

Chapter VI: Rights, Appeals and Grievances

6.01 Notification of Rights

All Community Options applicants and participants must be notified of their rights in writing or other medium if needed to accommodate communication disabilities (see Appendix A for a list of rights). The explanation of rights shall be provided to applicants and participants, in a manner that they can understand.

Applicants/participants must be fully informed of the county's grievance and state appeals procedures, including assistance from Community Options staff regarding: who to contact, time limits, and other information. Information on the right to appeal must include the name and address of the DHSS Office of Administrative Hearings.

The written notice informing persons of their right to a grievance or appeal must include the right to contact the Board on Aging and Long-Term Care (BOALTC) Ombudsman Program, including the toll free number, for assistance at any time. Persons with developmental disabilities or mental illness also must be informed of their right to contact the Wisconsin Coalition for Advocacy.

6.02 Appeals and Grievances

A. State Appeals

Community Options participants have the right to appeal adverse actions through the state fair hearing process under §227.44 in certain limited situations. §46.27(7m).

1. State appeal rights are authorized under the following situations:
 - a. An individual may appeal a denial of eligibility for an assessment, case plan or Community Options-funded services;
 - b. An individual may appeal a reduction or termination of Community Options-funded services.

2. Applicants/participants must be informed that a request for a fair hearing must be requested within forty-five (45) calendar days of the effective date of the reduction or termination of services or of a written decision under the county grievance process, whichever is later.
3. The applicant/participant (or guardian, if any) is the only person who may file a request for a fair hearing. The request may be made verbally or in writing. Whenever the lead agency receives a verbal request it is required to put it in writing immediately and have the applicant/participant (or guardian) sign it. The Community Options lead agency must accept any request it receives and forward it to:

Department of Health and Social Services
Office of Administrative Hearings
P.O. Box 7875
Madison, WI 53707-7875

(608) 266-3096

4. If the request for an appeal occurs within ten (10) calendar days of the effective date of the reduction or termination of services or of a written decision under the county grievance process, whichever is later. Community Options-funded services must be continued through the outcome of the appeal (i.e., if the person acts within the ten (10) day limit, the level of services received cannot be reduced from the time of the appeal request through the outcome of the hearing at the state level).
5. The applicant/participant may withdraw his or her request for a fair hearing at any time.

B. County Grievances

In addition to the right to appeal certain adverse actions at the state level, participants have a right to grieve any action through a local grievance procedure.

1. The county grievance procedure includes, but is not limited to, the items that are appealable under the state fair hearing process. The county grievance procedure is intended to promote resolution of differences of opinion, or help clarify misunderstandings about eligibility, assessment, case plan or service issues on a less formal level than the state fair hearing process.

2. The county's grievance procedure must, at a minimum, be a two step process based upon impartial decision making. The process must provide for timely responses to grievances, and at least one of the steps must be external to the Community Options lead agency.
3. The county grievance procedure must be in writing and made available to applicants/participants at time of application, upon denial of eligibility, and upon reduction or termination of Community Options-funded services.
4. The county grievance procedure must result in a dated, written decision and must inform the person of the right to a state appeal, when applicable.