
HEARINGS

HEARING PROCEDURES

**P. STATE
HEARINGS**

When a request for a State hearing is received in the Regional Office, the request will be dated as to the date of receipt, the request will be photocopied so that a copy can be placed in the State hearing record, then the request will be forwarded to the appropriate Hearing Officer. The Regional Office will proceed with preparation of the State hearing folder and mail the hearing folder to the Hearing Officer for that region within five (5) days of receipt of the State hearing request.

If a State hearing request is mailed directly to the State Office, a copy of the request will be forwarded to the appropriate Regional Office so that the State hearing record can be set up and forwarded to the Hearing Officer for that region.

Upon receipt of the hearing record, the hearing will be assigned to an impartial Hearing Officer who will conduct the hearing. Impartial means that the Hearing Officer has not been involved in any way with the action or decision on the case.

The Hearing Officer will review the material submitted as the State hearing record. If the review shows that an error was made in the action of the Regional Office, or in the interpretation of policy by the Regional Office, or that a change in policy has been made, the Hearing Officer will discuss this fact with the Area Supervisor and ask that an adjustment be made, if appropriate. The Regional Office worker will discuss the matter with the client and if he/she is agreeable to the adjustment of the claim, the worker will request withdrawal of the hearing in writing and state the reason thereof.

If the action of the Regional Office is in order, the Hearing Officer will request any additional information that appears to be needed in holding the hearing and making a new decision.

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RESPONSIBILITIES

**1. Holding
the State
Hearing**

The State hearing will be scheduled by the Hearing Officer in accordance with policy set forth in "Scheduling the Hearing."

In conducting the hearing, the Hearing Officer will inform those present of the following:

- The Hearing Officer will explain that the hearing will be recorded on tape so that a transcript of the proceedings can be typed for the record.
- The reason for the hearing will be stated (i.e., the action taken by the Regional Office which prompted the appeal).
- An explanation will be made concerning the client's rights during the hearing as outlined in "Rights of the Client" and that the purpose of the hearing is an opportunity for the client to express dissatisfaction and present additional information or evidence. Note: Although the State hearing uses a State hearing folder to conduct the State hearing, the actual case record must be available for review by the client or representative before, during, or after the State hearing as outlined in "Rights of the Client."
- An explanation will be made that the final hearing decision will be rendered by the Executive Director of the Mississippi Division of Medicaid on the basis of facts discussed at the hearing and that the claimant will be notified by letter of this decision.

During the hearing the client/representative will be allowed an opportunity to make a full statement concerning his appeal and will be assisted, if necessary, in disclosing all information on which the claim is based. All persons representing the claimant and those representing the Regional Office will have the opportunity to state all facts pertinent to the appeal. When all information has been presented, the Hearing Officer will close the hearing and stop the recorder.

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Immediately following the hearing, the Eligibility Division will transcribe the hearing.

**2. Review
By DDS**

When the issue under appeal is disability or blindness, following the State hearing the Hearing Officer will forward

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all medical information to the Disability Determination Service for reconsideration. A review team consisting of medical staff who were not involved in any way with the original decision will review the medical and hearing transcript and give a decision on the disability or blindness factor. The DDS decision will be final and binding on the Agency.

**3. Recessing
or
Continuing
A State
Hearing**

If additional information is needed and this information is readily available, the hearing officer will recess the hearing for the time required to obtain the facts. If the information is not readily available, the hearing officer will continue the hearing to a suitable later date. If the time at which the information will be obtained is known, the hearing officer, before adjourning the original hearing, will set the time and place for the continued hearing at the earliest possible date, notifying the principals that there will be no further written notice. The hearing officer will reach an agreement with the client and any person attending in his/her behalf about bringing the needed information to the continued hearing. The hearing cannot be extended beyond the time limit for completion of a hearing.

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- 4. Changes Which Occur During The Hearing Process**
- If at any time during the hearing process the Regional Office becomes aware of a change in the client's circumstances which will result in an adverse action other than the issue presently under appeal, the client must be notified in writing. The notice to the client must be the usual 10-day notice. If a State hearing has not yet been held, the client may choose to have the new adverse action issue incorporated into the current appeal; however, the client must request the appeal in the normal manner. If the new hearing request is filed in time for the issue to be included with the hearing currently in process, the Regional Office will notify the hearing officer of the additional issue under appeal. The hearing may need to be rescheduled in order to allow the client time to prepare for the hearing.
- If a change in the client's circumstances is discovered during the actual hearing, the hearing officer will recess the hearing and notify the Regional Office to send the appropriate 10-day notice. The hearing will be reconvened after the adverse action is mailed and the advance notice period expired. The client may opt for the new issue to be included in the hearing when reconvened. The hearing will be reconvened following the usual procedure for setting the time and place.
- 5. Recommendation of State Hearing Officer**
- After a hearing has taken place, the final decision must be based on the oral and written evidence, testimony, exhibits, and other supporting documents which were discussed at the hearing. The decision cannot be based on any material, oral or written, not available to and discussed with the claimant. The decision cannot be based on any written material not available to the claimant.
- Following the hearing, the hearing officer will make a written recommendation as to the decision to be rendered as a result of the hearing. The recommendation, which becomes part of the State hearing record, will cite the appropriate policy which governs the recommendation.

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- 6. Decision of The Agency**
- The Executive Director of the Division of Medicaid, upon review of the recommendation, proceedings and the record, may sustain the recommendation of the hearing officer, reject the same, or remand the matter to the hearing officer to take additional testimony and evidence, in which case, the hearing officer thereafter will submit to the Executive Director a new recommendation. The Executive Director will prepare a written decision summarizing the facts and identifying policies and regulations that support the decision, which will be mailed to the client or the representative, with a copy to the regional office as soon as possible after submission of a recommendation by the hearing officer. The decision notice will specify any action to be taken by the agency, specify any revised eligibility dates or, if continuation of benefits applies, will notify the claimant of the new effective date of reduction or termination of benefits or services, which will be fifteen (15) days from the mailing date of the notice of decision. The decision rendered by the Executive Director of the Division of Medicaid is final and binding. The client is entitled to seek judicial review in a court of proper jurisdiction.
- Q. TIME FRAME FOR COMPLETION OF HEARINGS**
- The Division of Medicaid must take final administrative action on a hearing, whether State or local, within 90 days from the date of the initial request for a hearing. Although regulations allow 90 days for the completion of the hearing, the Agency will make every effort to hold hearings promptly and render decisions in a shorter time frame.
- R. SECOND REQUEST**
- The decision of the Executive Director of the Division of Medicaid is final. Should a client appeal a second time without a change in circumstances or Agency policy, the client will be notified in writing by the appropriate office explaining that the appeal cannot be honored. If the client's circumstances or Agency policy has changed, then the client should be advised to file a new application.