



**STATE OF DELAWARE
DELAWARE HEALTH AND SOCIAL SERVICES
DIVISION OF MEDICAID & MEDICAL ASSISTANCE
POLICY & PLANNING UNIT**

ADMINISTRATIVE NOTICE A-13-2025

TO: DSS/DMMA Staff
DATE: November 13, 2025
PROGRAM(S): Medicaid and Delaware Healthy Children Program (DHCP)
SUBJECT: Fair Hearing Requests: Resuming Normal Timeframe
Requirements to Take Final Administrative Action

Note: This update replaces Administration Notice DMMA A-11-2023

BACKGROUND

A fair hearing is an informal proceeding before a hearing officer based on an individual's appeal of a state agency's action. A fair hearing includes timely and adequate notice, the right to confront and cross-examine witnesses, the opportunity to be heard, the right to an impartial decision maker, and the opportunity to obtain counsel.

When an applicant or recipient disagrees with an action taken by Delaware Medicaid on their case, they can dispute the action taken by requesting an appeal of the decision. Individuals must request a fair hearing within 90 days from the date that the notice of action is mailed. ([42 CFR 431.221 Request for Hearing](#))

Centers for Medicare and Medicaid Services (CMS) granted approval under section 1902(e)(14)(A) of the Social Security Act allowing Delaware Medicaid to temporarily extend the timeframe permitted for the state to take final administrative action on fair hearing requests due to the conclusion of the COVID-19 Public Health Emergency (PHE). This authority ended on June 30, 2025.

DISCUSSION

Effective July 1, 2025, Delaware Medicaid resumes normal timeframe requirements to take final administrative action on fair hearing requests.

An individual may ask for a fair hearing regarding any determination made on their case. Individuals must file a fair hearing request with either the Division of Medicaid & Medical Assistance (DMMA) or the Division of Social Services (DSS). Fair hearing requests can be submitted in person at the local DHSS office, by mail, fax, phone, or email at [DHSS DSS FHRequest@delaware.gov](mailto:DHSS_DSS_FHRequest@delaware.gov).

Staff **must not** limit or interfere with the individual's freedom to make a request for a fair hearing. Staff may assist the individual in submitting and processing the individual's request.



DMMA and DSS staff must follow their division's procedures regarding the following:


- Staff **must** take immediate action when a fair hearing request is received.
- An individual must request a fair hearing within 90 days from the date that the notice of action is mailed (postmarked date) per [42 CFR 431.221\(d\)](#).
- Because the postmarked date on the Notice of Action is unknown, staff will allow a five-day grace period from the date of the notice, for mail processing, when determining whether a fair hearing request is timely. **See sample notice below.**
 - **Example:** Delaware Medicaid sends a Notice to an individual dated June 15th. This date is prior to Adverse Action so the effective date of action is June 30th. In the Fair Hearing section of the Notice the individual is informed that they have until September 13th to ask for a fair hearing. The postmark date is unknown, unless the individual produces the envelope in which the notice was mailed in. Staff must allow a five-day grace period for mail processes.
 - If the fair hearing request is received on or before September 18th, staff will process the fair hearing request.
 - If the fair hearing request is received on or after September 19th the individual is outside of their 90-day timeframe to request a fair hearing.
- Staff will review the case with their supervisor to determine that the actions taken were correct. An agency conference may be offered at which time the individual may elect to continue or withdrawal the fair hearing request. See DSSM [5310 Offering Applicants and Recipients A Clarification Conference](#).
- Staff will submit the fair hearing summary to the Fair Hearing Office within 5 days of receiving a fair hearing request. See DSSM [5312 Responding to Fair Hearing Requests](#).
 - For DMMA the assigned case worker prepares and submits the fair hearing summary.
 - For DSS the Fair Hearing Team prepares and submits the fair hearing summary.
- Staff will continue benefits until the individual's fair hearing is determined, **only if the individual requests** to continue receiving Medicaid benefits. **The request must be received before the date the change in benefits takes effect. This is**


called the Timely Notice Period. See DSSM [5308 Reducing or Terminating Benefits](#). **See sample notice below.**

- **Example:** Delaware Medicaid sends an individual a notice that Medicaid benefits are closing on June 30th. Delaware Medicaid must receive the request for benefit continuation on or before June 30th for the individual to continue receiving Medicaid benefits until the fair hearing decision is made.
- Delaware Medicaid **may recoup** the cost of Medicaid benefits from the individual if the agencies decision is upheld. See DSSM [5308 Reducing or Terminating Benefits](#). **See sample notice below.**
- Final Administrative action (a fair hearing decision) must be made within 90 days from the date that the appeal or request for fair hearing is filed. See DSSM [5500 Issuing Fair Hearing Decisions](#).
 - Exception: expedited appeals outlined in DSSM [5304.3 Presiding Over DMMA Managed Care Hearings](#).
- Staff will take corrective action on the case, if applicable, within 5 business days of the date of the hearing decision. See DSSM [5501 Making Corrective Payments or Actions](#)

Sample Notice:

 **Can I ask to have my current benefits continue while I wait for my hearing?** Yes, **if you ask for a hearing before the date the changes in your benefits will take effect**, you can also ask to keep getting the same benefits. You may continue getting the same benefits until the hearing officer decides your case. (Cash assistance and Food benefits may only continue until the month these benefits must be recertified.) At your hearing, the hearing officer will decide if DHSS's decision about your benefits was right or wrong. If the hearing officer decides that DHSS was right, **you may owe DHSS the extra benefits that you received** between the time you asked for your hearing and the time that the hearing officer decides your case. 



What is the deadline to ask for a hearing? You have up to (Auto fill date) (90 days from the date on this notice) to ask for a fair hearing. 

 **Where can I get help with my fair hearing?** You may have someone, such as a lawyer or a friend, help you with your fair hearing. If you want free legal advice, you can call Community Legal Aid Society, Inc., at their toll-free number in New Castle County, **1-800-292-7980**; in Kent County, **1-800-537-8383**; or in Sussex County, **1-800-462-7070**.

.....
 Your Case #: _____

 You have until (Auto fill date) to ask for your hearing.

I AM ASKING FOR A FAIR HEARING. I DISAGREE WITH THIS NOTICE.
 Choose one of the following options:

-  I want to **continue to receive the benefits that I now receive** until my fair hearing is decided. I understand that **I may owe the state money if I lose** this fair hearing. 
- I do not want to continue receiving the benefits I now receive until my fair hearing is decided.

ACTION REQUIRED

Staff **must** review the following [Fair Hearings policies under DSSM 5000](#):

- 5000 Definitions
- 5304 Presiding Over DMMA Managed Care Hearings
- 5308 Reducing or Terminating Benefits
- 5310 Offering Applicants and Recipients A Clarification Conference
- 5312 Responding to Fair Hearing Requests
- 5500 Issuing Fair Hearing Decisions
- 5501 Making Corrective Payments or Actions

Staff **must** comply with the policies below to start the Fair Hearing process.

[14100.7 Fair Hearings](#)

[Fair Hearings policies under DSSM 5000](#)

- 5200 Informing Clients of Their Right to a Fair Hearing
- 5305 Limiting the Amount of Time to Request a Hearing
- 5307 Dismissing a Hearing Request
- 5400 Establishing Fair Hearing Requirements
- 5403 Providing Documents to Appellants
- 5404 Providing Options to Appellants at Hearings
- 5600 Admitting Hearsay Evidence
- 5600.1 Admitting Evidence
- 5604 Discussing the Case
- 5605 Requesting a Continuance

DIRECT INQUIRIES TO:

DHSS_DMMA_PPU@delaware.gov

11/14/2025 | 11:32 AM EST

Date

DocuSigned by:

Andrew Wilson

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Andrew Wilson, Director
Division of Medicaid & Medical Assistance