



APPEALING MEDICAID TERMINATIONS

Lee Ginsburg

Senior Attorney

Community Health Law Project

March 25, 2023



Community Health Law Project

Founded in 1976, the Community Health Law Project (CHLP) is a New Jersey statewide not-for-profit advocacy and legal services organization which provides (usually free) legal representation to low income individuals with disabilities.



Community Health Law Project

5 direct service offices and 4 satellite offices providing services in a number of areas including but not limited to:

Medicaid/Medicare; Social Security Disability; SSI; Home Care Issues involving private duty nursing (PDN), personal care assistance (PCA) and durable medical equipment (DME)

Landlord/Tenant matters; public entitlements including food stamps (SNAP), Emergency Housing Assistance and cash welfare benefits

Housing discrimination, special education, consumer law and guardianships



Medicaid Appeal Rights

If the County decides to terminate Medicaid benefits for any reason, they must mail you a written notice prior to the effective date of the termination.

The termination notice must state the reason(s) that they believe that you are no longer eligible for Medicaid and must include information about how to file an appeal and how long you have to do so.

Common reasons for Medicaid termination are excess income, excess resources, not sending back your renewal form or not providing all of the required information on the renewal form. These decisions are often incorrect so don't give up if you get an adverse decision.



Medicaid Appeal Rights

You have 20 days from the date of the termination notice to file an appeal. A late appeal may be accepted if you have a good reason for not filing it on time.

If you file the appeal in time, you have the right to request and receive continuing Medicaid benefits during the entire appeals process.

Receipt of continuing benefits is extremely important since the hearing process typically takes at least 3-4 months and sometimes much longer.

The appeal must be mailed or faxed to the address/fax number listed on the notice.



Medicaid Appeal Rights

Appeals must be in writing. An appeals form should be attached to the termination notice. However, you do not need to use the form to file an appeal.

You do not need an advocate or lawyer to file a Medicaid appeal. However, if you are not nearing the 20 day deadline, it would be advisable to speak with an experienced advocate or lawyer prior to filing.

The appeal is received by the state Medicaid department (DMAHS) and is then transferred to the New Jersey Office of Administrative Law where it is assigned to an Administrative Law Judge (ALJ) for scheduling of a hearing.



Medicaid Appeal Rights

A Medicaid appeal is a proceeding against the county and state Medicaid department that gives you an opportunity to present your case before an ALJ.

The ALJ hears the evidence presented by both sides in the form of documents and sworn testimony and decides whether the county's decision to terminate benefits was correct.

In order to have a good chance of winning the appeal, you must be prepared to present documents and witnesses that you believe support that the county's decision was not correct.



Medicaid Appeal Rights

The hearing room consists of the ALJ, representatives of your County Board of Social Services and you, each producing evidence to create a hearing record that is kept in audio form.

After the hearing, the ALJ issues a written decision that is a recommendation to the Director of the New Jersey Medicaid Department (DMAHS). The DMAHS Director then has 45 days to review The ALJ's decision and issue a new written decision that becomes the "final agency decision."

If the ALJ's recommended decision is unfavorable to you, you have 7 days from the date of the decision to write a letter to the DMAHS Director explaining why you disagree. This is known as an Exceptions Letter.



Medicaid Appeal Rights

The Medicaid Director can accept, reject or modify the ALJ's decision.

If the Medicaid Director's decision is unfavorable to you, you have 45 days to file an appeal to the Appellate Division of New Jersey Superior Court in Trenton.

Such appeals are very lengthy (usually 6-9 months) and require the filing of a legal brief explaining in detail why you believe that the final agency decision was wrong. It is very difficult to succeed at this stage without the assistance of an experienced lawyer.

If the Appellate Division decision is unfavorable, it is possible to file an appeal with the New Jersey Supreme Court.



Available Legal Assistance

CHLP is committed to assisting and representing low income disabled individuals and their families with any aspect of the Medicaid eligibility redetermination process.

This may include assistance with completing the required redetermination paperwork, assistance with filing appeals, analyzing whether the county's termination decision is correct and representation at OAL hearings for cases where we believe that the county decision may have been incorrect. All of these services are free of charge.



How to Contact Us

North Jersey Main Office, 650 Bloomfield Avenue, Suite 210

Bloomfield, NJ 07003

Phone: (973) 680-5599, TTY: (973) 680-1116

East Jersey Main Office, 65 Jefferson Avenue, Suite 402, Elizabeth, NJ

07201

Phone: (908) 355-8282, TTY: (908) 355-3369

Central Jersey Main Office, 3635 Quakerbridge Road, Suite 14,

Hamilton, NJ 08619

Phone: (609) 392-5553, TTY: (609) 392-5369



How to Contact Us

Shore Area Main Office, 3301 Rte. 66, Bldg. C, Suite 130, Neptune, NJ
07753

Phone: (732) 380-1012, Fax: (732) 380-1015

South Jersey Main Office, Station House Office Building, 900 Haddon
Avenue, Suite 400, Collingswood, NJ 08108

Phone/TTY: (856) 858-9500