

N-Appeals

N-100 Overview

When support coordinators review the Rights and Responsibilities with the individuals, they must inform them of their fair hearing rights as described below.

Individuals have the right to appeal any agency action or decision and have the right to a fair hearing of the appeal in the presence of an impartial hearing officer. They have the right to request a fair hearing for services which have been denied, not acted upon with reasonable promptness, suspended, terminated, reduced or discontinued, La. R.S. 46:107. A person may file an administrative appeal to the Division of Administrative Law (DAL) regarding the following determinations:

- Denial of admission to waiver services.
- Involuntary reduction or termination of a support or service (due to reduction in budget allocation).
- Discharge from waiver services.
- Other cases as stated in office policy or as promulgated in regulation.

All written appeal requests MUST include the following information:

- Individual's name.
- Individual's Social Security Number.
- Name of Waiver Program: [e.g. Community Choices Waiver (CCW), Adult Day Health Care (ADHC)].

The appeal request must be sent to the following:

Division of Administrative Law – Health and Hospitals Section
P.O. Box 4189
Baton Rouge, LA 70821-4189
Fax #: 225-219-9823

If the individual is unable to mail or fax the appeal request, he/she may call 225-342-5800 to request an appeal.

Anyone requesting an appeal has the right to withdraw the appeal request at any time prior to the hearing by contacting DAL directly.

N-110 Involuntary Initial Denials

If the SC supervisor determines that the individual needs to be denied initial waiver services for any reason, the entire POC packet must be sent to RO for further review.

NOTE: Plan of Care (POC) does not have to be completed or submitted. However, based on the information obtained through the assessment and other sources, the narrative should address the issues described above (e.g., housing, adequacy of paid and unpaid supports, etc.) in detail why it is not felt that transition is NOT an option for the individual to transition. RO will forward all initial denials to Service Review Panel (SRP) except for Initial Level of Care (LOC) denials. Refer to SRP Referral procedures.

If SRP determines that the individual needs to be denied initial waiver services, RO will issue a denial notice giving him/her thirty (30) calendar days from date of notice to appeal the decision with a copy sent to the SCA.

If the individual appeals timely (within 30 calendar days of notice), DAL will send the appeal request and request for Summary of Evidence (SOE) to RO.

- RO prepares and submits SOE to DAL within seven (7) business days of SOE request from DAL.
- DAL notifies individual (appellant) and RO of appeal hearing date.

- RO notifies the SC of the appeal hearing date.
- Appeal hearing is conducted by DAL Judge.
- SC (and appellant) participates in the hearing (by phone or in person).
- DAL sends final decision notice to RO and appellant.
- If DAL rules in favor of the appellant, OAAS RO will contact SCA to continue processing his/her waiver case.
- If DAL rules in favor of OAAS, RO will complete a 142 denial and email a copy to Medicaid office, DMC and the SCA.
- The SC will close the waiver case in CMIS.

If the individual does NOT appeal within the thirty (30) calendar days from date of notice,

- RO will complete a 142 denial and email to DMC, Medicaid office and SCA.
- The SC will close the waiver case in CMIS.

N-120 Involuntary Reductions

Once the SC supervisor reviews the entire POC packet and determines that the participant's budget allocation (for CCW) or participant's service hours (for LT-PCS w/ADHC Waiver) will be reduced from previous allocation, the participant must receive adequate notice for CCW with fair hearing rights.

NOTE: This reduction notice is included on the Plan of Care (POC) document.

When the SC supervisor signs off on the POC indicating the reduction in services, the SC Agency must:

- Mail the entire POC packet (including MDS-HC Assessment) to the participant no sooner than 30 calendar days or no later than 14 calendar days prior to the date of the proposed reduction.
- Email a copy of entire POC packet to RO.

If the participant appeals timely (within fourteen (14) calendar days of the date of the proposed reduction), RO will send a POC Extension request to the DMC and a copy to the SCA so current services can continue.

The SC will notify the provider(s) of appeal request and POC Extension.

DAL will send an appeal request and a request for Summary of Evidence (SOE) to RO.

RO will:

- Prepare and submit SOE to DAL within seven (7) business days of SOE request from DAL.
- DAL notifies individual (appellant) and RO of appeal hearing date.
- RO notifies the SC of the appeal hearing date.

Appeal hearing is conducted by DAL Judge.

- SC (and appellant) participates in the hearing (by phone or in person).

DAL sends final decision notice to RO and appellant.

- If DAL rules in favor of appellant, RO will contact SCA to continue with his/her waiver services as per instructions from DAL.
- If DAL rules in favor of OAAS, RO will contact SCA to proceed with new proposed POC that indicates reduction in services.

SC will call and speak with a representative of the provider(s) to inform them of the appeal decision and by fax notification.

If participant does NOT appeal within the fourteen (14) calendar days of the date of the proposed reduction, the new POC (with reduction in services) will begin on date indicated on the POC form as "POC Begin Date".

If participant appeals timely (within thirty (30) calendar days from the date of reduction notice), DAL will send appeal request and request for SOE to RO.

- RO will prepare and submit SOE to DAL within seven (7) business days of SOE request from DAL.
 - DAL notifies individual (appellant) and RO of appeal hearing date
 - RO notifies the SC of the appeal hearing date
 - Appeal hearing is conducted by DAL Judge
 - SC (and appellant) participates in the hearing (by phone or in person)
 - DAL sends final decision notice to RO and appellant
 - If DAL rules in favor of appellant, RO will contact SCA to continue with his/her waiver services as per instructions from DAL
 - If DAL rules in favor of OAAS, RO will contact SCA to proceed with new proposed POC that indicates reduction in services
 - SC will call and speak with a representative of the provider(s) to inform them of the appeal decision and by notification

N-130 Involuntary Discharges

If the SC supervisor determines that the participant meets waiver discharge criteria (other than death), the entire POC packet (including all information to support discharge) will be sent to RO for further review.

NOTE: RO will forward all waiver involuntary discharges to Service Review Panel (SRP) except for Level of Care (LOC) discharges. Refer to SRP Referral procedures.

If SRP determines that the individual needs to be discharged from current waiver services, RO will:

- Mail the entire POC packet (including MDS-HC Assessment) to the participant no sooner than 30 calendar days or no later than 14 calendar days prior to the date of the proposed discharge.

NOTE: If POC packet was not completed, SC will send adequate documentation to RO. If discharge criteria met, RO will send Discharge Notice to participant with a copy to the SCA. The discharge notice will provide fourteen (14) calendar days advance notification of proposed discharge and provide thirty (30) calendar days of appeal rights from date of notice to appeal the decision with a copy sent to the SCA.

If individual appeals timely (within fourteen (14) calendar days of the date of the proposed discharge), RO will send a POC Extension request to the DMC and copy to the SCA so the participant can continue to receive services throughout the appeal process.

The SC will notify the provider of the appeal request and POC Extension.

NOTE: If the current POC has an end date of ten (10) days or greater from the date of the discharge notice, a POC extension IS NOT needed.

DAL will send the appeal request and request for a SOE to RO.

RO will:

- Prepare and submit SOE to DAL within seven (7) business days of SOE request from DAL.

- DAL notifies individual (appellant) and RO of appeal hearing date
- RO notifies the SC of the appeal hearing date
- Appeal hearing is conducted by DAL Judge
- SC (and appellant) participates in the hearing (by phone or in person)
- DAL sends final decision notice to RO and appellant

If DAL rules in favor of the appellant, RO will contact SCA to continue with his/her waiver case.

If DAL rules in favor of OAAS, RO will:

- Request an e148-W discharge from the SC.
- Complete the POC End Date on the bottom portion of the Plan of Care Extension form. This date needs to be one day after the date the decision is received from DAL.

The SC will complete the following documents (indicating reason for discharge):

- The e148-W discharge with a discharge effective date one day after the date the decision is received from DAL.
- RO approves the e148-W discharge.
- SC closes the participant's case in CMIS and faxes the notice to the provider(s).
- SC calls and speaks with a representative of the provider(s) to inform them of the discharge and by fax notification.

If the participant DOES NOT appeal within fourteen (14) calendar days of the date of the proposed discharge, services will be terminated effective the fifteenth (15th) day.

If the participant does NOT appeal within the fourteen (14) calendar days of the date of the proposed discharge, RO will wait the thirty (30) calendar days from date of notice to see if participant will file an appeal.

If the participant appeals timely (within thirty (30) calendar days from the date of discharge notice), DAL will send an appeal request and a request for SOE to RO.

RO will:

- Prepare and submit SOE to DAL within seven (7) working days of SOE request from DAL.
 - DAL notifies individual (appellant) and OAAS RO of appeal hearing date
 - RO notifies the SC of the appeal hearing date
 - Appeal hearing is conducted by DAL Judge
 - SC (and appellant) participates in the hearing (by phone or in person)
- DAL sends final decision notice to RO and appellant If DAL rules in favor of the appellant, RO will contact SCA to continue with his/her waiver case effective the receipt date of the decision
- If DAL rules in favor of OAAS, RO will request a e148-W discharge from the SC

The SC will complete and email the following document (indicating reason for discharge):

- The e148-W discharge with a discharge date one day after the date the decision is received from DAL.

- RO approves the e148-W discharge
- SC closes the participant's case in CMIS and faxes the notice to the provider(s)
- The SC calls and speaks with a representative of the provider(s) to inform them of the discharge and by fax notification
- If the individual does NOT appeal within the thirty (30) calendar days from date of notice, the participant's waiver case will be closed
- RO will request a e148-W discharge from the SC

The SC will complete the following document (indicating reason for discharge):

- The e148-W discharge with the discharge date indicated on the discharge notice.
- RO approves the discharge e148-W.
- SC closes the participant's case in CMIS and faxes the notice to the provider(s). The SC calls and speaks with a representative of the provider(s) to inform them of the discharge and by fax notification.