

# Advocate's Guide to Fair Hearings

## Welcome to the Advocate's Guide to Fair Hearings

You know that a denial of Medicaid or BadgerCare Plus benefits or a change in eligibility or coverage can be devastating for a family. Fortunately, an appeal process exists, **Medicaid Fair Hearings**, to allow families to challenge a decision or delay made by the Wisconsin Department of Health Services. Please use this quick reference guide to fair hearings to help understand the rights and responsibilities of Wisconsin's Medicaid families.



## The "Basics" of Medicaid Fair Hearings

### Who Should Appeal?

Any person who:

- Has been wrongly or unfairly denied a BadgerCare Plus or Medicaid program eligibility or service coverage; or
- Has benefits that were incorrectly suspended, ended or reduced; or
- Has an application that was not acted upon within 30 days; or
- Does not agree with the amount of benefits they are getting.

### When To Appeal?

- **Can you solve the issue with a phone call first?**
- Submit a request for a fair hearing ASAP!
- Request for a fair hearing must be received within 45 days of the action's effective date
- If the request is received prior to the effective date, benefits will not be stopped or reduced\*
- Missing a deadline usually means that the appeal will be dismissed

### How To Appeal?

- A BadgerCare Plus or Medicaid applicant may submit the state "Request for Fair Hearing" form (*see more on page 2*), or
- An applicant may write a letter directly to the "Wisconsin Department of Administration, Division of Hearings and Appeals," or
- An applicant can complete a request for fair hearing online using [www.access.wi.gov](http://www.access.wi.gov)

## Why Would a Family Want to Appeal?

Access to BadgerCare Plus or a Medicaid Program often is the difference between a family getting the medical care they need or piling up medical debt, or worse, delaying needed care. The opportunity to appeal a denial or change in coverage can make a big difference for a family. Applicants have a legal right to a written explanation of a denial of service, or a reduction or termination of coverage. At a fair hearing, a Hearing Officer examines the evidence from the applicant and the State to decide whether a denial, reduction or delay was proper.

*\*Note: Benefits may be recoverable if you are not successful at the fair hearing.*

## Requesting a Fair Hearing

If you have tried to resolve a BadgerCare Plus or Medicaid Program mistake or issue by first calling the County Consortia (*see contact information on page 4*) and feel the benefits or coverage issue is not resolved, you may consider requesting a fair hearing—this **MUST** be done in writing for BadgerCare and Medicaid Programs:

### 1. Complete and Mail a Fair Hearing Request Form:

A fair hearing request form is available online from the Division of Hearings and Appeals. You can print and complete this simple form:

DIVISION OF HEARINGS AND APPEALS DHA-28 (01/06)		STATE OF WISCONSIN			
<b>REQUEST FOR FAIR HEARING</b>					
NAME		PHONE NUMBER	*SOCIAL SECURITY NO.		
MAILING ADDRESS (Street, Apt. #, RFD, etc)			*CARES NO.		
CITY	ZIP CODE	COUNTY OR AGENCY	CASE WORKER OR W-2 WORKER		
EFFECTIVE DATE OF ADVERSE ACTION	⇐ DATE YOUR BENEFITS WILL CHANGE				
<p>If the action affects your MA or Food Stamp benefits and your request is received before the effective date, your benefits in most cases, will not stop or be reduced. (Overpayment of benefits may be recovered by the county agency.) Do you wish your benefits to be continued? <input type="checkbox"/> YES <input type="checkbox"/> NO</p>					
<p>✓ <b>CHECK TYPE OF BENEFIT AND ACTION TAKEN THAT YOU ARE APPEALING</b></p>					
	APPLICATION DENIED	APPLICATION PROCESS DELAYED	TERMINATED (BENEFITS ENDING)	OVER- PAYMENT	BENEFIT AMOUNT REDUCED
<input type="checkbox"/>	MEDICAL ASSISTANCE . . . . .	<input type="checkbox"/>	. . . . .	<input type="checkbox"/>	. . . . .
<input type="checkbox"/>	LEVEL OF CARE (Nursing Home)				
<input type="checkbox"/>	PRIOR AUTHORIZATION (What was denied? _____)				
<input type="checkbox"/>	SSL-MA (State Supplement Cash Benefits)				

<http://dha.state.wi.us/home/WFS/WFSHrgReqForm.pdf>

**Deadlines are important!** An appeal deadline should be explained in the denial notice. As a general rule, the request for a fair hearing must be received within 45 days of the action's "effective date" (90 days for FoodShare). If the request is received prior to the effective date, benefits will not be stopped or reduced. *Benefits may be recoverable if you are not successful at the fair hearing.* Missing a deadline usually means your appeal will be dismissed.

### 2. Draft an Appeal Letter:

The Income Maintenance Handbook suggests that hearings may be requested using the Fair Hearing Request Form. However, if the appellant submits a request for a fair hearing by letter, the letter should include the appellant's name, mailing address, and signature, the name of the agency that denied the request (Department of Health Services), and the appellant's Medicaid identification number and social security number. Include a summary of the denial or change and why the appellant believes the denial or change was in error.

#### Mail Fair Hearing Request Forms or Letters to:

**Department of Administration  
Division of Hearings and Appeals  
PO Box 7875  
Madison, WI 53707-7875**

## What to Expect at a Fair Hearing

Fair Hearings are very informal, and most are conducted by phone. Don't confuse the informal fair hearing with the more formal process of a Court. They are very different—so relax. The two parties—the family with the denial or reduction in benefits, and a representative of the County Consortium or Department of Health Services—will appear in front of a Hearing Officer, also called "Administrative Law Judge." Feel free to call the Hearing Officer "Judge" if you like!

### Get Organized!

- Did you try to work things out with the County Consortia in advance?
- Keep good records! What did your doctor say? Who did you talk to? When? What did they say?
- What does the reason for denial say? Why is it wrong?
- In advance, ask yourself: what is our goal in this appeal?
  - Overturn a denial of service or eligibility? Obtain Durable Medical Equipment? Extend home care services?
- Do you need assistance from an attorney or another advocate in advance?
  - To locate policy handbook sections?
  - To search rules or policies?

When you get to the hearing, introduce yourself to the Hearing Officer. You will raise your right hand and be "sworn in." If you are conducting the hearing over the phone, you will be asked to speak truthfully. The Hearing Officer will state the reason you requested the hearing, and then ask you to proceed. You will then deliver your prepared arguments.

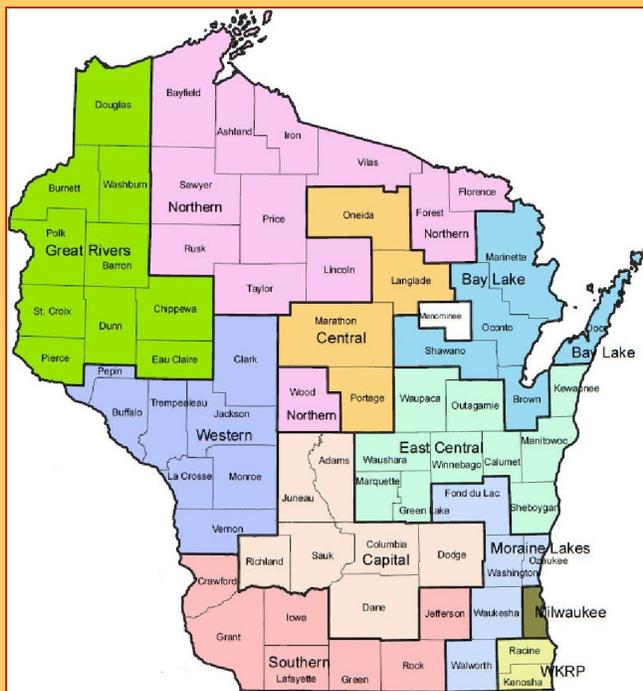
### Deliver Your Prepared Arguments

- Tell "your side of the story." Prepare a brief statement in advance.
- Reference handbook chapters, rules or policies where appropriate.
- Have written documents ready:
  - Pay stubs, receipts, letters, doctor notes, medical records, phone records, personal journals or calendars.
- Write down important issues, key facts, questions you have, and any information you feel is missing
- In instances where there may be additional records or evidence you want to submit after the hearing is ended, ask the Hearing Officer if you can "**Keep the Record Open**" for a week or so to have time to get the information. It is then up to you submit information to the Hearing Officer on time.



## Community Resources & Contact Information

County Consortia	Phone
Bay Lake	888-794-5747
Capital	888-794-5556
Central	888-445-1621
East Central	888-256-4563
Great Rivers	888-283-0012
Moraine Lakes	888-446-1239
Northern	888-794-5722
Southern	888-794-5780
WKRP	888-794-5820
Western	888-627-0430
Milwaukee	888-947-6583
Menominee (Opt Out)	888-681-0836



### Online Resources

- Medicaid/BadgerCare Plus Fair Hearing Information F-10151:  
[www.dhs.wisconsin.gov/forms/F1/F10151.pdf](http://www.dhs.wisconsin.gov/forms/F1/F10151.pdf)
- BadgerCare Plus Eligibility Handbook:  
[www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm](http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm)
- Medicaid Eligibility Handbook:  
[www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm](http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm)
- Income Maintenance Manual:  
[www.emhandbooks.wisconsin.gov/imm/imm.htm](http://www.emhandbooks.wisconsin.gov/imm/imm.htm)
- WI Administrative Code, Chs. 101-109:  
[docs.legis.wisconsin.gov/code/toc/dhs](http://docs.legis.wisconsin.gov/code/toc/dhs)
- Department of Administration Division of Hearings and Appeals:  
[dha.state.wi.us/home/](http://dha.state.wi.us/home/)

### Legal Assistance

### Phone

ABC for Health, Inc.	608-261-6939
Legal Action of Wisconsin	800-362-3904
Legal Aid Society of Milwaukee	414-727-5300
Disability Rights Wisconsin	800-928-8778
Dane County Neighborhood Law Project	608-260-8221
Center for Patient Partnerships	608-890-0321
Wisconsin Judicare	800-472-1638



**HealthWatch Wisconsin** is a project of Advocacy and Benefits Counseling (ABC) for Health, Inc. ABC for Health is a Wisconsin-based, nonprofit public interest law firm dedicated to linking children and families, particularly those with special needs, to health care benefits and services. ABC for Health's mission is to provide the community of both patients and providers with the information, advocacy tools, legal services, and expert support they need to secure health care coverage and services.

[www.healthwatchwisconsin.org](http://www.healthwatchwisconsin.org)