



POLICY & PROCEDURE MANUAL

Section: Developmental Disabilities

Number: 8-1

Subject: Developmental Disability Determinations

Approved: /s/ Duane G. Mayes, Director

Date: 4/3/2017

(Replaces policy signed 12/22/2015)

Purpose

To provide a uniform method of determining whether a person experiences a developmental disability as defined in AS 47.80 900 (6), for the purpose of qualifying for state-funded developmental disabilities services.

To provide for an appeal process when denied eligibility.

Policy

SDS determines whether an individual with developmental disabilities has functional limitations substantial enough to qualify for state-funded developmental disabilities services. This determination of developmental disability (called “DD eligible”) allows access to state-funded developmental disabilities community grant services, as available. It also allows the opportunity to register with SDS for assessment for Intellectual and Developmental Disabilities (IDD) home and community-based waiver services, when funding becomes available (pursuant to Policy and Procedure Number 4-3).

An individual interested in receiving a developmental disability determination submits a complete application to SDS. An SDS Qualified Intellectual Disabilities Professional (QIDP) evaluates the complete application based on the criteria set forth in AS 47.80 900 (6).

The QIDP makes one of three decisions based on the contents of the application: 1) the applicant is determined developmentally disabled with functional limitations substantial enough to qualify for state-funded developmental disabilities grant services (is “DD eligible”); 2) the applicant is denied DD eligibility due to the application having incomplete information or insufficient documentation; or 3) the applicant is determined not to have substantial functional limitations, so is denied “DD eligible” status.

Individuals who are determined to be DD eligible may seek developmental disabilities community grant-funded services from agencies, as available. These individuals may also complete the developmental disabilities registration and review (DDRR) process to be evaluated for IDD home and community-based waiver services, when funding becomes available.

Individuals who are denied DD eligibility have 30 business days to submit additional information prior to their files being closed. Individuals who have their files closed may reapply at any time.

Authority

AS 47.80.900 (6) definition of “person with a developmental disability”



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Definitions

“Aging and Disability Resource Center (ADRC)” is a state-designated agency or entity whose primary goal is to serve the public, specifically seniors, people with disabilities and their caregivers and families, as an unbiased resource for information and assistance related to Long Term Services and Supports (LTSS).

“Applicant” means an individual who has submitted an application for a determination of developmental disability.

“Complete application” means a Developmental Disability Determination application with all sections complete and signed by the applicant or legal representative. A complete application must include assessments and evaluations, dated and signed by the professionals who have administered them, that document the applicant’s current functional levels in the areas listed in section (D) of AS 48.80.900(6). Applications signed by anyone other than a parent of a minor child or an applicant who is 18 or older must include copies of court or Power of Attorney documents designating the signer’s authority as the applicant’s legal representative.

“DD eligible” means an individual who has submitted an initial application for a developmental disability determination and who has received an approval letter from SDS, stating that s/he experiences a developmental disability, as defined in AS 47.80.900 (6):

(6) "person with a developmental disability" means a person who is experiencing a severe, chronic disability that

(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(B) is manifested before the person attains age 22;

(C) is likely to continue indefinitely;

(D) results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency; and

(E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

“Developmental Disability Determination” (DDD) means the application form and the process used to seek a determination of developmental disability.

“Developmental Disability Registration and Review” (DDRR) means the assessment form that, when completed, allows an individual who has been found “DD eligible” to be considered for further evaluation when IDD home and community-based waiver services funding becomes available. DDRR status should be updated annually.



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“Developmental disabilities services” means both grant-funded services and the Intellectual and Developmental Disabilities (IDD) waiver program.

“Early Intervention/Infant Learning Program” means Part C of the Individuals with Disabilities Education Act.

“Evaluation Summary and Eligibility Report” (ESER) means the report issued by a school district in Alaska evaluating a student for eligibility for special education services.

“Grant-funded services” means services funded through programs managed by provider agencies with grant awards from SDS.

“Individual Education Program” means Part B of the Individuals with Disabilities Education Act.

“Intermediate care facility for individuals with intellectual disabilities” (ICF/IID) means a facility that is primarily for the diagnosis, treatment, habilitation, or rehabilitation of people with intellectual and developmental disabilities or related conditions and that has met the conditions for payment set out in 7 AAC 140.600.

“Legal representative” means a parent of a minor child or an individual with legal authority to act on behalf of an applicant. An individual age 18 and older without a court-appointed guardian or Power of Attorney is his or her own legal representative.

“Qualified Intellectual Disabilities Professional” (QIDP) means an SDS employee who meets the requirements of 7 AAC 140.640.

“Registry” means the list of applicants who have been found to be DD eligible, have completed the DDRR, and are waiting for an evaluation for home and community-based waiver services.

“Reasonable person standard” means that a typical person with no specialized knowledge or training would consider a decision to be logical.

“STAR agency/STAR coordinator” means the Short-Term Assistance and Referral entity/individual tasked with helping people with developmental disabilities and their families to address short-term needs, such as applying for developmental disability determination using the DDD, and registering with SDS for evaluation when waiver services funding becomes available, by completing the DDRR.

“Substantial functional limitation” means consistently functioning at or near a level that is two standard deviations delayed, or 25% delayed, or functioning at or below the 2nd percentile, compared to the typical functioning of same age peers. Substantial functional limitation must be demonstrated globally in areas of major life activity, as defined in AS 47.80.900 (6)(D). Behavioral reluctance or refusal to perform tasks in an



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area is not considered a limitation of a person's ability in an area, but rather, a component in the area of self-direction.

Responsibilities

1. The **applicant** or **legal representative** is responsible for:
 - a. submitting a complete DDD application, including supporting documentation, for a developmental disability determination,
 - b. re-applying using the DDD application for developmental disabilities determination, if DD eligibility is approved provisionally and continued need exists after the eligibility expiration date,
 - c. completing the Developmental Disabilities Registration and Review (DDRR) form if the applicant wants to be considered for home and community waiver services or wants the applicant's needs and desires to be considered by SDS for program planning purposes, and
 - d. maintaining current contact information with SDS, by submitting a completed DDRR at least annually, and more frequently, if necessary.
2. The **STAR** or **ADRC coordinator** is responsible for
 - a. advising the applicant or representative of eligibility requirements for determination of developmental disability,
 - b. assisting the applicant or representative with submitting a complete DDD application, upon request, and
 - c. for persons with DD eligibility, assisting with access to needed services.
3. The **SDS QIDP** is responsible for
 - a. reviewing each application and supporting documentation,
 - b. determining whether the applicant experiences a developmental disability, as defined in AS 47.80.900 (6),
 - c. notifying the applicant of the determination decision,
 - d. informing those applicants who are found DD-eligible that they qualify for state grant-funded services, and that they may submit a Developmental Disabilities Registration and Review (DDRR) form to be considered for IDD waiver services, and
 - e. advising individuals who receive denials of the opportunity to request a review by the IDD unit manager.

Procedures

A. Timeframes

1. Within 30 business days of receipt of the complete application, SDS makes a decision whether the applicant is DD eligible.



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2. Within five business days of the DD eligibility determination, SDS issues written notification of the decision to the applicant or representative.

B. Application for services

1. The applicant and/or legal representative compiles and submits a complete application.
2. The SDS Qualified Intellectual Disabilities Professional (QIDP) determines whether the applicant experiences a developmental disability as defined by Alaska Statute 47.80.900(6):
 - a. for applicants who do not meet the determination requirements, the QIDP notifies the applicant in writing that DD eligibility is denied because the statutory definition has not been met, and that the applicant has 30 days to submit additional documentation for reconsideration or request a review of the denied application by the IDD unit manager;
 - b. for applicants whose eligibility cannot be determined because insufficient information was provided, the QIDP notifies the applicant in writing that DD eligibility is denied due to the application having incomplete information or insufficient documentation, and that the applicant has 30 days to submit additional documentation for reconsideration; or
 - c. for applicants who do meet the DD eligibility requirements, the QIDP notifies the applicant in writing that
 1. DD eligibility was determined, and if the approval is provisional (time-limited), that eligibility includes an end date,
 2. The applicant can seek grant-funded services, as available, from a DD provider agency, and
 3. The applicant can complete the DRRR for evaluation when IDD home and community-based waiver services funding becomes available.

C. Re-determination of eligibility:

1. An individual's eligibility for developmental disabilities services may be re-evaluated by SDS at the following times:
 - a. When considered for selection from the Registry for IDD home and community-based waiver services;
 - b. When identified as a transition candidate from one Home and Community Based (HCB) waiver to another HCB waiver;
 - c. As specified in the initial eligibility determination letter, or at the following approximate ages:
 - i. Four years of age,
 - ii. Seven years of age,
 - iii. Sixteen years of age;
 - iv. Between 18-22 years of age; and
 - d. at the discretion of the department.



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2. The re-determination process requires that a new DDD application is submitted with current supporting documentation.

D. Expedited determinations:

- i. SDS can expedite the determination of disability in the following circumstances:
 1. the declining health of a primary unpaid caregiver that makes the caregiver unable to continue to provide care for the applicant; or
 2. the death of a primary unpaid caregiver 30 or fewer days before the date of the application.
- ii. The applicant should notify SDS to request an expedited review at the time the complete application is submitted to SDS.

E. Review of denials by unit manager:

1. The denial letter sent an applicant by the QIDP must include information on the opportunity to request a review of the denied application by the IDD unit manager.
2. If a review of a denied application is requested by an applicant, the IDD unit manager will review the application and all documentation, make a determination, and notify the applicant of the manager's determination.

F. Appeals:

1. If an applicant disagrees with the determination made by the IDD unit manager, the applicant has the right to appeal the decision using the Department of Health and Social Services fair hearing process.
2. The Department of Health and Social Services Notice of Recipient Fair Hearing Rights contains information on how to schedule a fair hearing to appeal a denial of disability determination.

G. Reapplications:

Applicants can reapply for a Determination of Developmental Disability at any time.

ATTACHMENTS:

- A) General Description of Life Areas from AS 47.80.900(6)(D) Assessed for Functional Abilities
- B) Supporting Documentation
- C) Developmental Disabilities Determination Application
- D) Department of Health and Social Services Fair Hearings Process
- E) Department of Health and Social Services Notice of Recipient Fair Hearing Rights



ATTACHMENT A

State of Alaska • Department of Health • Senior and Disabilities Services

Developmental Disability Determination Policy

General Description of Life Areas from AS 47.80.900(6)(D) Assessed for Functional Abilities

“Substantial functional limitation” means consistently functioning at or near a level that is two standard deviations delayed, or 25% delayed, or functioning at or below the 2nd percentile compared to the typical functioning of chronologically same aged peers. Substantial functional limitation must be demonstrated globally in areas of major life activity, as defined in AS 47.80.900 (6) (D). Behavioral reluctance or refusal to perform tasks in an area is not considered a limitation of a person’s ability in an area, but rather, a component in the area of self-direction.

Self-care: A person’s ability to perform such tasks as eating/drinking, toileting, dressing, grooming. Factors that are considered include (but are not limited to) the level at which a person performs the following tasks through standardized assessment:

- chew and swallow
- lift food and drink to their mouth
- anticipate the need to toilet
- utilize toilet facilities for voiding
- perform toileting related hygiene
- select and don attire
- wash self in shower or tub
- shampoo and rinses hair
- perform oral hygiene
- brush or comb hair

Receptive and Expressive Language: A person’s ability to understand the communication of others and to communicate with others. Receptive language involves comprehension of communication presented to an individual in any combination of spoken words, signs, or images that may be printed or electronic. Early expressive language consists of sounds, gestures, body posture, and facial expression. Verbal language involves the use of words through any combination of speaking, producing words with an electronic device, signing, and using images that may be printed or electronic. Ability to understand and use social language (pragmatics) is considered a component in this category, but alone does not constitute the entirety of the delay. Factors that are considered include (but are not limited to) the level at which a person performs the following tasks through standardized assessment:

- Express themselves in their primary language to be understood by the listener without repetition or interpretation by a familiar person
- Understand the communication of others who are expressing in their primary language
- Have reciprocal conversation

Learning: A person’s ability to acquire knowledge or skills through experience, study, or being taught. Factors that are considered include (but are not limited to) the level at which a person performs the following tasks through standardized assessment:

- Demonstrate cognitive ability or intellectual functioning
- Demonstrate acquisition of pre-academic or academic skills

Mobility: A person’s physical ability to move their body from place to place, control and coordinate gross motor movement. Factors that are considered include (but are not limited to) the level at which a person performs the following tasks through standardized assessment:

- Hold up head, roll, sit, crawl
- Walk
- Navigate uneven surfaces, such as stairs

Self-direction: A person's ability to establish and maintain interpersonal and social relationships, manage emotional responses, display socially appropriate behavior, focus and attend appropriately, use judgment, make decisions, solve problems, plan and execute tasks, and direct behavior toward goals. Factors that are considered include (but are not limited to) the level at which a person performs the following tasks through standardized assessment:

- Seek social interaction with others
- Behave in a way that does not cause harm to self or others
- Pay attention and focus
- Generalize information gained through learning toward novel situations
- Manage stress and emotion
- Avoid victimization
- Willingly engage skills demonstrated in other life areas

Capacity for Independent Living: This area is considered for people aged 16 and older, as a person's ability to maintain a household and access necessary community resources. Factors that are considered include (but are not limited to) the level at which a person performs the following tasks through standardized assessment:

- Perform housework and basic home maintenance
- Access transportation,
- Shop
- Prepare meals
- Manage money
- Use devices (e.g. telephone) to communicate

Economic self-sufficiency: This area is considered for people aged 16 and older who are not enrolled in educational programs, as a person's ability to financially meet their needs such as food, clothing, housing, utilities, and transportation. Factors that are considered include (but are not limited to) the level at which a person performs the following tasks through standardized assessment:

- Complete job applications and interviews
- Work at a community-based job



ATTACHMENT B

State of Alaska • Department of Health • Division of Senior and Disabilities Services

Developmental Disability Determination Policy Supporting Documentation

Completed DDD applications should include evaluations and/or assessments that document current functional levels and/or delays in the life skill areas of self-care, receptive and expressive language, learning, mobility, self-direction, and independent living (for people age 16 and older) and economic self-sufficiency (for people age 16 and older who are not enrolled in educational programs).

Alaska does not perform individual assessments for developmental disability determinations, but relies on submission of standardized assessments completed by other professionals which, in determining standardized scores and ratings, may take into account

- Frequency of functional limitation
- Effort needed to complete the task
- Adequacy of task completion
- Safety in completing the task
- Time needed to complete the task
(FEAST)

For children age 7 and older, supporting documents should be current within past 36 months.

For children younger than age 7, supporting documents should be current within the past 12 months. For adults, supporting documents should be as current as possible and also speak to the existence of mental or physical impairment and functional limitations prior to age 22. Given the lack of professional services available in rural areas and the lack of available records for some adults, the reasonable person standard will be used when evaluating information for evidence of the FEAST components above to determine the existence of functional limitation prior to age 22.

Examples of supporting documentation include, but are not limited to:

- a. Developmental assessment by Early Intervention/Infant Learning Program,
- b. School district special education evaluations and evaluation summaries, known in Alaska as the Evaluation Summary & Eligibility Report (ESER),
- c. School district Individual Education Plan (IEP),
- d. Individual Family Service Plan (IFSP),
- e. Psychological assessment,
- f. Neuropsychological assessment,
- g. Evaluations from specialists (e.g., occupational, physical, or speech therapy), and
- h. Division of Vocational Rehabilitation (DVR) assessments and evaluations.

Documentation of the disability prior to age 22 includes, but is not limited to, school records, health aide records, Social Security records, and current records which document the history of the disability.

All evaluations and assessments submitted as supporting documentation must be dated and signed by the professional clinician who administered the evaluation or assessment.



ATTACHMENT C
State of Alaska • Department of Health • Division of Senior and Disabilities Services

Intellectual and Developmental Disabilities Unit

Anchorage Office: Phone: (907) 269-3666; Toll Free: 1-800-770-3930; Fax: (907) 269-3639
1835 Bragaw Street, Suite 350 Anchorage, AK 99508

Fairbanks Office: Phone: (907) 451-5045; Toll Free: 1-800-770-1672; Fax: (907) 451-5046 751
Old Richardson Highway, Suite 100-A, Fairbanks, 99701

Developmental Disability Determination Application

Applicants can complete and submit this form, or get help with completing and submitting the form from a STAR (Short Term Assistance and Referral) agency or an Aging and Disability Resource Center (ADRC). To find one, visit http://dhss.alaska.gov/dsds/Pages/adrc/default.aspx or http://dhss.alaska.gov/dsds/Documents/grantservices/PDFs/STAR_Roster.pdf

APPLICANT INFORMATION

Please note – the applicant is the individual for whom the Developmental Disability Determination is being sought

Name:

Last Name First Name M.I.

Address:

Street Address Mailing Address (if different)

City: State: Alaska Zip:

Telephone Number: ()

Sex: Male Female

Date of Birth: Place of Birth: City State

Name of Legal Representative*:

*Anyone other than the parent(s) of a minor child MUST include copies of documents that provide evidence of legal authority to act on behalf of the applicant.

Legal Representative's Address:

City: State: Zip:

Home Telephone: Work Telephone:

Cell Telephone: Email:

If someone assisting you with this application should receive a copy of the determination letter, please provide the information below. Please ensure that an Authorization for Release of Information is included for this person. Download Release of Information forms here: http://dhss.alaska.gov/dsds/Documents/docs/ReleaseOfInformation.pdf

Name: Relationship:

Contact:

DOCUMENTATION OF FUNCTIONAL LIMITATIONS

Please include with your application current documentation of substantial functional limitation in at least three of the areas listed below. To assist the determination process, please review your documentation to make sure it is relevant to the determination of developmental disability.

“Substantial functional limitation” means consistently functioning at or near a level that is two standard deviations delayed, or 25% delayed, or functioning at or below the 2nd percentile, compared to the typical functioning of same age peers. Substantial functional limitation must be demonstrated globally in areas of major life activity, as defined in AS 47.80.900 (6) (D). Behavioral reluctance or refusal to perform tasks in an area is not considered a limitation of a person’s ability in an area, but rather, a component in the area of self-direction.

- **All submitted documentation MUST be signed and dated by the professional who administered the assessment or evaluation.**
- **Applicants over the age of 22 must submit evidence that substantial limitations existed prior to age 22.**
- **An application submitted without sufficient supporting documentation of disability will result in a denial of Developmental Disability Determination based on insufficient information.**

Examples of supporting documentation include, but are not limited to:

- a. Developmental assessment by Early Intervention/Infant Learning Program,
- b. School district special education evaluations and evaluation summaries, known in Alaska as the Evaluation Summary & Eligibility Report (ESER),
- c. School district Individual Education Plan (IEP),
- d. Individual Family Service Plan (IFSP),
- e. Neuropsychological assessment,
- f. Psychological assessment,
- g. Evaluations from specialists (e.g., occupational, physical, or speech therapy), and
- h. Division of Vocational Rehabilitation (DVR) assessments and evaluations.

Documentation of the disability prior to age 22 includes, but is not limited to, school records, health records from village clinics, Social Security records, and histories of an applicant’s disability as documented in current evaluations or records.

Please indicate below which attached document(s) and which page number(s) provide an assessment of substantial functional limitation in that specific area.

1. **SELF CARE** - A person’s ability to perform such tasks as eating/drinking, toileting, dressing, and grooming.

- Document Name _____ Date _____ Pg# _____
- Document Name _____ Date _____ Pg# _____
- Document Name _____ Date _____ Pg# _____

2. **EXPRESSIVE & RECEPTIVE LANGUAGE** - A person’s ability to understand the communication of others and to communicate with others through any combination of spoken words, signs, or images that may be printed or electronic.

- Document Name _____ Date _____ Pg# _____
- Document Name _____ Date _____ Pg# _____
- Document Name _____ Date _____ Pg# _____

3. **LEARNING** - A person’s cognitive ability to acquire knowledge or skills through experience, study, or by being taught.

➤ Document Name _____ Date _____ Pg# _____

➤ Document Name _____ Date _____ Pg# _____

➤ Document Name _____ Date _____ Pg# _____

4. **MOBILITY** - A person’s physical ability to move their body from place to place, control and coordinate gross motor movement.

➤ Document Name _____ Date _____ Pg# _____

➤ Document Name _____ Date _____ Pg# _____

➤ Document Name _____ Date _____ Pg# _____

5. **SELF DIRECTION** - A person’s ability to establish and maintain interpersonal and social relationships, manage emotional responses, display socially appropriate behavior, focus and attend appropriately, use judgment, make decisions, solve problems, plan and execute tasks, and direct behavior toward goals.

➤ Document Name _____ Date _____ Pg# _____

➤ Document Name _____ Date _____ Pg# _____

➤ Document Name _____ Date _____ Pg# _____

6. **CAPACITY FOR INDEPENDENT LIVING** – For age 16+, a person’s ability to maintain a household and access necessary community resources.

➤ Document Name _____ Date _____ Pg# _____

➤ Document Name _____ Date _____ Pg# _____

➤ Document Name _____ Date _____ Pg# _____

7. **CAPACITY FOR ECONOMIC SELF-SUFFICIENCY** – For age 16+ and not enrolled in educational programs, a person’s ability to financially meet their needs such as food, clothing, housing, utilities, and transportation.

➤ Document Name _____ Date _____ Pg# _____

➤ Document Name _____ Date _____ Pg# _____

➤ Document Name _____ Date _____ Pg# _____

INFORMATION RELEASE AND ASSURANCES

A separate Authorization for Release of Information must be completed for each agency or individual with whom you wish Senior and Disabilities Services to share information about yourself.

I certify that the information contained herein is correct and accurate to the best of my knowledge.

Applicant/Guardian Signature: _____ Date: _____

The Developmental Disability Determination decision will be conveyed in writing to the applicant or the applicant’s legal representative.

Use the space below if you would like to provide a narrative description to supplement or enhance the required documentation of functional limitations

STATE USE ONLY

INITIAL REVIEW

Approved/ Date:

Denied / Date:

Time Limited/ Date:

Date Determination Letter Sent

Health Program Manager Signature:

RESUBMISSION REVIEW

Approved/Date:

Denied / Date:

Time Limited/ Date:

Date Determination Letter Sent:

Health Program Manager Signature:

MANAGER REVIEW

Approved/ Date:

Denied / Date:

Time Limited/ Date:

Date Determination Letter Sent

Unit Manager Signature:



All About Fair Hearings

This purpose of this booklet is to help Alaska Medicaid recipients to understand fair hearings. You will learn when to request a fair hearing, how to request a fair hearing and your responsibilities at hearing. If, after reading this booklet, you have questions about fair hearings please contact the Recipient Helpline at 800.780.9972 or recipienthelp@xerox.com.



Division of Health
Care Services

What Is A Fair Hearing?

A Fair Hearing is a chance for you to tell an administrative law judge from the State of Alaska, Office of Administrative Hearings, why you think a decision about your case made by one of the Divisions of the Department of Health and Social Services is wrong. The administrative law judge will schedule the hearing, listen to both sides of the dispute, and issue a written decision indicating whether the Division's decision was right or wrong. The written decision may order the Division to correct your case.

When Can I Request A Fair Hearing?

You may request a fair hearing if:

Your application for Medicaid, HCB waiver services, or other benefits was denied or was not acted on in a reasonable amount of time.

Your benefit(s) have been terminated, reduced or changed in benefit level.

You have been denied coverage for a specific medical service such as travel, durable medical equipment etc.

You have been denied or partially denied prior authorization.

Any other action by the Division that you think is incorrect.

What Problems Cannot Be Resolved At A Fair Hearing?

When Medicaid has denied payment to your provider.

Providers have appeal rights under 7 AAC 105.260.

When a prescription cannot be refilled because a new prior authorization is needed. Ask your health care provider to submit a new prior authorization request.

Who Can Request A Fair Hearing?

You, the Medicaid recipient

Your authorized representative or legal representative acting on your behalf

How Much Time Do I Have To Request A Fair Hearing?

You or your representative must request a fair hearing in writing within 30 days of the date of the written denial or reduction of benefit letter.

How Do I Request A Fair Hearing?

You or your representative may request a fair hearing by:

Mail:

Fair Hearing Representative

Xerox State Healthcare

P. O. Box 240808

Anchorage, AK 99524

Fax: 907.644.8126

Email: FairHearings@xerox.com

Remember to identify yourself and the issue for which you are requesting a fair hearing.

How Will I Know My Request Was Received?

When your request is received it will be referred to the Office of Administrative Hearings within 10 days. You will receive a letter, usually within 12 days, that confirms your hearing request was referred to the Office of Administrative Hearings. If you do not receive a letter of referral within 12 days after submitting your fair hearing request, contact Xerox at 907.644.6800, option 6, and ask if your request has been received.

When the Office of Administrative Hearings receives the referral letter, a notice will be mailed to you with the date, time and location for your hearing. This notice will also give you contact information in case you need to make a change or reschedule your hearing.

Can I Continue To Receive Benefits Or Services?

If you request a fair hearing because the benefits or services you are already receiving are stopped, suspended, or reduced, your benefits or services will continue until a decision is made by the administrative law judge. You must inform the fair hearing representative if you do not want your benefits to continue automatically. If you continue to receive benefits and the administrative law judge determines that your benefits were correctly denied, terminated, or reduced, you may be required to repay the cost of the continued benefits.

Can My Request For Fair Hearing Be Dismissed?

Dismissed hearing requests are not referred to the Office of Administrative Hearings. The Division is allowed to dismiss a fair hearing request if:

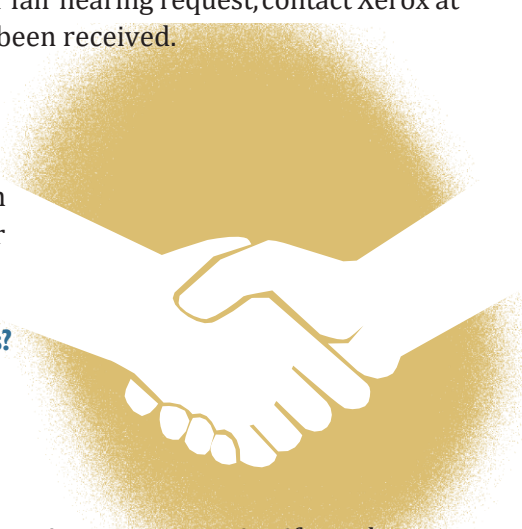
- Your request for a hearing is received more than 30 days after a benefit was denied or reduced; or
- The only issue of your request is one of federal or state law which requires an automatic benefit reduction; or
- The issue you are presenting is not one over which the Division has control.

Will My Hearing Be Held In Person Or By Telephone?

Hearings are usually conducted by telephone. You can request to participate in person, but travel to and from the hearing location would be at your own expense. If you choose to participate in person, please contact the Office of Administrative Hearings and notify them of your request to participate in person.

How Soon After I Submit My Request For Fair Hearing Will It Be Scheduled?

Once the Office of Administrative Hearings receives your request for hearing, your case will be scheduled for the next available date and time. You will be given at least 10 days notification prior to your scheduled fair hearing date. This allows you time to prepare all documents you would like to present and for your witnesses to be ready to provide testimony.



What If The Scheduled Date And Time Conflicts With Another Appointment?

If the scheduled date and time conflicts with another appointment you already have and you need to reschedule, call the Office of Administrative Hearings at the phone number in the letter you received. If you fail to reschedule and you fail to appear either in person or by telephone for the date and time you are scheduled, your hearing may be dismissed for failure to appear.

What If I Requested A Fair Hearing But No Longer Want Or Need It?

If you no longer want to pursue a hearing request or if the reason you requested the hearing has been resolved and you think the hearing is no longer needed, you and/or your representative may withdraw your hearing request. You can do this either in writing or by the telephone, on record, with the administrative law judge and the Division fair hearing representative present by teleconference.

It is very important you contact the assigned hearing representative on your case as soon as you know you no longer want to pursue your hearing so that your cancellation allows the time slot to open up for another case to be heard.

What Happens If I Miss My Fair Hearing?

If you fail to notify the Office of Administrative Hearings of any conflicts with your scheduled hearing, and you fail to appear in person at the Office of Administrative Hearings or answer the administrative law judge's telephone call, the judge will send you a letter giving you an opportunity to show a good reason for missing your hearing. You will need to respond to this notice in writing, within the time frame identified on the letter. If you fail to respond, your hearing may be dismissed. If you respond, the judge will listen to statements from both parties and then determine if there is a good reason to continue to hearing. If the judge approves your request, a new hearing date and time will be granted.

What Are My Responsibilities At Hearing?

You will need to coordinate your witnesses and obtain and submit any documentation that supports your case. It is important to submit all documents that you want entered into the record as soon as possible so there is no delay in proceedings. You will need to submit your documents to the Office of Administrative Hearings. There are clear instructions for submitting documents in your scheduling letter from the Office of Administrative Hearings.

What Happens At The Fair Hearing?

The following are general guidelines for fair hearings, whether your hearing is by telephone or in person. There may be changes in the order of testimony, as determined by the administrative law judge.

1. At the start of your hearing the administrative law judge assigned to your case will ask you and/or your representative if there are any additional individuals you would like to participate in the hearing. If so, you will be asked to provide their name(s) and telephone number(s). Please have all your contact names and telephone numbers ready and available. You are not required to have additional individual(s) participate.

2. Once you have provided the name(s) of any individual(s) you would like contacted, the administrative law judge will ask the State hearing representative the same question and all requested participants will be contacted and conferenced into the hearing.
3. Once all participants are contacted, the administrative law judge will begin the hearing.
4. If the Division denied a new benefit request, you will have the burden of proof to show that their action was incorrect and you will be asked to present your case first. If the Division terminated or reduced an existing benefit, they will have the burden of proof to show the action taken was correct and will be asked to present their case first.
5. After each presentation, the opposite party will be given the opportunity to ask questions of the other side. Once both sides have presented their case and all questions have been asked, the administrative law judge will close the hearing and a decision will be rendered, in writing, within the regulatory time frames.



Fair Hearing Decisions

Hearing decisions are rendered in a two-step process. The administrative law judge will issue a Proposed Decision and then a Final Decision.

The Proposed Decision allows the opportunity for both parties to see what the judge has decided and present any disagreements. No new evidence can be submitted at this time. Any disagreement with a Proposed Decision must be based on evidence that was already presented either orally or in writing through documents submitted into the record. All disagreements must be submitted in writing within 15 days of the Proposed Decision. The judge will review the concerns, the hearing record and the laws governing the program and determine if a change in the determination is warranted. Once all records are reviewed, a Final Decision will be issued.

If no disagreements to the Proposed Decision are submitted, the Proposed Decision will move forward to the second step, the Final Decision. If you are dissatisfied with the Final Decision, you may appeal to Superior Court.



Division of Health Care Services
January 2016



Fair Hearings
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 FairHearings@conduent.com
 Phone: 907.644.6800
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Department of Health and Social Services Notice of Recipient Fair Hearing Rights

If you have questions or concerns regarding the enclosed notice, please call the **Conduent Recipient Helpline at 800.780.9972** to seek clarification. If you disagree with the enclosed decision, you have the right to appeal that decision. You may contact us to schedule a fair hearing via mail, facsimile, or email.

Mailing Address	Facsimile	Email
Fair Hearing Representative Conduent P.O. Box 240808 Anchorage, AK 99524	Attention: Fair Hearings 907.644.8126	FairHearings@conduent.com

Timeline to Appeal and Legal Counsel:

If you wish to appeal the decision in this notice, you must request a fair hearing in writing within 30 days of the date of this enclosed notice, as provided in 7 AAC 49.030. At the hearing, you may either represent yourself, or use legal counsel, a relative, a friend, or other spokesperson. If requested, Department of Health and Social Services (DHSS) will help you submit a fair hearing request. Free legal representation may be available through Alaska Legal Services at 888.478.2572 (toll-free outside Anchorage) or 907.272.9431 (in Anchorage), or through the Disability Law Center at 800.478.1234 (toll-free throughout Alaska) or by email at akpa@dlcak.org. Prior to the hearing, you will be provided a complete copy of all documents that the Department relied upon in coming to the decision in the enclosed notice.

Continuation of Benefits:

Please be advised that if you have been getting a service paid by Alaska Medicaid that is stopped, suspended, or reduced by an action taken by DHSS, that service will be **automatically continued** upon receipt of your fair hearing request. **If you do not want the benefits continued automatically, you must inform the Conduent Fair Hearing Representative about your decision to discontinue the services while making your request for the fair hearing.** Please be aware that if you continue to receive benefits, and the hearing authority determines DHSS was correct to stop, suspend, or reduce the services, DHSS may require you to repay the cost of those services according to 42 C.F.R. 431.230 (b), 7 AAC 49.190, and 7 AAC 49.200.