

# Stark County Board of Developmental Disabilities

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## MEDICAID DUE PROCESS

### POLICY

The Board is committed to protecting the rights of the individuals it serves and ensuring that individuals served have information about and access to Medicaid due process appeal procedures as required by the Ohio Department of Job and Family Services (ODJFS). This commitment is demonstrated through the maintenance of notification procedures that assure communication about the right to appeal and appropriate support, where needed, to move forward with filing an appeal. This process is available to any individual receiving services funded by Medicaid.

Medicaid Due Process is intended to resolve issues related to Medicaid Home and Community Based Services (HCBS) Waiver applications, enrollments or services. These complaints are submitted to ODJFS in the form of a request for a state hearing, in accordance with the applicable rules promulgated by ODJFS in the State Hearings section of the Ohio Administrative Code (OAC). In order to avoid unnecessary state hearings, the local agency shall provide an opportunity for the individual to discuss and/or resolve disagreements with the local agency's actions or inaction's via the ODJFS County Conference process. (OAC 5101:6-5-01)

The Superintendent is authorized to develop, revise and maintain the necessary procedures to implement this policy. All such procedures will comply with any applicable federal and state statutes and rules. OAC 5101:6 Hearings defines the process and the Board adheres to its implementation of the rule in policy and practice.

<b>Historical Resolution Information</b>	<b>Reviewer(s):</b> Superintendent Director of SSA
<b>Date</b> <b>Resolution Number</b>	
6/20/15            06-34-15	
8/28/18            08-40-18	
8/24/21            08-32-21	

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## **MEDICAID DUE PROCESS**

### PROCEDURE

1. The Board shall provide prior notice of the right to a state hearing to any individual, whose request for services funded by Medicaid is denied or not acted upon in a timely manner, as stipulated in Ohio Revised Code or the applicable rules promulgated by the Ohio Department of Job and Family Services (ODJFS) in the State Hearings section of the Ohio Administrative Code. Prior notice shall also be given if the Board takes action to suspend, terminate, reduce or change any such services. The Board shall maintain copies of all notifications pursuant to state hearing rights in the individual's file.
2. Board staff shall review Medicaid Due Process policy and this procedure with individuals receiving services funded by Medicaid, at least, annually. Copies of their appeal rights shall be provided to the individual when they are reviewed and whenever action is taken that requires prior notice.
3. When any notification to an individual is given under this procedure and the individual may not be able to understand and/or exercise his/her right to a state hearing, the individual shall be assisted to identify a responsible party such as a guardian, relative, friend, legal counsel, or other advocate able to provide support in the appeal process. The advocate selected by the individual shall receive a copy of any notice given to the individual.
4. Whenever the Board takes action to deny, suspend, terminate, reduce or change any services funded by Medicaid, the individual shall be reminded of the right to request a state hearing and will be given JFS Form #4059, "Explanation of Hearing Procedures."
5. Whenever the Board takes action to deny a new service funded by Medicaid, the individual will be given JFS Form #7334, "Notice of Denial of Your Application for Assistance."
6. Whenever the Board takes action to reduce, suspend or terminate a service funded by Medicaid, the individual will be given JFS Form #4065, "Prior Notice of Right to a State Hearing." If a request for a state hearing is received within 15 days of notification, services will continue, unchanged, pending the outcome of a hearing. If no state hearing is requested, the reduction, suspension or termination of services can go forward.
7. In order to avoid unnecessary state hearings, the local agency shall provide an opportunity for the individual to discuss and/or resolve disagreements with the

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local agency's actions or inaction via the ODJFS County Conference process. (OAC 5101:6-5-01). When an individual requests a county conference, the local agency shall convene a conference presided over by the local agency's director or a designee. Both the local agency and the individual may bring whomever each reasonably wants to be at the conference. The individual need not have a county conference in order to have a state hearing, nor does the holding of a county conference, or the individual's failure to appear for one, diminish the right to a state hearing. A state hearing must still be held unless a resolution is reached at the county conference and the individual withdraws the hearing request in writing.

8. Under the following circumstances, prior notice of the right to a state hearing is not required:
  - a. The Board terminates services due to the death of an individual;
  - b. The Board suspends or terminates services because the individual has been placed in a skilled nursing care or intermediate care facility;
  - c. The Board suspends or terminates services because the individual's whereabouts are unknown and mail directed to the individual has been returned by the post office indicating no known forwarding address;
  - d. The Board terminates services because the individual has moved to another state; or,
  - e. The Board terminates a service at the end of a specific period of time, when the service had been implemented for that specific period of time.
9. When a decision of the Board is being appealed, an "Appeals Summary," will be completed to explain the decision. A copy of this summary will be provided to the appellant prior to the scheduled hearing.