

**Appeal Policy for Adverse Benefit Determinations for
Publicly Funded Long-Term Care
Last Revised: December 2022**

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This policy applies to aging and disability resource centers (ADRCs) and Tribal aging and disability resource specialists (Tribal ADRS) herein referred to as “agency” or “staff.”

Purpose

The purpose of this policy is to ensure the agency maintains and implements due process policies and procedures to inform people of their appeal rights for adverse benefit determinations.

This policy describes the customer’s right to file appeals related to adverse benefit determinations resulting from the agency’s long-term care functional screen or cost share calculation. The goal of the appeal procedure is to allow agency customers to exercise their due process rights with a simple and easily understood process.

The agency will cooperate with any appeals conducted by the Wisconsin Department of Health Services (DHS), the Division of Hearings and Appeals (DHA), an external quality review organization, or an external advocacy organization.

Definitions

1. **Adverse Benefit Determination** is the denial of functional eligibility under [Wis. Stat. § 46.286\(1\)\(a\)](#) as a result of the ADRC or Tribal ADRS' administration of the long-term care functional screen, including non-nursing home and functionally ineligible levels of care and/or the cost share determination.
2. **Appeal** is an official written request to change the outcome of a determination related to eligibility for public benefits or the reduction, elimination, or denial of services provided as part of a public benefit.
3. **Appeal System** is the overall procedure the agency implements to handle appeals of adverse benefit determinations as well as the processes to collect and track information about them.
4. **State Fair Hearing** is a de novo review under [Wis. Admin. Code ch. HA 3](#) before an impartial administrative law judge of an action by the department, a county agency, an ADRC, a Tribal ADRS, a managed care organization (MCO), or an IRIS¹ consultant agency (ICA).
5. **Delay** is a functional or cost-sharing determinations made after 30 days from the initial request as described in [Wis. Admin. Code § DHS 10.31](#).

Assisting Customers in Understanding and Exercising Their Rights

Any customer may file an appeal when there is an adverse benefit determination. The agency will support customers in the appeal process and must refrain from any reprisal or threat of reprisal against any customer registering an appeal.

Information about appeal rights, the appeal procedures, and the contact information for external advocacy agencies will be provided to customers by agency staff.

State Fair Hearing

A request for a fair hearing is an official request to change the outcome of a determination

¹ IRIS stands for "Include, Respect, I Self-Direct."

**Applies to:
ADRC
Tribal ADRS**

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related to eligibility for public benefits or the reduction, elimination, or denial of long-term care services covered under Wisconsin Medicaid, Family Care, Family Care Partnership, or IRIS. A fair hearing occurs before an impartial administrative law judge. During a fair hearing, the petitioner or the petitioner's representative present the reasons why an action or inaction by DHS, a county agency, an ADRC, a Tribal ADRS, an ICA, or an MCO in the petitioner's case should be corrected.

A customer may directly appeal to the Division of Hearing and Appeals within 45 calendar days after receipt of a notice of decision or adverse action, or a failure to act. A customer may appeal any of the following outcomes upon receiving notification through the appropriate form, as listed below:

Outcome Type	Appropriate Notification Form
Functional ineligibility including determinations of a non-nursing home level of care	DHS F-02721
A delay in determining eligibility	F-02721a
Medical remedial cost-share	F-02721b

Agencies are not responsible for providing formal notification to customers regarding financial eligibility determinations. These determinations are not made by the ADRC; therefore, formal notification of benefit decisions are the responsibility of the income maintenance consortium.

Requests for a fair hearing must be filed in writing with DHA by using one of the forms listed below or by writing a letter and sending it to:

Request for Fair Hearing
c/o DOA Division of Hearings and Appeals
P.O. Box 7875
Madison WI 53707-7875
Phone: 608-266-7709
608-264-9853 (TTY)
Fax: 608-264-9885

Email: dhamail@wisconsin.gov

Forms:

[Request for a State Fair Hearing—ADRC](#)

[Request for a State Fair Hearing—MCO](#)

[Request for a State Fair Hearing—IRIS](#)

If the customer or their legal decision-maker requests assistance with writing a fair hearing request, the agency will provide that assistance.

When the agency is notified by DHA that an individual has requested a fair hearing, the agency must submit an explanation of its actions to DHA within 10 calendar days. The agency must also send a copy of this explanation to the customer, the customer's legal decision-maker (if known), and DHS if requested by DHS.

DHA is required to make a decision through the fair hearing process within 90 calendar days of the date the individual files a request for the hearing.

Support for MCO Members and IRIS Participants

ADRCs may learn about issues or concerns that MCO members or IRIS participants are experiencing during disenrollment counseling. Staff may provide assistance to MCO members and IRIS participants with filing a complaint regarding the MCO, ICA, or IRIS fiscal employer agent (FEA). Staff may also provide assistance with filing an appeal to MCO members and IRIS participants who receive an adverse benefit determination notice from the MCO or ICA.

Training

The agency will train staff to support customers who have experienced an adverse benefit determination or who have a complaint or grievance against an MCO, ICA, or FEA. Staff will be familiar with all of the advocacy organizations that are available to customers and know when customers should be referred to one of these organizations. Staff will be familiar with policies and procedures for requesting a fair hearing and filing a complaint or grievance

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against an MCO, ICA, or FEA, and will be prepared to fully and adequately assist customers with these processes.

Resources

[Tell Me More About Addressing My Concerns \(P-00088Y\)](#)

[DHS 10.51 Client Rights](#)

[DHS 10.52 Required Notifications](#)

[DHS 10.53 Grievances](#)

[DHS 10.54 Department Reviews](#)

[DHS 10.55 Fair Hearing](#)

[DHS 10.56 Continuation of Services](#)

[DHS 10.57 Cooperation with Advocates](#)