How to Appeal the Denial of a Child's Shift Nursing or Home Health Services

A Guide for Families and Caregivers

I. Introduction

Shift nursing and home health aide (HHA) services—often called "shift care" services—are among the most important benefits provided by the Medicaid program for children with disabilities. Shift care services are critical in enabling children with significant health needs to safely live in their own homes and attend school.

To obtain shift care services, your child's doctor must request Prior Authorization of the services from your child's Medicaid plan. If the Medicaid plan denies the request, you have the right to appeal. An appeal is the legal term for how you challenge the denial, reduction, or termination of shift care services.

This guide explains how to appeal a pediatric shift care denial, and how to present and prove your case during the appeal process.

II. When and How to Appeal

You have a right to file an appeal in any of the following circumstances:

1. The plan tries to reduce some of the nursing or HHA hours your child gets;
2. The plan denies a request for more shift care hours;
3. The plan completely denies a shift care request; or

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4. The plan changes the level of care your child is receiving (e.g., denying nursing and approving a home health aide instead.)

Step One: Ask for a Grievance

A grievance is the first level of appeal. It is an internal review of the denial by the managed care plan. It is also your chance to explain why the decision was wrong.

During the grievance, the denial is reviewed by three people, including a managed care plan doctor. You have the right to take part in the grievance review meeting, either in person, by video conference, or by phone. You also have the right to have your child's doctor(s) or others take part on your behalf. The plan normally must make a grievance decision within 30 days from when you asked for the grievance. You can ask that the grievance meeting be postponed for an additional 14 days, for a total of 44 days from when you requested it.

Can I get a faster decision?

Yes. If your child's health could be harmed by waiting the normal timeframe for a decision, ask for a faster review. This is called an "expedited" grievance or fair hearing. Get a letter from your doctor that says you need a faster review. For an "expedited" appeal, the panel must give you a decision within 72 hours of your request.

Can my child continue getting their existing services during the appeal?

Yes. If your child is already receiving the services at issue and you request the grievance within 15 days of the date on the denial letter, the services will continue until a grievance decision is made.

Ask for a grievance by calling your child's Medicaid plan or by sending in the Grievance Request form that came with the denial notice. You have **60 days** from the date on the denial letter to file a grievance, but only **15 days** if you want to continue receiving denied services during the grievance process.

Step Two: Ask for a Fair Hearing and External Review

If you do not agree with the grievance decision, you have the right to file two more appeals: a fair hearing and an external review. Ask for an external review and a fair hearing at the same time; if either appeal is decided in your favor, the Medicaid plan must approve the service.

You should also be sure to request both appeals within fifteen (15) days of the date on the grievance decision so that your child's existing services remain in place during both appeals.

a. Fair Hearing

A fair hearing is a meeting where the managed care plan has to explain its decision to an administrative law judge (ALJ). You have the right to take part in person or by phone. Your child's doctor or others can also take part. Either you or someone on your behalf must take part in the hearing or it will be dismissed. The judge should issue a decision within about 60 days of your request for hearing.

To ask for a fair hearing, complete and mail the form that came with your grievance decision. Include the grievance decision with your form. Use certified mail so you can prove you sent your fair hearing request. A fair hearing cannot be requested by telephone.

You have **15 days** from the date on the grievance decision to mail your fair hearing if you want your child's shift care hours to continue while waiting for the fair hearing decision. If you miss this deadline, or if you are asking for a fair hearing about a denial of new or additional services, you have 120 days from the grievance decision date to mail the fair hearing request.

b. External Review

An external review is a review of the managed care plan's grievance decision by a doctor chosen by the PA Department of Insurance. The external reviewer must give you a decision within 60 days of your request.

Call your child's plan to ask for an external review. You have **15 days** from the date on the grievance decision to request an external review. For appeals involving a proposed reduction, your child's shift care hours will continue at the higher level as long as your grievance request was filed timely.

III. Understanding Medical Necessity

Your goal during the appeal is to prove the "medical necessity" of the shift care services that have been denied. In general, proving medical necessity in pediatric shift care cases involves two parts:

1. **Clinical Level of Care:** Is the service requested clinically appropriate for the child?

2. **Parental Availability:** Is a parent or guardian able and available to provide the services during the hours in question? We will talk more about this later on.

The medical necessity definition is listed below. Try to show that your child's need for services meets any one of the following parts of the Medicaid medical necessity definition.

> **What is Medical Necessity?** A service is medically necessary if it:
>
> 1. Will, or is reasonably expected to, prevent the onset of an illness, condition, or disability;
> 2. Will, or is reasonably expected to, reduce or ameliorate the physical, mental or developmental effects of an illness, condition, injury, or disability; **OR**
> 3. Will assist the child to achieve or maintain maximum functional capacity in performing daily activities, taking into account both the functional capacity of the child and those functional capacities that are appropriate for children the same age.

You can use the exact language of the above standard, or you can simplify it and use plain language. For example: "Skilled nursing is medically necessary under the first prong of the standard because my child needs to be monitored and given rescue medications to avoid prolonged seizures."

IV. Proving Your Case

The remainder of this guide explains how to prove your case during your appeal. The process is similar for both Grievances and Fair Hearings. For a more in-depth tool for preparing for your appeal, see our toolkit, How To Represent Yourself in Personal Assistance Services (PAS) Appeals.

Step 1: Plan Your Argument(s)

Start by picking out one or two main arguments to make during your appeal. Remember that your goal is to establish that the requested services (or hours at issue) are medically necessary. Be sure to respond to the reason for the denial listed in managed care plan's notice (or grievance decision).

Here are examples of common arguments you could make. The shift care services requested for my child are medically necessary because …

a. Shift Nursing
   - My child requires monitoring and evaluation (e.g., for seizures, severe allergies, or uncontrolled diabetes) to determine whether interventions like rescue medications are needed.
   - My child requires regular or intermittent medication administration, including both scheduled and "as needed" medications.
   - My child requires gastrostomy-tube (G-Tube) feedings, medications, and/or monitoring.
   - Without these services, my child will not be able to safely ride the bus and/or attend school.

b. HHA Services
   - My child requires hands-on assistance or cueing and prompting to complete age-appropriate activities of daily living (ADLs) like bathing, dressing, or toileting.
     - Be careful to not emphasize behaviors that interfere with these ADLs.
   - Without these services, my child will not be able to safely attend school.

c. Parental Availability (for both Nursing and HHA Services)
   - Parents (or caregivers) are unavailable to provide care during the hours requested because …
     - Of work and commute times (specify and document the work obligations);
     - They are caring for other children in the household (specify ages, care needs, extracurricular activities, etc.);

        - They perform essential household duties (specify tasks and time they take);
    - Parents (or caregivers) are not "able and available" because they have their own medical conditions, treatments, or appointments;
        - Document the specific diagnoses and functional limitations that impact the parent's ability to provide skilled care or assistance with daily activities

What is "Parental Availability"?

A Medicaid plan cannot deny a request for shift care services because a parent or caregiver is present in the home unless the PH-MCO has established that the parent or caregiver is actually able and available to provide the child's care during the time hours are requested. The PH-MCO must take into consideration the live-in caregiver's work schedule, sleep schedule, and other responsibilities, including other responsibilities both inside and outside and the home.

In this context, "other responsibilities" includes but is not limited to:

i. Completing essential household duties such as shopping, housekeeping, laundry, yard work, errands, and medical appointments;
ii. Coordination of health care and services for the member;
iii. Attending religious service; and/or
iv. Care of other children in the home, including attending their extracurricular activities.

Source: DHS MCO Ops Memo #05/2023-004

d. When There Has Been No Change in Condition (for both Nursing and HHA Services)

- There have been no changes in my child's condition that warrant the reduction in services that have been in place for the past [X] months/years.
- The rule below, added to the HealthChoices Agreement in 2025, explains the requirements on the PH-MCO when they stop or reduce an existing service.

No Improvement in Condition (New for 2025)

A PH-MCO cannot deny a request to continue shift nursing or HHA services that were previously approved unless it identifies a change in the child's condition that justifies the reduction (or an error that caused the plan to previously approve the services).

Any time a PH-MCO stops or reduces existing services, they must include specific details in the denial notice about the improvement in the child's condition OR the prior error:

> "In the case of a denial of a previously authorized service, a reduction in benefits, the denial notice must contain specific information about the change in the Member's condition, or the error made when the PH-MCO previously authorized the service, that justifies the denial or reduction."

Source: HealthChoices PH Agreement, Section V.B.I (2025)(p. 59).

e. Parents as Paid Caregivers

At the end of the Public Health Emergency (PHE) in May 2023, Pennsylvania issued guidance stating that parents and legal guardians can be paid caregivers for providing skilled nursing or HHA services to their own child. Parents who wish to do so must be hired by a home health agency meet any hiring requirements of the agency.

Here are the general rules for parents who want to be paid caregivers:

1. The parent must provide a work verification letter from the agency employing them, stating how many hours they work or intend to work once hired.

2. Only licensed nurses (RNs, LPNs, etc.) can provide skilled nursing care to their own children; if someone is not a licensed nurse, they cannot provide this level of care, regardless of their relationship to the child.

3. If a child has skilled care needs, whether intermittent or routine, that take place during requested HHA hours, the agency must explain in the work

verification letter the parent's plan to clock out to complete those needs before clocking back in as the HHA.

4. During the time the parent is approved to work, the child's Medicaid plan should consider the parent "unavailable" to provide care, per Ops Memo 05/2023-004. The parent should explain why they would like to be the paid caregiver (e.g. it has been difficult to maintain employment outside of the home due to the child's needs and approved but unstaffed HHA hours.)

When Can Parents or Legal Guardians Be Paid Caregivers?

At the end of the Public Health Emergency (PHE) in May 2023, Pennsylvania's Medicaid program issued guidance clarifying that parents and guardians can continue be paid caregivers when providing skilled nursing or HHA services. It also clarified that a parent or legally responsibility relative cannot be considered "available" during the time they are working in the capacity as their child's nurse or HHA. Medicaid plans may not deny hours because of a parent being available during that time. Source: DHS MCO Ops Memo #05/2023-004

Step 2: Gather Evidence

Once you identify your argument(s), think about what evidence and witnesses you can use to support your argument that the shift care hours at issue are medically necessary.

The letter of medical necessity from the doctor who prescribed your child's shift nursing or HHA services is a key document. Be sure that it is accurate and thorough. Before the grievance or hearing, ask your child's doctor to update the letter if it does not address the Medicaid plan's reason for denial. PHLP's Guide to Writing a Letter of Medical Necessity explains more about what goes into a strong letter of medical necessity.

In addition to the letter of medical necessity, the following documents are also helpful to submit during your appeal:

1. Letters from other doctors/clinicians/specialists
2. Letters from physical or occupational therapists
3. Nursing or Home Health Aide notes from the agency showing the types and frequency of care the child needs
4. Episode logs of events such as seizures, allergic reactions, or other episodes requiring monitoring and evaluation and/or emergency treatment

5. Letters from your child's school stating, for example, that the school cannot provide 1:1 nursing or HHA services; and/or that the school nurse is not able to meet the child's individual needs.
6. Letters from the parent or caregiver's doctor, if applicable, attesting to how the parent's health conditions limits their ability to provide the level of care requested for the child.
7. Updated verification of parent's work or school schedule.
8. Weekly schedule or other documentation of parental responsibilities, including essential household duties like shopping, housekeeping, laundry, errands; attending religious services, or caring for other children.

If you are participating in the appeal hearing by phone or video conference, make sure all your documents get to the grievance panel or the hearing officer (called an Administrative Law Judge) before the scheduled hearing takes place. Ask for a fax number, e-mail address, or address where you can send the information ahead of time. Otherwise, bring it with you to the in-person appeal hearing.

Step 3: Choose Witnesses to Participate in Your Hearing

You can have anyone take part in your grievance or fair hearing as a "witness" to help explain the need for the services. Common witnesses include:

- Your child's doctor or in-home nurse or aide;
- The clinical care manager from your child's home health agency; and/or
- Others who are familiar with your child's health and care needs.

It is fine for you to be your only "witness" during your appeal. Many people find it helpful to have additional witnesses to help present their case. You should choose witnesses who are familiar with your child's care needs and can help explain why the denied shift care hours are medically necessary.

Discuss the appeal with your witnesses ahead of time to make sure they are ready. It may be helpful to give them a list of questions or topics you want them to talk about at the hearing. Make sure you give them the date and time of the hearing and confirm how they will be participating—Will they be with you? Will they be participating from a separate phone or computer? If your witnesses will be participating separately, don't forget to provide their contact information to your plan's grievance department or to the Administrative Law Judge (ALJ) when you send any documents you plan to submit for the

appeal. They will also need to receive a link ahead of time for a video-conference hearing or grievance.

Step 4: Present Your Case

During your grievance or fair hearing, the managed care plan will present their position first. They will explain why they think the decision to deny your child's shift care services was correct.

Next, it will be your turn to present. Remember, your goal is to explain to the decision maker why the services your child is seeking are medically necessary. Aim to keep your presentation to no longer than 30-45 minutes, but the Medicaid plan should not rush you or put an unreasonable limit on the amount of time you have to present.

1. Start by introducing yourself. If you sent in documents in advance, confirm that they were received. If they do not have the documents you sent in, ask if you can email or fax the documents right after the hearing.

2. Next, give a short statement explaining the issue for the grievance panel or the ALJ. Give a summary of your child's health problems and explain what kind of care or assistance they need on a daily basis. Make your main argument(s) for why the shift care hours are medically necessary. Then, present your witnesses to talk about why the SN or HHA hours you are asking for are medically necessary.

3. When you present your own "testimony", talk about your child's conditions and needs. If the managed care plan argues you are available to provide the care, explain how this is inaccurate. Explain, in as much detail as possible, how the shift care hours the plan is offering are not enough. Give examples of why your child needs the denied hours and go through the arguments you prepared (see Step 1). Highlight the most helpful parts of any documents you have provided, such as your child doctor's letter or logs showing recent seizure activity.

4. Once you present all your evidence – both testimony and documents – the Medicaid plan or the ALJ may have follow-up questions for you and your witnesses. Answer their questions honestly and clearly, without going off-topic.

5. After any questions, you can choose to give a short closing statement. A closing statement is where you wrap up your argument and reiterate anything you want the decision-maker to know before the hearing ends.

IV. For More Information

For more information or advice about the appeal process or your child's services, call PHLP's Helpline at 1-800-274-3258.