

# MISSISSIPPI DIVISION OF MEDICAID

## Eligibility Policy and Procedures Manual

### **100.03.05B CONTINUATION OF BENEFITS**

If a client or representative requests a hearing within the advance notice period, benefits must be continued or reinstated to the benefit level in effect prior to the planned adverse action. Benefits will continue at the original or former level until a final hearing decision is rendered.

**NOTE:** The override function in MEDS may be used to reinstate QMB benefits for prior months pending the outcome of a hearing. If CHIP is involved, the reinstatement of benefits must be effective for the next possible month. If the hearing decision is favorable to the client, any lost CHIP benefits will be handled through the agency error process.

#### **Timely Request for Continuation of Benefits**

To determine if the request for continuation of benefits is timely, the request must be received by the regional office within 12-days from the notice date. This 12-day period includes the 10-day adverse action period plus 2 days mailing time. If a hearing is requested by telephone, the client must be advised to put the request in writing prior to the end of the specified period. Any hearing requested or dated after this period will not be accepted as a timely request for continuation of benefits.

#### **Continuation of Benefits When Local Decision is Adverse**

The client may request a state hearing if the local hearing is adverse. If benefits have been continued pending the local hearing, then benefits will continue pending a state hearing decision *provided* the request for the state hearing is made within 15 days of the date on the Notice of Local Hearing Decision. Local and state hearing procedures are discussed later in this section.

#### **Agency Action Upheld in Final Hearing Decision**

When the final hearing decision is adverse to the client, the specialist will terminate or reduce the continued benefits using the original reason for the adverse action. The supervisor will waive notice at authorization since a second Notice of Adverse Action is not required. In addition, the Division of Medicaid has the right to initiate recovery procedures against the client to recoup the cost of any medical services furnished the client under Medicaid and CHIP premiums paid by DOM on behalf of CHIP children, to the extent they were furnished solely based on the provision for continuation of benefits.

# MISSISSIPPI DIVISION OF MEDICAID

## Eligibility Policy and Procedures Manual

### **100.03.05C REGIONAL OFFICE RESPONSIBILITIES IN THE HEARING PROCESS**

The regional office is responsible for completing a supervisory review of the action under appeal and for preparing the state hearing record. The office is responsible for all activities involved in the local hearing process and for taking appropriate action on the case at the end of the hearing process.

#### **100.03.05C1 SUPERVISORY REVIEW**

- A supervisor will review the record and re-examine the action taken on the case to determine if policy has been properly applied;
- If any adjustments are needed, a supervisor will ensure that corrections are made;
- If continuation of benefits is applicable, a supervisor will ensure that benefits continue at the same level prior to the proposed adverse action that is under appeal.
- The supervisor will also ensure all needed verification is in the case record and will secure any additional evidence needed for the hearing when necessary.

#### **100.03.05C2 PREPARATION OF THE HEARING RECORD**

A local hearing record is not needed since the claimant is entitled to examine the entire case record prior to or during the hearing; however, the regional office is responsible for preparing the hearing record to be used at a state hearing. The state hearing folder must be forwarded to the Executive Division no later than five (5) days after receipt of the request for a state hearing. The state hearing record will consist of all pertinent information relating to the issue under appeal, including:

- The written hearing request submitted by the claimant or representative;
- A statement prepared by the specialist explaining the action taken on the case and the date of the action. In addition, there must be an explanation of any corrective action taken on the case subsequent to the hearing request;
- Copies of portions of the case record which constitute the basis for the action taken on the case. All hearing records will contain a copy of the application form and the notice(s) related to the action under appeal.
- When applicable, a statement as to factors of eligibility not determined at the time of the denial or closure. For example, if the issue under appeal is a denial on disability but the client's income was not established, a hearing on the disability factor will have limited value if the client was also ineligible on income or some other factor.

# MISSISSIPPI DIVISION OF MEDICAID

## Eligibility Policy and Procedures Manual

### **100.03.05C3 HOLDING THE LOCAL HEARING**

The regional office is responsible for scheduling and rendering decisions on local hearings, except those which involve CHIP agency errors. The procedures for handling local and state hearing requests involving denial of CHIP because of agency error are discussed later in this section.

#### **Purpose of a Local Hearing**

The purpose of the local hearing is to provide an informal proceeding to allow the client or representative to:

- Present new or additional information;
- Question the action taken on the client's case, and
- Hear an explanation of eligibility requirements as they pertain to the client's situation.

#### **Scheduling the Local Hearing**

When a request for a local hearing is received, the regional office will schedule the local hearing no later than 20 days after receipt of the request. The client will be allowed time to obtain additional information or request an attorney, relative or friend to attend the hearing and give evidence. The regional office may not schedule a local hearing without giving five (5) days advance notice to the client unless the client waives advance notice time. The case record will be documented if the client waives the advance notice.

#### **Person Conducting the Local Hearing**

The regional office staff member who conducts the hearing must be one who has not participated in determining eligibility or directed the decision. Although a supervisor may have officially authorized eligibility, if he/she has not actually taken part in the eligibility decision the supervisor will hold the hearing. However, if the supervisor made the actual determination of eligibility on the case, he/she cannot hold the local hearing and another person must be designated to conduct the hearing.

# MISSISSIPPI DIVISION OF MEDICAID

## Eligibility Policy and Procedures Manual

### **Preparing a Summary of the Hearing**

After a local hearing is held, the person who conducted the hearing will prepare a summary of the hearing procedure. The summary serves the same purpose as a transcript and is filed in the case record.

**NOTE:** The summary of the local hearing must be included as part of the state hearing record when the client requests a state hearing after an adverse local hearing decision. The local hearing summary must contain sufficient information to enable the state hearing office to have a clear understanding of what transpired during the local hearing.

### **100.03.05C4 ISSUING THE LOCAL HEARING DECISION**

The regional office staff member who held the hearing will carefully review and consider the facts presented during the local hearing in rendering the local hearing decision. When a decision has been reached, the client must be notified of the decision via DOM-351, Notice of Decision on Local Hearing. This form must be used to notify the client since it advises the client of the right to request a state hearing.

The DOM-351 must clearly state the reason for the decision and the policy which governs the decision. Also, if the hearing is denied, the new effective date of closure or reduced benefits must be included on the form if continuation of benefits applied during the hearing process. The new effective date of closure or reduced benefits must include an effective date at the end of the 15-day advance notice period allowed via DOM-351. A second Notice of Adverse Action is not required; therefore, the second eligibility notice should be waived at authorization if benefits are terminated or reduced as a result of the local hearing decision.

However, if a state hearing is subsequently requested within the 15-day advance notice period and continuation of benefits is applicable, the state office will notify the client of the new effective date of closure, reduced benefits or other revised eligibility dates in the state hearing decision letter.

### **100.03.05C5 TAKING ACTION ON THE CASE**

The regional office is responsible for taking any corrective action required as a result of a local or state hearing decision rendered in the client's favor or for processing the original planned action on the case which was the basis for the appeal if continuation of benefits applied pending the hearing decision.

# MISSISSIPPI DIVISION OF MEDICAID

## Eligibility Policy and Procedures Manual

### **100.03.05C6 STATE HEARING REQUESTED AFTER ADVERSE LOCAL DECISION**

As indicated, the client has the right to appeal a local hearing decision by requesting a state hearing; however, the state hearing request must be made in writing within 15 days of the mailing date of the DOM-351. This means the state hearing request must be received by the regional office or state office on or before the 15<sup>th</sup> day after the local hearing notice is mailed. If the state hearing request is made orally, then the claimant must be informed that the request must be put into writing and received with the allotted 15-day time period.

If benefits have been continued pending the local hearing decision, then benefits will continue throughout the 15-day advance notice period when the local hearing decision is adverse. If a state hearing is requested timely within the 15-day period, then benefits will continue pending the outcome of the state hearing.

State hearings requested after the 15-day advance notice period for the local hearing will not be accepted unless the 30-day period for filing a hearing request has not expired because the local hearing was held early in the 30-day period and there is time remaining.