

Change in Level of Care for Participants in Family Care, Family Care Partnership, PACE or IRIS

Aging and Disability Resource Centers are responsible to provide disenrollment counseling and assistance with the appeals process, when appropriate, to individuals enrolled in Family Care, Family Care Partnership, PACE and IRIS. The following information describes the process for ADRCs to follow when fulfilling these duties for individuals who have experienced a change in their level of care (LOC) from nursing home (NH) to non-nursing home (N-NH) due to the results of the long term care functional screen (LTCFS).

Background

For individuals who are enrolled in Family Care Partnership, PACE or IRIS, a change of LOC from NH to N-NH will result in disenrollment from those programs because a NH LOC is required to access those programs. For some people this may also result in a loss of Medicaid (MA) eligibility. For Family Care members a change in LOC from NH to N-NH will result in a change to the benefit package available from Family Care, and may also result in a loss of MA eligibility. The loss of MA eligibility in any of these scenarios is because there is a higher 'special income limit' which is higher than the regular MA eligibility income limit. Some individuals only qualify for MA because of the higher income limit. The N-NH LOC does not have the 'special income limit' and an individual must meet the regular Elderly Blind and Disabled MA income limit.

When an individual is referred for disenrollment counseling, or is recognized to need disenrollment counseling, to be able to perform effective disenrollment counseling it is critical that the ADRC recognize whether that individual could lose their MA eligibility. This can be achieved by consulting with the local IM unit or through conversation with the individual in question.

Change in LOC in Family Care

Individuals who have a change in LOC from NH to N-NH and remain enrolled in Family Care will not be referred to the ADRC for counseling, but may contact the ADRC on their own. It is important to inform these individuals of their appeal rights, timelines and consequences of appealing the change in LOC. For some individuals their eligibility for MA may be changed to require them to pay a 'deductible' or 'spend down' amount that was not previously required.

Disenrollment from Family Care Partnership, PACE or IRIS and Loss of MA Eligibility

Individuals who have a change in LOC from NH to N-NH and are enrolled in Family Care Partnership or PACE programs will be referred to the ADRC for disenrollment counseling and possible disenrollment. In the case of IRIS program participants, the ADRC will be performing the LTCFS and will recognize when an individual has a change in LOC that will result in disenrollment from the program. These individuals may also lose MA eligibility.

It is important that the ADRC assures the individual is aware of their appeal rights regarding the loss of MA eligibility and the results of the LTCFS, regardless of the entity that performed the screen. Individuals who do not wish to appeal and remain eligible for MA have a choice of enrolling in Family Care at the N-NH level or participating in fee for service MA.

Disenrollment from Family Care and Loss of MA Eligibility

Individuals who have a change in LOC from NH to N-NH and are enrolled in Family Care who are identified as losing their MA eligibility due to the change will be referred to the ADRC for disenrollment counseling. It is very important that the ADRC performs disenrollment counseling with these individuals as soon as possible to give adequate time to intervene in the loss of eligibility if appropriate. If an individual chooses to appeal their loss of MA eligibility they will need to know how to appeal, the timelines involved in their appeal, and the consequences of making an appeal.

The LTCFS Result Appeal Process

Appeal Rights – Everyone for whom a LTCFS is completed has the right to request a review of and/or appeal the results of that screen. Individuals have the right to request a review of the LTCFS to the screening agency and/or the Department of Health Services (DHS). **All appeals must be filed with the Department of Hearings and Appeals (DHA), also known as a State Fair Hearing.** An appeal to DHA can be done separately or concurrently with a request(s) for review. If the situation resolves itself at the local level or at DHS, the appeal to DHA can be withdrawn without consequence.

Appeal Timelines – The exact date by which an individual must appeal the result of the LTCFS to DHA is located on the last page of the CARES notice which is generated regarding the change in LOC. CARES notices regarding a change in LOC are difficult to interpret and will simply state “there has been a change in your eligibility” and do not explain what the change means to that individual. MCOs will be issuing member-friendly letters to individuals who experience a change in LOC from NH to N-NH to help them understand what the change means. Requests for review made to DHS must be received within 45 days of completion of the screen. Requests for review made to the MCO or ADRC must be completed within the timelines provided by each agency.

The Consequences of Appealing (or Not Appealing) – When appealing the results of a LTCFS an individual may request to continue to receive services during the appeal process that would have otherwise been terminated as a consequence of the LTCFS result. If the appeal does not result in the restoration of the NH LOC, **the individual can be held liable for the cost of those services provided to them during the time of the appeal** that would have otherwise been terminated. The MCOs are required to send a separate letter to their members if they are reducing, or eliminating any service that is being provided in addition to the notice regarding the change in LOC. It is possible that a change from the NH LOC to the N-NH level might not result in any change in services. It is also possible that the MCO may decide to reduce or eliminate services at any point in time based on the benefit package the individual is entitled to receive. If the individual is concerned about any reduction or elimination of their services, or the possibility of such action based on their LOC, **they must appeal the results of the LTCFS within the timeline indicated on the CARES notice, even if they are not immediately experiencing a reduction or elimination of services.** If they do not experience a reduction or elimination of services until after the allowed timeframe provided on the CARES notice for appeal has expired, they will have no recourse with DHA regarding the LTCFS results. They would still be allowed to appeal the reduction or elimination of services directly with the MCO, but would not be entitled to any services beyond the N-NH LOC benefit package.

ADRC processes - The ADRC should explain appeal rights, appeal timelines and consequences of appealing, and assist the individual with the appeal if that individual would like support during the process, and perform disenrollment counseling with the individual when appropriate.

The Loss of MA Eligibility Appeal Process

Appeal Rights - **An individual can only appeal their loss of MA eligibility with DHA.**

Individuals have the right to request a review of the results of the LTCFS to the screening agency, whether it is the MCO or the ADRC, and also to the Department, but these reviews will not effect their MA eligibility status. When an individual's MA eligibility is dependent upon having a NH LOC, only DHA has official authority to order the continuation of MA eligibility.

Appeal Timelines – The timeline to appeal the loss of MA eligibility can be found on the last page of the CARES notice which is generated regarding that change in status. In the situation where an individual would like to have their MA eligibility continue until the appeal process is completed, the timeline should reflect the filing of the appeal at a point soon enough to prevent the individual from losing their MA eligibility.

The amount of time in which an appeal can be made to continue MA eligibility is dependent upon the date of 'adverse action'. The intention of determining a date of 'adverse action' is to prohibit an individual's loss of MA benefits without allowing them sufficient time to appeal and/or make necessary arrangements for the loss of benefits. The 'date of adverse action' for each month is determined at the beginning of each year and occurs around the middle of the month. Any reduction or elimination of MA benefits for an individual that occurs after the 'date of adverse action' would not take effect until the end of the next month. If there is a reduction or elimination of MA benefits prior to the 'date of adverse action', there is considered to be adequate time for the individual to file an appeal or make arrangements for the loss of MA benefits to occur at the end of the current month.

Individuals who receive a CARES notice dated prior to the date of adverse action and wish to continue their MA eligibility during the appeal process need to file the appeal with DHA allowing enough time for DHA to process the request for continuation before the end of the current month. The timeframe for this can be one to two weeks or less, depending upon when the individual receives the notice. For an individual who receives a CARES notice dated after the date of adverse action, they will lose their MA eligibility at the end of the next month, and may have five to six weeks or less to file the appeal.

The Consequences of Appealing - The time frame for DHA to make a determination on an appeal can be up to 90 days or more. If the individual's request to have their MA eligibility continue through the appeal process is granted, and the appeal determination from DHA is not in their favor, ***they can be held liable for the cost of the services provided to them during that time.*** If the individual does not receive services during the appeal and the determination is in their favor, services can be reinstated as early as the date MA eligibility is restored. If an individual received services during the appeal process, and the appeal is determined in their favor, there should be no interruption of services for that individual.

ADRC processes - The ADRC should perform disenrollment counseling with the individual if appropriate, explaining appeal rights, appeal timelines and consequences of appealing, and assist the individual with the appeal if that individual would like support during the process. It is helpful to DHA to be able to expedite the decision to order the continuation of MA eligibility if they receive the appeal via fax to (608) 264-9885 with the statement clearly made on the front that a continuation of MA eligibility is being requested. It is also helpful to DHA to include a copy of the CARES notice regarding the loss of eligibility with the appeal. The ADRC should not contact Economic Support directly regarding the appeal.

If you have any questions or need further clarification, please send an email request to DHSRCteam@wisconsin.gov for further information.