



OPERATIONAL MEMO

Title: Medical Assistance Appeals Strategy During the COVID Unwind	Topic: Eligibility Process
Audience: Eligibility Sites, Eligibility Technicians and Supervisors, County Departments of Human/Social Services	Sub-Topic: Eligibility Appeals
Supersedes Number: N/A	Division: Eligibility Policy
Effective Date: Sept. 25, 2023	Office: Medicaid Operations Office
Expiration Date: Feb. 28, 2025	Program Area: Eligibility Policy
Key Words: Eligibility, Appeals, Hearing Process, Dispute Resolution	
Legal Authority: 1902(e)(14)(A) of the Social Security Act, Centers for Medicare & Medicaid Services (CMS) State Health Official (SHO) letter #22-001	
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Approved By: Marivel Klueckman	

HCPF Memo Series can be accessed online: <https://www.colorado.gov/hcpf/memo-series>

Purpose and Audience:

The purpose of this Operational Memo is to inform county departments of human/social services (counties) and Medical Assistance (MA) sites, of a change to the appeals process as a result of Health Care Policy and Financing (the Department) receiving approval from the Centers for Medicare & Medicaid Services (CMS) to utilize a 1902(e)(14)(A) waiver during the COVID Unwind period.

Information:

On October 2, 2023, the Department received approval from CMS to utilize a 1902(e)(14)(A) waiver during the COVID Unwind period with regards to Eligibility Appeals. Section 1902(e)(14)(A) of the Social Security Act allows for waivers “to ensure that states establish income and eligibility determination systems that protect beneficiaries.” Such waivers are time-limited and are meant to promote enrollment and retention of eligible individuals by easing the administrative burden states may experience in light of systems limitations and challenges. CMS’ approval of this waiver

to temporarily extend the timeframe permitted for the state to take final administrative action on fair hearing requests became effective as of September 25, 2023, and continues until February 28, 2025. This waiver benefits members in two important ways.

1. Increased 60-Day Deadline to Receive Continued Benefits

Members who have filed a State Fair Hearing within 60 days of their Date of Action with benefits scheduled to end 09/30/2023 or after will have continued benefits reinstated back to the closure date. This appeals strategy during the unwind allows members who file their appeal within the 60-day deadline to receive continued benefits regardless of the termination date.

2. Recoupment of Benefits

As part of receiving CMS approval for this strategy, Eligibility Sites are not allowed to recoup from the member the cost of benefits provided while pending final administrative action, regardless of the hearing decision. This also includes all outcomes from a dispute resolution conference. All communications must not have language that indicates a recoupment or recovery may occur pending the outcome of an appeal. The continued benefits letter that is sent out from CBMS was updated in the October 2023 CBMS build to remove this language as part of Project CPPM-8732 EPD CBMS MA Update Recoupment Language In The Speed Letter for Continued Benefits.

Action To Be Taken:

Eligibility workers do not need to take any action within CBMS. Reinstatement of continued benefits during a state-level appeal is completed by the Eligibility Appeals and Escalations team within Health Care Policy and Financing. This action is taken on the Medical Assistance Appeals tab within CBMS.

Per [HCPF OM 22-019](#) (or whichever Operational Memo supersedes HCPF OM 22-019) County Communications to Medical Assistance Applicants and Members, Eligibility Sites must submit county-created member facing communications for review and approval. County created communications must be submitted to the [County Relations Webform](#) using the ticket type "County Communications". County created communications related to hearings and appeals (including but not limited to scheduling or appointment letters, outcome notices, etc.) must be reviewed and approved prior to use; notices that have been previously approved must be resubmitted for review if any substantial changes are made.

Existing Guidance: Below are the options on how members can request a State Fair Hearing or a dispute resolution conference:

Mail:

Office of Administrative Courts
Courts 1525 Sherman St, 4th Floor
Denver, CO 80203

Fax: 1-303-866-5909

Email: dpa_oac-gs@state.co.us

Online: [Colorado.gov/oac/oac-form-links](https://colorado.gov/oac/oac-form-links) >(under Forms) **General Services - Request for State Level Hearing**

Members can request a dispute resolution conference by contacting their eligibility site by phone or mail. The member needs to include their name, address, telephone number, case number, and why they disagree with the decision.

Compliance and Oversight

The Department staff responsible for Eligibility Site oversight activities may review eligibility appeals processes during the eligibility site's Management Evaluation or during other identified Desk Reviews. Findings of non-compliance may result in the issuance of a Management Decision Letter (MDL). The MDL acts as a non-compliance notice and will require the eligibility site to address the root cause of non-compliance and correct internal procedures to prevent future non-compliance. If an Eligibility Site is selected for a Desk Review of eligibility appeals processes, the site will be notified prior to the completion of the review.

Attachment:

CMS Colorado Fair Hearing E14 Approval Letter

HCPF Contact:

HCPF Medicaid Eligibility Inbox - hcpf_medicaid.eligibility@state.co.us

HCPF Eligibility Appeals Inbox - hcpf_eligibilityappeals@state.co.us