



DHMH

Maryland Department of Health and Mental Hygiene
201 W. Preston Street • Baltimore, Maryland 21201

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

MARYLAND MEDICAL ASSISTANCE PROGRAM

Personal Care Services Transmittal No. 48

September 14, 2010

TO: Personal Care Case Monitoring Agencies

FROM: Susan J. Tucker, Executive Director
Susan J. Tucker
Office of Health Services

RE: Denial/Termination of Personal Care Services

NOTE: Please ensure that appropriate staff members within your organization and other appropriate contacts are informed of the contents of this transmittal.

The purpose of this transmittal is to reiterate to all personal care case monitors the importance of regulatory and procedural requirements when a Case Monitoring Agency (Local Health Department) responsible for authorizing personal care services, denies a Medical Assistance recipient the service.

Personal Care Services Program applicants or referral sources are required to contact the local health departments when requesting authorization of personal care services. During the intake process, screening questions are asked to ensure the need for the service prior to completing a DHMH 302 Personal Care Service Program Application and Assessment. In some instances, services other than personal care are requested at intake. When applicants are requesting services other than personal care (i.e. chore, respite, etc.) written notices of denial are not required and referrals to other appropriate programs are made. When personal care services are requested at intake, a DHMH 302 Personal Care Services Program Application and Assessment must be completed to determine an applicant's eligibility for personal care services.

Once the DHMH 302 Personal Care Services Program Application and Assessment is complete and a determination to deny personal care services has been made, a written notice of denial must be issued. A written notice of denial must also be issued when local health department staff determines a recipient receiving services no longer qualifies for the service. For example, a recipient's needs are beyond the scope of the service (10.09.20.05A(2)) or the recipient becomes independent with activities of daily living (10.09.20.03D).



Pursuant to COMAR 10.01.04 Fair Hearing Appeals under the Maryland State Medical Assistance Program, applicants and program participants are entitled to written notice when Medical Assistance services are denied. When drafting a denial letter the case monitor must:

- Include an effective date for the action and ensure the letter contains clear and concise details regarding the action being taken;
- Refer to and cite regulations relevant to the denial; and
- Inform the recipient of their right to obtain a fair hearing (Summary of Procedures for Fair Hearings attached)

Any questions regarding this transmittal may be directed to the Personal Care Program staff at (410) 767-1444.

Attachment

Summary of Procedures for Fair Hearings

You have the right to appeal this decision within 90 days from the date of the notice. Your request must be made in writing. Please include the specific reason (s) for your appeal and a copy of the denial letter that accompanies this notice. If you wish, someone may assist you in filing your appeal.

Mail your request for a hearing to the following address:

**Department of Health and Mental Hygiene
Office of Health Services
Attention: Appeals
201 W. Preston Street, 1st Floor
Baltimore, Maryland 21201**

If you are presently receiving benefits, you must request a fair hearing within 10 days from the date of this notice of agency determination or by the effective date of the termination of benefits, whichever is later, to insure continuation of your services until the fair hearing decision is made. However, if the judge agrees with us and you lose your appeal, you may have to pay back benefits received while you waited for the hearing and judge's decision. This recovery might not be required if it is determined that your request for a hearing resulted from a bona fide belief that the Department's decision was in error.

The hearing will be scheduled at a time and place that are convenient for you. You will be expected to be present. If for any reason you cannot be present, you must notify the Office of Administrative Hearings to reschedule the hearing or you must identify the person who will attend in your place. You may represent yourself, or if you wish, you may be represented by legal counsel or by a relative, friend or other person. It is not necessary, however, that someone represent you. You may bring any witnesses or documents you desire to help you establish pertinent facts and to explain your circumstances. A reasonable number of persons from the general public may be admitted to the hearing if you desire.

Prior to the hearing, you may review the documents and records that the Department will use at the time of the hearing and you can ask for the names of the witnesses the Department intends to call.

During the time before the hearing, if you have new or additional information you wish the Department to know about, you may request a reconsideration of your case by calling your resource coordinator, service coordinator, case manager or waiver eligibility case worker.

Under some circumstances, the Department may pay for transportation and other costs if they are necessary for the proper conduct of the hearing.

All these procedures and a fuller explanation of the fair hearing process can be found in the Code of Maryland Regulations (COMAR), 10.01.04, 10.09.24.12, 10.09.24.13, and 10.09.24.15 and in the Code of Federal Regulations (C.F.R.), 42 C.F.R. § 431.200.

You may obtain free legal aid and help through various resources, such as the Legal Aid Bureau at 1-800-999-8904 or the Maryland Disability Law Center at 1-800-233-7201.