid Program.

How long does the hearing last?

The length of a State Fair Hearing varies, but it usually lasts about 30 minutes.

How long will it take to get a decision?

In most cases a decision will be made within ninety (90) days from the date you filed the request for a Fair Hearing. If you asked for your hearing to be rescheduled, it may take longer.

What if my situation changes before the hearing?

If your situation changes (for example if your health has gotten worse or better or you wish to withdraw your

State Fair Hearing FACT SHEET

request for a State Fair Hearing) before the hearing, you should contact your Health Plan.

Do I have to attend the hearing?

No, if you do not want to attend the hearing, you may have a relative or friend represent you. Your health care provider may serve as your representative with written consent from you. Legal counsel may also represent you. If you do not attend and no one attends to represent you, your Fair Hearing request may be dismissed.

Where do I go for the Fair Hearing meeting?

Fair Hearings are held by telephone. You will get a notice from the Division of Administrative Law that will give you the date, the time, and call-in instructions. If requested timely, a face-to-face hearing at a Division of Administrative Law location may be granted if needed.

What if I have a life-threatening emergency and can't wait that long?

If you were denied a service and your health plan or provider certifies that waiting for the standard State Fair Hearing process could seriously jeopardize your life or health, you may request an Expedited State Hearing with the Division of Administrative Law, which would allow a hearing to be held and a decision made as expeditiously as the member's health requires but no later than within three (3) working days after the Division of Administrative Law receives the case file and documentation.

Can I get free legal assistance?

You may be able to get free legal help from the legal assistance office nearest you. The telephone number is 1-800-310-7029.

What happens during the hearing?

The Administrative Law Judge will preside over the hearing and may question those who testify at the hearing. All persons who testify will be sworn to tell the truth, and the hearing will begin:

- A Health Plan's representative will read the Summary of Evidence and explain the reason for the action. Witnesses from the Health Plan may be called to testify and answer questions. You may question the witnesses.
- Next, you or your representative will explain why you disagree with the Health Plan's decision in your case. Your witnesses may be called to give testimony and answer questions. Your Health Plan's staff may question you, your representative, and witnesses.

What if I lose the State Fair Hearing decision?

If you lose the State Fair Hearing decision, you may be asked to pay the Health Plan of which you are a member for any benefits you received while you were waiting for your Fair Hearing decision.

What if I do not agree with the State Fair Hearing decision?

If you do not agree with the State Fair Hearing decision, you may ask for a judicial review. You will have thirty (30) calendar days from the date of the Fair Hearing decision to request a judicial review by a district court.

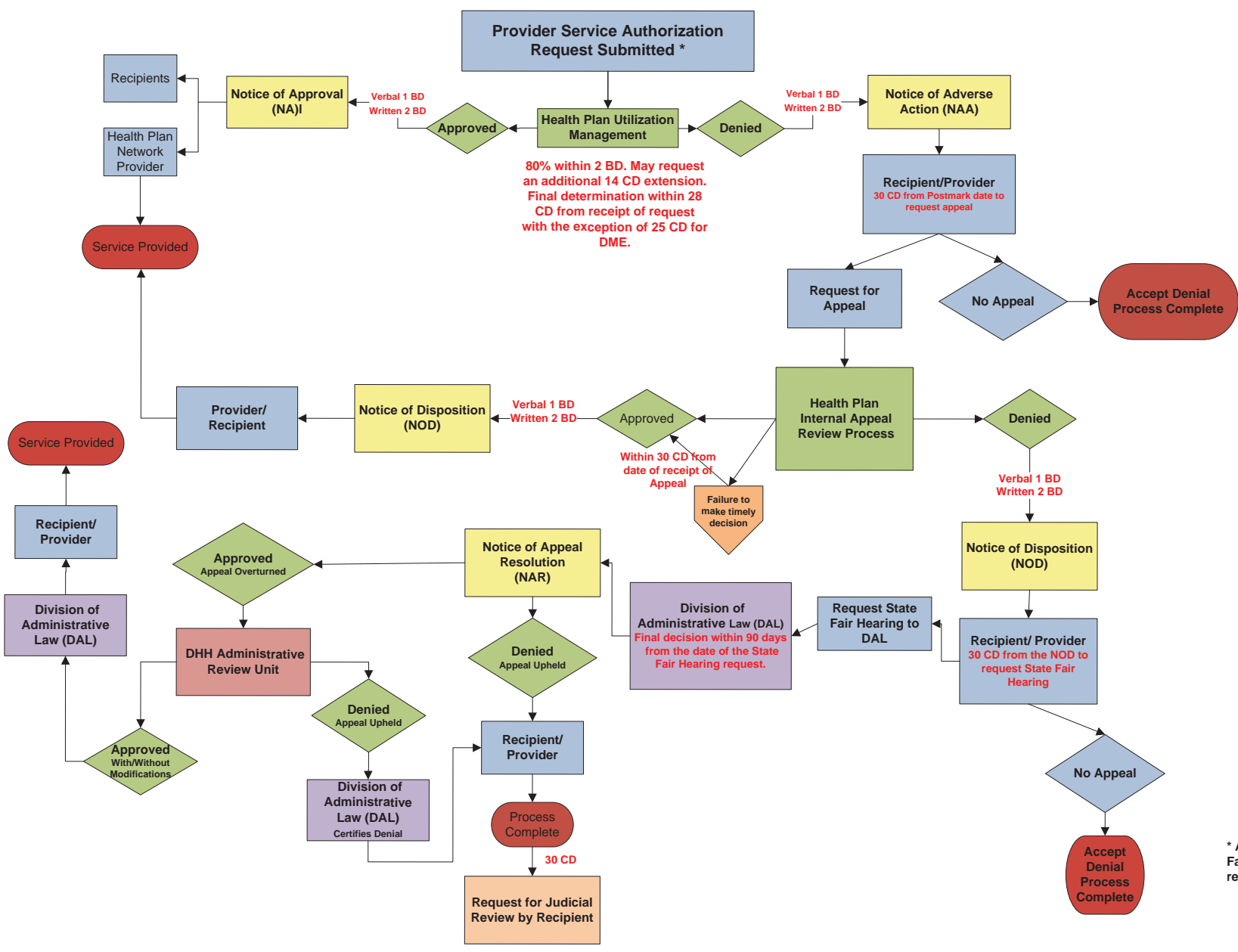
This fact sheet was developed to help you...

- *Understand your Appeal rights*
 - *Decide if you want to ask for a State Fair Hearing*
 - *Prepare for a State Fair Hearing*
-

Appendix F

Process of Standard Appeals

Bayou Health - Prepaid Appeals and State Fair Hearing Process



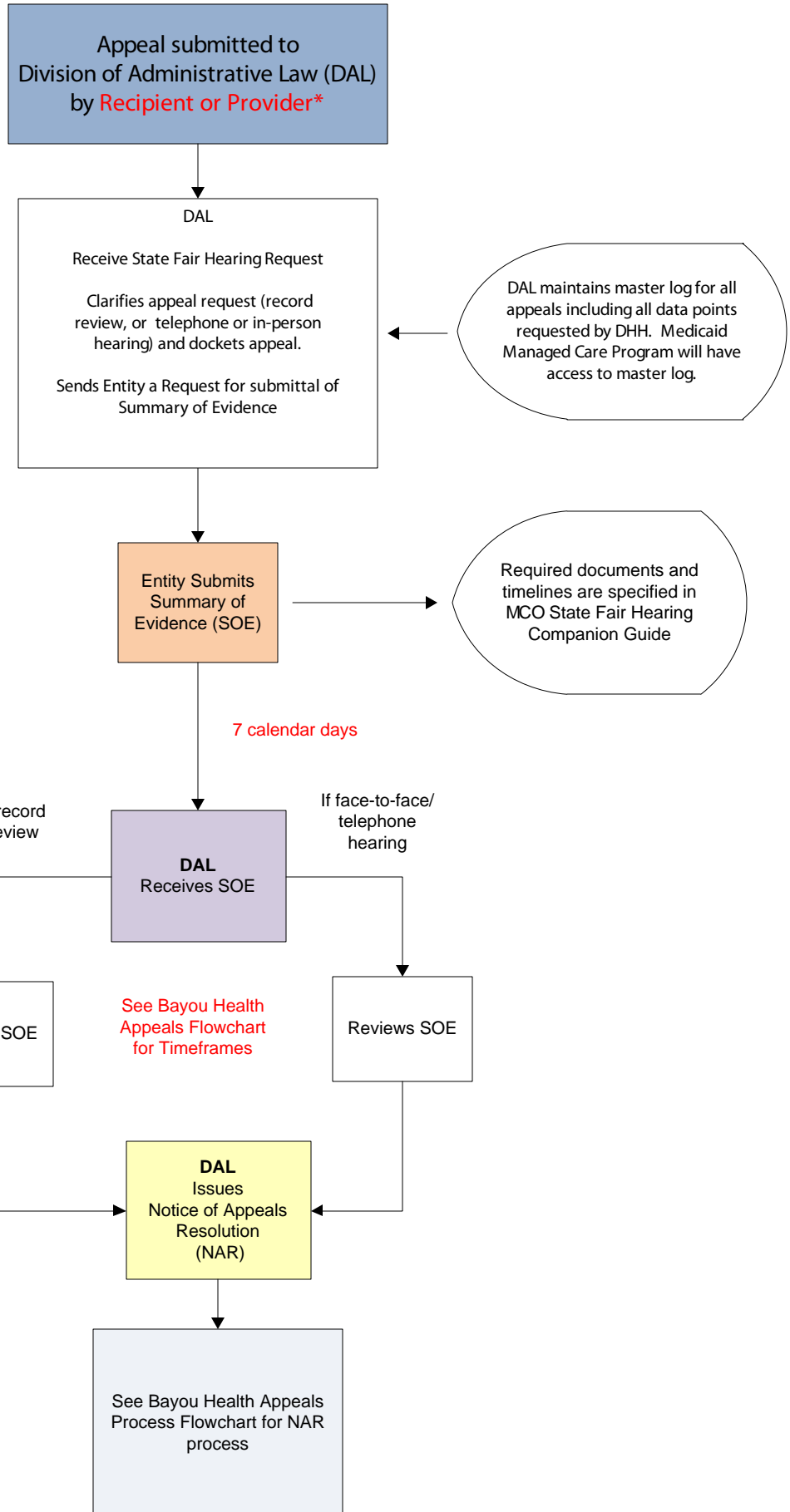
BD – Business Day
 CD – Calendar Day
 MCO – Managed Care Organization
 DHH – Department of Health & Hospitals
 DME – Durable Medical Equipment
 DAL – Division of Administrative Law
 NA – Notice of Approval
 NAR – Notice of Appeal Resolution
 NOD – Notice of Disposition
 UM – Utilization Management

* All necessary documentation must be submitted. Failure to submit required documentation timely will result in authorization request denial.

Appendix G

Division of Administration Law Process

State Fair Hearing – Document Process for Bayou Health



Entity is defined as the health plan or contractor (i.e.FI, Enrollment Broker) which issued the denial, suspension, reduction or termination of a service.

7 calendar days

See Bayou Health Appeals Flowchart for Timeframes

Appendix H

DHH SharePoint Instructions

DHH State Fair Hearing SharePoint Site Instructions for BAYOU HEALTH

UPLOADING SOE'S TO THE DAL

- Ensure that the packet is annotated with the Plan Name so that the DAL will know the Plan folder in which to upload the final decision.
- Include the appellant's initials and the last 4 digits of his/her SSN in the document/folder name. Example:

Plan Name- Appellant's Initials - last 4 digits of the SSN

- Only upload documents in PDF Format

NOTE: As soon as DAL downloads the appeal document to their system, they will delete the document/folder from DHH SOE UPLOADS.

PLAN FOLDERS

Setting up alerts in the Plan folder:

In order to get alerts, the users can go to the **FINAL DAL DECISIONS** library and click on "more documents" at the bottom of the list of folders. Move the mouse over the folder that they work with. A bar with the folder name will highlight and an arrow will appear at the right side of the bar. They should click on the arrow and choose "Alert Me" from the dropdown that appears below the bar. This will bring them to a page where they can choose what sort of alerts they get and how frequently they want to get them. Unless changes will be made (which they shouldn't in the Final DAL Decisions library), the **Change Type** can remain either "All changes" or can be changed to "New items are added" Leave Send Alerts for These Changes should be left as it appears and the frequency of the alerts can be chosen and customized to time or day and time, if desired.

Process using the DAL SharePoint site:

1. Plan uploads the appeal packet.
2. DAL assigns the appeal to an ALJ.
3. Appeal is scheduled. Notice is sent to the appellant and an email is sent to the Plan.
4. Appeal is held (or abandoned)
5. FINAL DAL DECISION is uploaded to the SharePoint site which triggers an alert (email to whoever has set up the alert(s) in the Plan Folders).

NOTIFICATIONS

Email will be sent to the Plan contacts for the following:

- Notice that an appeal has been sent to the DAL (versus the local office so therefore an appeal packet must be prepared and uploaded).
- Notice that the appeal has been scheduled.

Each Plan should notify the following two people at the DAL of who the contacts are for each Plan:

Gaytha Bynum gbynum@adminlaw.state.la.us
Dexter Campbell dcampbell@adminlaw.state.la.us

ADDRESS FOR THE DHH STATE FAIR HEARING SHAREPOINT SITE

<http://dhhnet.dhh.louisiana.gov/ext/boa/default.aspx>

DAL CONTACT INFORMATION

Division of Administrative Law
Health & Hospitals Section
P. O. Box 4189
Baton Rouge, La 70821-4189
(225) 342-0443 phone
(225) 219-9823 fax
Oral Appeals phone number (225) 342-5800

ADDING/REMOVING USERS TO THE DAL SHAREPOINT SITE

Contact XXX 225 342 XXXX or via email XXXX@la.gov