

DATE: September 29, 2017 **Revised**

OPERATIONS MEMORANDUM # 17-09-04

SUBJECT: **Revised** - Medical Assistance (MA) Expedited Fair Hearing Process

TO: Executive Directors

FROM: Inez Titus
Director
Bureau of Operations

PURPOSE

To inform County Assistance Offices (CAOs) of procedures to follow when an individual requests an expedited fair hearing for denied MA benefits. These procedures are effective immediately.

BACKGROUND

Federal regulations require states to establish and maintain an expedited fair hearing process for MA. This allows for individuals who have urgent health needs to have their MA eligibility-related appeals addressed under an expedited timeframe.

An expedited fair hearing is required if the normal processing time could jeopardize the individual's life, health, or ability to attain, maintain, or regain maximum function. The Department of Human Services (DHS) has seven business days from the date of receipt to adjudicate an expedited appeal for eligibility related matters.

DISCUSSION

The following changes have been made to MA notices in pilot counties (Area 4, Montgomery, and York) effective August 21, 2017, and will be implemented statewide on October 16, 2017.

- A statement related to MA expedited fair hearings has been added to the "Additional Information" section of the notice. Individuals will be notified that they have the right to request an expedited fair hearing if they believe that the normal appeal review time would jeopardize their life, health or ability to attain, maintain, or regain maximum function.
- The Fair Hearing insert has been updated to allow individuals to request an expedited fair hearing for MA. An individual will need to provide details of their urgent health need, and will be asked to submit supporting documentation of the need with their expedited fair hearing request, if it is available.

NOTE: The CAO will consider the appeal to be expedited if the client checks the “MA Expedited Appeal” box or any of the three boxes under it indicating an urgent health need. If the client fails to check one of these boxes, the CAO should not acknowledge the expedited hearing request, unless the client verbally indicates otherwise.

If the CAO in a pilot or non-pilot county receives a request for an expedited fair hearing, the CAO must forward the complete appeal packet to Bureau of Hearings and Appeals (BHA) no later than two business days from the date of receipt. The following steps must be taken by the CAO in the first two business days of an expedited fair hearing request:

- Enter the appeal information into MAPPER upon receipt.
- Conduct a pre-hearing conference within the first business day to determine if the appeal can be resolved, and confirm whether the individual still wants to request an expedited fair hearing. The CAO must explain to individuals that they can withdraw the expedited request and still proceed with the standard appeals process or the individual can withdraw the entire appeal if the issue is resolved.

NOTE: The pre-hearing conference is optional for the client, but the CAO is required to offer the client a pre-hearing conference to attempt to resolve the issue.

If the client chooses to **withdraw the entire appeal** during the pre-hearing conference, the CAO should:

- Withdraw the appeal on the BHA hotline,
- Data enter the appeal withdrawal in Mapper, and
- Submit the Withdrawal Hotline coversheet with the appeal packet.

If the client chooses to **withdraw only their expedited appeal** request and continue with a regularly scheduled non-expedited hearing, the CAO should complete the Expedited Withdrawal Form ([Attachment 1](#)), and include it in the appeal packet that is mailed to BHA.

NOTE: The individual is still entitled to an expedited determination hearing, even if their benefits are continued. BHA will determine if the matter should be expedited.

If the individual still wants to request an expedited fair hearing following the pre-hearing conference or if the individual was not available for the pre-hearing conference, the CAO should compile the appeal packet with the OHA 147, Expedited Information Sheet ([Attachment 2](#)) form on top and mail it to BHA within the first two business days from the receipt of the appeal.

NOTE: The CAO may continue to submit multiple appeals in one envelope, but should not submit expedited and non-expedited appeals in the same envelope.

If an individual requests an expedited appeal after the initial appeal packet is sent to BHA, the CAO should mail the OHA 147 and any additional documentation supplied by the individual to BHA as directed on the OHA 147, no later than one business day after receipt. The original non-expedited appeal documentation already sent to BHA should not be resent.

NOTE: The fact sheet may be sent separately after the initial appeal packet is mailed, as outlined in the Supplemental Handbook Chapter 870.5.

BHA will take the following steps when they receive an individual's expedited appeal request from the CAO:

- An Administrative Law Judge (ALJ) will conduct a determination hearing for the expedited appeal to determine if the expedited appeal should be granted for an MA appeal only.
- BHA will contact the CAO representative whose name appears on the OHA 147 to provide the date and time of the hearing.
- At the time of the hearing, the ALJ will contact the CAO and the individual requesting the appeal.
- If the expedited request is denied, the appeal will follow the normal timeframe and procedures for appeals.
- If the expedited request is granted, the ALJ will verbally inform the parties that the individual's request for an expedited fair hearing is granted and that a hearing on the merits of the MA appeal will be convened held.
- If the expedited request is granted, the hearing on the merits will be held based on the 7-day expedited timeframe. The hearing will be scheduled based upon the following:
 - If the determination hearing is held on day 5 or earlier, the merits hearing will be held 2 business days later.
 - If the determination hearing is held on day 6, the merits hearing will either be held later that day or the following business day.
 - If the determination hearing is held on day 7, the merits hearing will be held later the same day.

NOTE: The CAO may not request additional time to prepare for the hearing when an expedited hearing request has been granted.

- The Regional BHA Office will contact both parties for the specific time of the Expedited MA Merits Hearing. The same telephone numbers will be used to contact both the CAO and the individual, unless BHA is instructed otherwise. If the individual

also appealed issues other than MA, these issues will not be heard at the Expedited MA Merits Hearing and will be scheduled for a separate hearing by default.

If an individual requests a hearing at the CAO or by telephone and BHA determines the individual does not have a valid phone number, the client will receive a letter from BHA informing them to appear at their local CAO to conduct their telephone hearing.

NEXT STEPS

1. Share and review this information with appropriate staff members.
2. Please contact your area manager if you have questions regarding this Operations Memorandum.

Attachment:

[Attachment 1](#) –Expedited Withdrawal Form

[Attachment 2](#) – Expedited Information Sheet (OHA 147)