

2023 UNWINDING WEBINAR SERIES

Medicaid Appeals & Reconsideration



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April 11, 2023

About PHLP

- Statewide non-profit legal organization dedicated to ensuring access to public health coverage and services
- What we do:
 - Helpline for clients and advocates
 - FREE legal services
 - Community education/trainings
 - Monthly email newsletter ([sign up](#))
 - Policy Advocacy



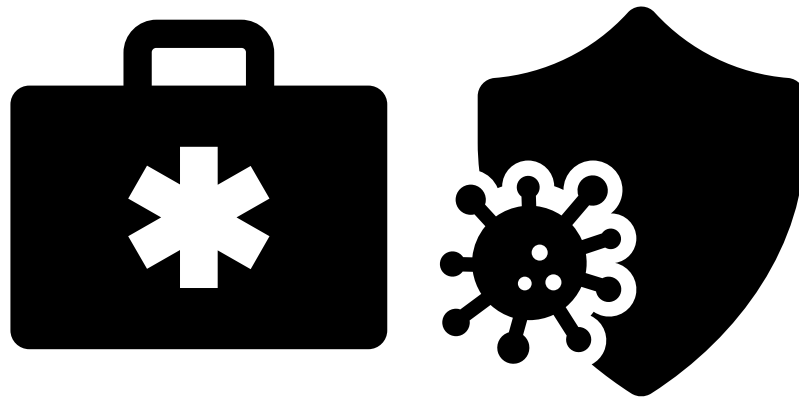
Poll Question #1

- What best describes your role?
 - Attorney
 - Non-Attorney Advocate
 - Intake/Support Staff
 - Participant
 - Family member of a participant
 - Healthcare provider

What We'll Cover Today

- Recap: COVID-19 & Medicaid Continuous Coverage
- Troubleshooting MA Eligibility Denials
- Reconsideration
- Fair Hearings
- Helpful Resources

COVID-19 & Medicaid Continuous Coverage



Medicaid Continuous Coverage

- January 2020 - Federal COVID-19 public health emergency (PHE) declared
- March 2020 - Families First Coronavirus Response Act (FFCRA)
 - 6.2% increase in federal Medicaid (MA) funding to states that maintain people on MA during PHE – “MA Continuous Coverage”
 - Covers people enrolled in MA 3/18/20 or later

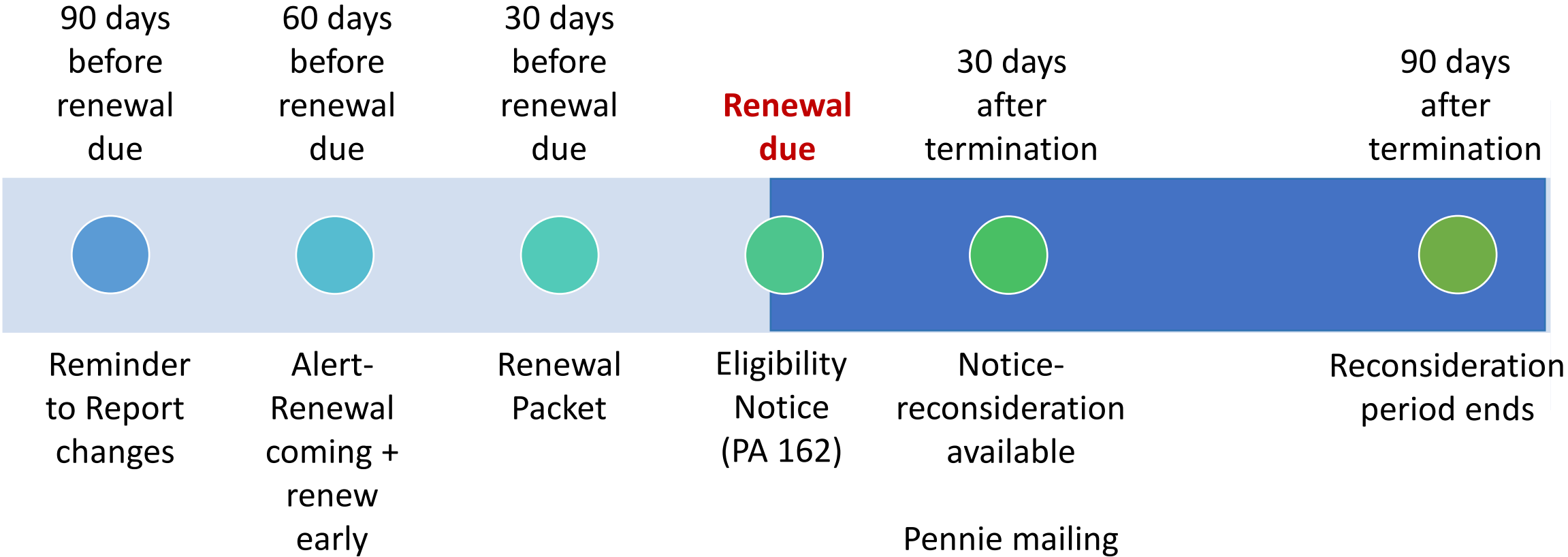


MA Continuous Coverage Unwinding

- Continuous Coverage ended **April 1, 2023** → **DHS can now terminate MA if certain conditions met!**
- 12 months to review eligibility for **everyone** on MA (≈305,000 / month)
- **COVID Maintained individuals** **MUST** have full renewal before termination for being ineligible (even if change in circumstances)
- [Operations Memorandum #23-03-03](#) outlines procedures

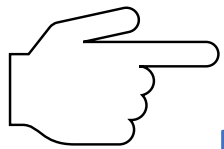


MA Renewal Communications



Renewals are Underway

- First renewals sent in March 2023 with **April due dates**
- Most renewals will occur when normally scheduled
 - NOTE: Participants continue to have duty to report change in circumstances, but CAO not supposed to act on that change for **Covid Maintained** population until normally scheduled renewal*

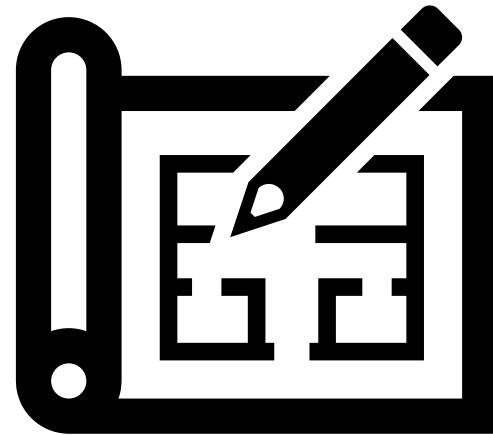


WATCH OUR WEBINAR FOR MORE INFO!

[Unwinding - Getting Ready for SNAP & Medicaid Changes](#)

*available on YouTube or phlp.org/en/resource-library

Troubleshooting MA Eligibility Denials



Poll Question #2

- What is your level of experience working with County Assistance Offices (CAOs)?
 - I frequently work with CAO staff to resolve issues on behalf of clients
 - I occasionally contact CAO staff to resolve client issues
 - I rarely or never contact CAO staff
 - I have had contact with CAO staff as a participant

Poll Question #3

- Do you have access to PROMISe/EVS (Electronic Verification System) through your organization?
 - Yes, and I have used it to check a participant's MA eligibility
 - Possibly, but I've never personally used it
 - No, my organization does not use EVS/PROMISe
 - What is EVS/PROMISe?

Procedural Requirements for MA Denials

- County Assistance Office (CAO) must provide **written notice**
 - Advance notice required for MA terminations (55 PA Code § 133.4)
 - Read denial notice closely for explanation
- 30 days to appeal by requesting a Fair Hearing
 - **Aid Paid Pending:** Must appeal terminations within **15 days** to continue benefits pending appeal (see Supplemental Handbook 870.3)
 - Submit by mail using form provided with denial notice
 - Verbal requests must be reduced to writing within 3 days

Common Reasons for Improper Terminations

- Missing renewal packet or income/resource verification
 - **RECONSIDERATION!**
- Outdated income/resource information
- Including income/resources that should be excluded
- Using wrong household size (and income limits)
- Not applying appropriate disregards
- Did not review for alternative categories



- **TIP: Many eligibility denials can be resolved prior to hearing by reaching out to CAO and providing additional/clarifying information.**

Troubleshooting Steps

1. Check Whether Participant has Filed Timely Appeal

- MUST appeal within 15 days to receive Aid Paid Pending

2. Review Termination Notice for Defects

- Did participant get a written notice?
- Did CAO provide 10 days advance notice?
- Does Notice specify a reason for denial (i.e., over income limit)?
- Does Notice provide detail about income/resources used to determine eligibility?



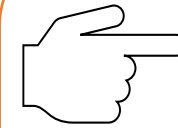
Troubleshooting Steps (cont.)

3. Review Medicaid Eligibility

- Is CAO using accurate income/resource information?
- Is CAO applying correct income/resource limits?
- Is CAO applying applicable disregards?
- Did CAO review for other MA categories?

4. Send Additional Information (if needed)

- Proof of employment (for MAWD eligibility)
- Documentation of disability (for MAWD or PH-95)
- Updated income or resource information



**WATCH OUR
WEBINAR!**

[Medicaid Eligibility 101](#)

*available on YouTube or
phlp.org/en/resource-library

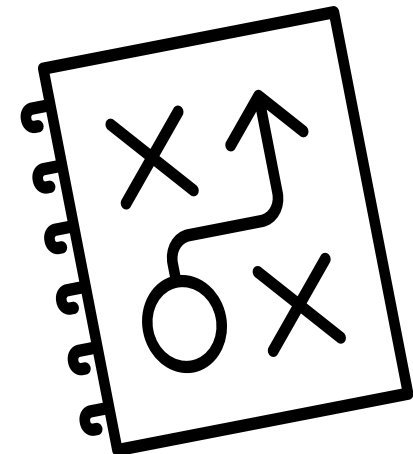
Troubleshooting Steps (cont.)

5. Outreach to County Assistance Office (if applicable)

- Contact case handler or supervisor directly by phone or email (if you have it) to submit documents and explain why client is eligible for MA
- Call Customer Service Center and ask for **pre-hearing conference** to discuss resolving appeal
- **REQUEST to CAO** --> Resolve pending FH by restoring MA or authorizing MA in new category
- **BE PATIENT!** (especially if Aid Paid Pending in place)

6. Withdraw or Proceed with Fair Hearing

- Wait for **eligibility notice** or confirmation that benefits are reinstated before withdrawing



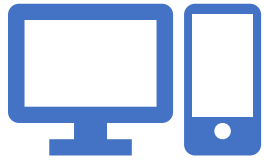
What If There Was No Notice?

- Ex: Participant moved during pandemic and didn't update address with CAO → renewal/termination paperwork sent to old address
- Have client appeal, if not too late
- Ask CAO for copy of notice – If no notice was sent, then benefits should be reinstated IMMEDIATELY back to date of termination
- Notice Sent to Wrong Address?
 - Treat notice as “defective” and ask CAO to rescind, reinstate retroactively, and reissue notice
 - Alternative: Ask CAO to reinstate MA retroactively pending FH
- Past Appeal Deadline? --> Try Reconsideration
- **HAVE CLIENT UPDATE ADDRESS NOW**

What if Person is Ineligible for MA?

- Should not appeal, or (if they already filed) withdraw pending appeal
 - May (in theory) be subject to overpayment for APP
- **NOT** subject to overpayment for benefits received during PHE, even if ineligible (exception: fraud)
 - CMS Guidance, see p. 27: <https://www.medicaid.gov/state-resource-center/downloads/covid-19-faqs.pdf>
- CAO should be referring/transferring files to Pennie Marketplace
 - 60-day Special Enrollment Period (SEP)
- Children should be referred to CHIP

How to Submit Documents



Upload to **COMPASS**
on computer
or **myCOMPASS**
mobile app



Mail to [local CAO](#)



Fax to local CAO



Drop off
in-person
at local CAO

Tips for Submitting Documents

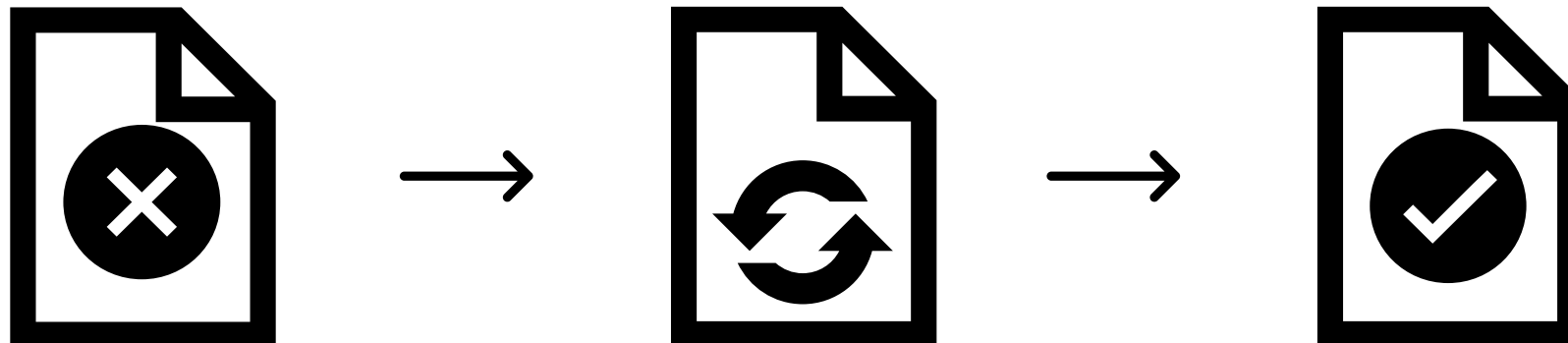
- ✓ Send using **certified mail** or get a **fax confirmation page**
 - Get receipt if delivering in person!
- ✓ **Make/keep a copy** of everything sent! NEVER send the only copy!
- ✓ **Include a cover sheet** with:
 1. Date
 2. Participant Name
 3. Record ID Number
 4. List of documents being submitted
- ✓ Remember to **scan both sides** of the page!
- ✓ Some libraries or state rep offices will fax documents for free



Questions?

Reconsideration

For Procedural Terminations



Problem: Termination Due to Missing Renewal Paperwork

- If renewal packet or verification documents are not received by date requested, CAO will issue termination notice
 - Participant did not submit documents timely
 - Documents sent but not processed due to clerical delays
 - Participant tried to submit documents, but did not go through
- **Reconsideration** avoids need for new application
 - Participant is reinstated back to the date of termination → No gap in coverage!



Medical Assistance (MA)

[REDACTED]

You *no longer qualify* for Medical Assistance effective 06/28/2019 because:
- we did not receive the information you were asked to provide

If you do not agree with this decision, fill out the enclosed Fair Hearing form and mail or give it to your caseworker by July 13, 2019. If the form is postmarked or received on or before June 28, 2019, you will continue to receive your benefits while you wait for the Fair Hearing decision.

[REDACTED]

You *no longer qualify* for Medical Assistance effective 06/28/2019 because:
- we did not receive the information you were asked to provide.

If you do not agree with this decision, fill out the enclosed Fair Hearing form and mail or give it to your caseworker by July 13, 2019. If the form is postmarked or received on or before June 28, 2019, you will continue to receive your benefits while you wait for the Fair Hearing decision.

[REDACTED]

You no longer qualify for Community HealthChoices due to your case.

You do not qualify for this benefit because we did not receive the information needed to decide if you qualify. The following information was not received:

Name(s): Item(s):

- [REDACTED] - Resource verification for all accounts
- Income verification from Rice Energy

This information was due by 06/11/2019.

This is the law we used to make this decision: 55 Pa. Code §§125.1(b), 125.1(d), 155.2, 181.1(d), 201.1, 201.3, 201.4, 257.24

Eligibility for Medical Assistance transportation ends on the day your MA eligibility ends.

Reconsideration

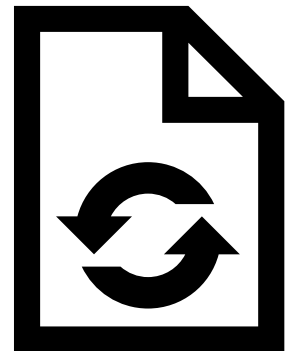
- **MAEH 379.3: Reopening Benefits that were Closed at Renewal**

A new application (paper or electronic) is not required when MA benefits were closed because the individual did not complete the renewal process and the individual requests reconsideration, asks for a new application, and/or submits required verification within 90 days of the date of benefits closure.

When an individual requests a reconsideration and/or submits required documents and it is within 90 days of benefits closure, reconsider the case using the paperwork and information in the case record on the date benefits were closed plus any paperwork or information the individual submitted after benefits were closed. Also review information available through electronic data sources. If eligible, reopen benefits effective the day after benefits closure.

Requesting Reconsideration

1. **File FH request** to preserve continuing benefits, if possible
2. Review notice carefully to **identify missing documents**
3. **If documents were already submitted**, consider “wait and see”
 - Check COMPASS or EVS to see if benefits have been reinstated
 - Allow additional time for processing, esp. if delivery has been confirmed through fax confirmation sheet or mail tracking
 - For more time-sensitive inquiries (i.e., upcoming appointment), can contact CAO or Statewide Customer Service Center to confirm whether documents were received



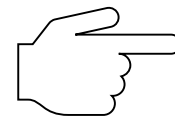
Requesting Reconsideration (cont.)

4. Submit/resubmit missing documents to CAO with cover letter requesting reconsideration

- Allow some time for processing!

5. Contact Customer Service Center or follow EVS/COMPASS to make sure benefits are reinstated

6. Withdraw FH once it becomes moot

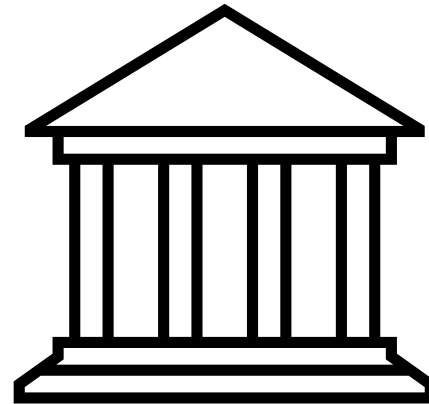


Resource Alert!

**[Requesting Reconsideration:
A Guide for Consumers](#)**

*available at phlp.org/en/resource-library

Fair Hearings



Hearing Process/Timeline

Filing the appeal

- Important timeframes to consider
- Keep proof of mailing

Pre-hearing conference

- Opportunity to Settle

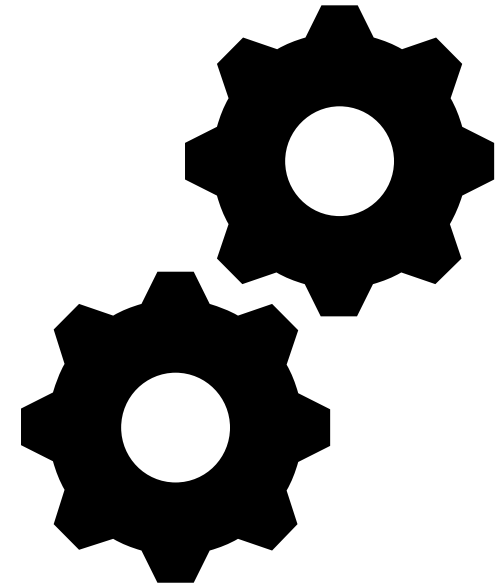
Hearing

Decision

- Within 90 days of filing

How to File an Appeal (Fair Hearing)

- How should the appeal be filed?
 - 1. Hand-delivered
 - 2. By certified mail
 - 3. By email, or
 - 4. By fax
- Call or email within a day or two
 - Confirm the appeal was received
 - Attempt to resolve – “Is any additional information needed?”



Important time frames

30 days

Time the client has to file an appeal

Supplemental Handbook 870.12; 55
Pa Code 275.3

Runs from date of adverse action
notice

Up to 6 months if no notice or agency
error

15 days

(30 days during PHE)

“aid-paid-pending” or “benefits
continuing” deadline

Where the CAO is stopping coverage
already in place

Benefit has to continue pending the
appeal (Supplemental Handbook 870.3)

Important time frames

90 days

Time the state has to schedule and hold a fair hearing and issue a written decision

Runs from date of appeal

Request Interim Assistance if not decided timely (55 Pa Code 275.4(d))

Immediately

How quickly you can attempt to resolve an appeal

No need to wait for a formal “pre-hearing conference”

CAOs will be overwhelmed

Expedited appeals

- **7 days**
 - In “expedited” MA appeals regarding eligibility ...
 - Time the state has to schedule and hold a fair hearing and issue a written decision (42 CFR 431.224)
 - Consider where medical emergency & CAO is nonresponsive

You have a right to appeal and to have an expedited Fair Hearing for Medical Assistance. An expedited Fair Hearing may be granted when it's determined that the normal time for review of an appeal would jeopardize your life, health, or ability to attain, maintain, or regain maximum function.

Strategies to resolve issue

- Make it easy for the CAO to fix the problem
 - Submit (or re-submit) missing information with the appeal
 - It doesn't matter if it's "late" (55 pa code 275.5)
 - Cite any rules that apply in the MAEH
 - Again, make it easy for them!
- If need be, go up the chain of command
 - Do not wait weeks for a caseworker to respond
 - Especially where medical emergency, e.g.

Strategies continued

- Humanize your client
 - Include information about health conditions, e.g.
 - Even if not technically relevant
 - Power in narrative
- Consider 'bad notice' arguments
 - Is the notice coherent?
 - Mailed 15 days in advance?
 - Does it contain a reason and relevant facts supporting the adverse action?
 - See 55 Pa. Code § 133.4 (e)

Fair Hearing: An Opportunity to be Heard

- Hearing before a neutral decision-maker – Administrative Law Judge (ALJ)
- Right to present evidence, cross-examine Agency evidence/witnesses
- Governing law and Fair Hearing Procedures:
 - 42 CFR §§ 431.200-431.246 - Federal
 - 55 PA Code §§ 275.3-275.4 - State
 - Supplemental Handbook Ch. 870

Pre-Hearing Conference



ALJ will allow parties to discuss issue prior to hearing



One last chance to settle case



Discuss exhibits and evidence



If agreement is reached, no hearing will occur



The agreements and stipulations entered into at the prehearing conference are binding on all parties

Fair Hearing

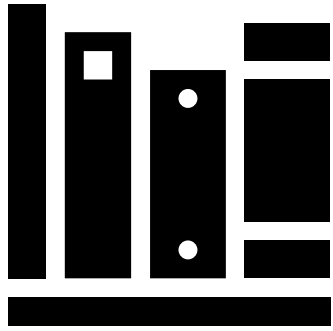
- Proceeding before an Administrative Law Judge from DHS
- Participate by phone, in-person, or via videoconference
- Who are the parties at the hearing?
 - **DHS/CAO** – the Agency whose decision is being appealed; they present their case first- i.e. why client found ineligible for MA
 - **Appellant** – Our client able to cross-examine CAO witnesses & evidence; present own evidence & witnesses to establish eligibility (i.e. why CAO was wrong)
- Burden on agency (DHS/CAO) to defend their decision.
- Fair Hearings governed by 55 Pa Code § 275
- Decision within 90 days of hearing request

Juras rule

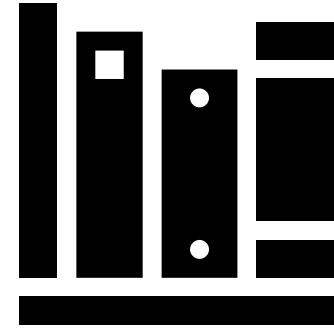
- Juras v. DPW, 73 Pa. Commw. 169 (1983)
 - 55 Pa. Code § 275.5(a) – "The question on appeal, therefore, is not whether the CAO or administering agency acted properly based upon the information then available, but whether the appellant was eligible for the period of time at issue based upon evidence of eligibility the client is able to provide at or before the hearing."
 - Medicaid benefits will be retroactive to date of termination, if, missing documents are provided after termination



Questions?



Resources



Who to contact for help

DHS Customer Service

- Statewide Customer Service Center: 1-877-395-8930
- Philadelphia: 215-560-7226

Pennsylvania Health Law Project (PHLP)

- Helpline- 1-800-274-3258
 - Mondays and Wednesdays 8am-8pm (leave message and intake staff will return call)
- Email: staff@phlp.org

Pennsylvania Health Access Network (PHAN)

- Helpline at 877-570-3642
- Email: helpline@pahealthaccess.org

Local Legal Aid Office: www.palegalaid.net/find-legal-help

Note: Busy time for everybody



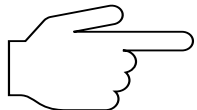
Helpful Resources

- Medical Assistance Eligibility Handbook
 - <http://services.dpw.state.pa.us/oimpolicymanuals/ma/whnjs.htm>
- DHS Supplemental Handbook
 - <http://services.dpw.state.pa.us/oimpolicymanuals/supp/index.htm>
- DHS Unwinding Toolkit: <https://www.dhs.pa.gov/PHE/Pages/PHE-FAQs.aspx>
- DHS Operations Memoranda:
 - [Ops Memo #23-03-03](#): Expiration of the Continuous Coverage Requirement for Medical Assistance
 - [Ops Memo #23-03-04](#): Procedures for Handling Returned Mail during the Unwinding Period
- Center on Budget and Policy Priorities – ‘Beyond the Basics’ Series
 - <http://www.healthreformbeyondthebasics.org/>

PHLP Resources



- PHLP [Medical Assistance Eligibility Manual](#)
- [MAWD: A Guide to Eligibility](#)
- [Health Care for Immigrants](#)
- [What to Do When Your Medical Assistance is Cut Off](#)
- PHE Unwinding Webinar Series:
 - Getting Ready for SNAP & Medicaid Changes: [Video](#) [Slides](#)
 - Medicaid Eligibility 101: [Video](#) [Slides](#)



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Upcoming webinars in this series

- **Revisiting MAWD & Introducing Workers with Job Success**

April 20, 2023, 11:00 AM

[Register here](#)

- **Dual Eligibles & Medicare Savings Programs**

May 17, 2023, 11:00 AM

[Register here](#)



2023 WEBINAR SERIES

PUBLIC HEALTH 
EMERGENCY UNWINDING

Questions?

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