

Subject: Administrative Resolution of Complaints (Due Process) for Persons Served

- A. The Administrative Resolution process (also called Due Process) applies to situations when an individual has been denied services from the County of Summit Board of Mental Retardation and Developmental Disabilities (CSBMR/DD) or disagrees with a proposed termination or reduction in programs or services and/or challenges a CSBMR/DD policy or administrative practice which has been applied to him/her. In these circumstances, any person other than an employee of a County Board has the right to file a complaint (or appeal the CSBMR/DD decision) by following agency Resolution of Complaints (or Due Process) procedures. In addition, CSBMR/DD recognizes that each individual with a disability enjoys all rights afforded to citizens by law, as well as those described in Ohio Revised Code, Section 5123.62.
- B. For individuals placed by the Local Educational Agency (LEA) into CSBMR/DD School or Preschool Programs, the mandates of Public Law 105-17, Individuals with Disabilities Education Act (IDEA), and rules for the education of handicapped children, as promulgated by the State Board of Education, shall be followed for those programs and services. (Refer to CSBMR/DD Policy 5100, section G, and the Ohio Department of Education Model Policies and Procedures Book for steps to follow in these circumstances).
- C. For eligible individuals applying for or enrolled in Medicaid services (Home and Community Based Waiver [HCBW], Community Alternative Funding [CAFS], Target Case Management services [TCM]), appeals regarding those services shall be made to the Ohio Department of Job and Family Services ODJFS in accordance with applicable rules for appeals promulgated by ODJFS under Chapters 5101:6-1 to 5101:6-9 of the Ohio Administrative Code. Concurrent to any such appeal to ODJFS, individuals and County Boards may attempt to informally resolve issues related to Medicaid Services through Procedure 4310A (1.j).

The following terms should be understood as they relate to appeals regarding Medicaid services:

1. Adverse Actions: Denial, reduction, or termination of services.
2. Denial: To refuse an initial request to receive HCSW, CAFS, or TCM, or to refuse to increase the frequency and/or duration of one or more of those services.
3. Reduction: To decrease the frequency and/or duration of the current delivery level of a HCSW, CAFS, or TCM service.
4. Termination: To stop delivery of a HCSW, CAFS, or TCM service.
5. Notice of Adverse Action: Written notification made to person/guardian/authorized representative of the denial, termination, or reduction of one or more HCSW, CAFS, or TCM services.
6. Prior notice: Written notice that must be given to the individual no later than fifteen (15) calendar days prior to the effective date of the proposed action.

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7. County Conference: Discussion and attempt to resolve the complaint at the local level with the local JFS case worker.
 8. Day: Calendar Day.
 9. Eligible individual: Medicaid eligible individual who meets CAFS eligibility requirements per the Ohio Administrative Code (OAC) 512:2-15-07, or TCM requirements per OAC 5123:2-1-11.
 10. Authorized Representative: Responsible party named by the person to receive a copy of notification(s) and/or act on behalf of the person; the local JFS has the responsibility to assist the person to name an authorized representative (may be identified in the Medicaid application process) when the person appears to be unable to understand or exercise their right to a state hearing due to factors such as limited mental capacity or language barriers.
 11. Good Cause: Circumstances that may justify delay in making a timely request for a state hearing, including: death of an immediate family member, sudden illness or injury of the person or member of the person's immediate family, other circumstances that reasonably prevented requesting a hearing within the fifteen (15) day period.
 12. Reinstatement: Reinstating a service that was reduced or terminated.
- D. For complaints regarding the performance of delegable nursing tasks, the appeal procedures outlined in OAC Rules 4723:21-28 and 5123:2-1-07 shall be followed.
 - E. It is the intention of the CSBMR/DD to include the person served, when appropriate, in any and all meetings through the entire due process procedure. If the CSBMR/DD is seeking termination, reduction, or change in services for the individual, current services shall continue to be provided pending final resolution of the appeal process.
 - F. It shall be the intent of the CSBMR/DD to insure all requests for the initiation of a due process procedure will not place the person served, family, guardians, advocates in any jeopardy and all precaution will be taken to ensure protection from intimidation and/or reprisals. Subject to the limitations in applicable law, any request for administrative resolution of a complaint filed in accordance with this rule will not abrogate any other rights to services.
 - G. Notification of Due Process and Administrative Review procedures shall be posted in all CSBMR/DD operated facilities.
 - H. "Any person" as referred to in this Regulation includes an adult individual, the parents of an individual who is a minor, an individual's guardian, or any other legally appointed representative acting in a legal capacity on the individual's behalf. "Any person" also includes a complainant other than those listed above and other than a corporation, business trust, estate, trust, partnership, or association when such person has an interest with the county board through a contract or in relation to an administrative practice of the board.
 - I. The county board shall at all times maintain confidentiality concerning the identities of individuals, complainants, witnesses, and other involved parties who provide information unless the individual, in writing, authorizes the release of information.