

Appealing a Medicaid Termination

Presented to CHLP
Law and Disability Conference

May 4, 2023



ADVANCING JUSTICE. ADVOCATING INCLUSION.



About Disability Rights New Jersey

- Disability Rights New Jersey is the designated Protection and Advocacy system for New Jersey
- We advocate for and advance the human, civil and legal rights of residents of New Jersey with disabilities



What we will cover

- What to do if you receive a termination letter from Medicaid saying that you are no longer eligible for coverage
- Getting to a Fair Hearing – how to appeal the termination, where to get help during the process
 - Including: Continuation of Benefits during your appeal
- What to expect during the Fair Hearing Process



Make sure Medicaid has your address

NJ FAMILY CARE - WATCH FOR OUR MAIL!

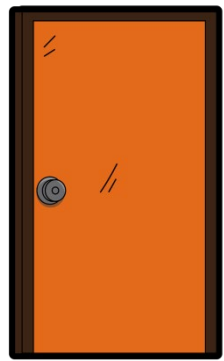


April 1, 2023 is when eligibility checks begin again. Don't miss your renewal packet.

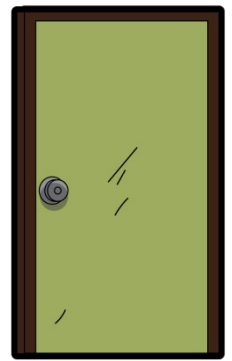
Update your mailing address today at
1-800-701-0710 (TTY: 711)



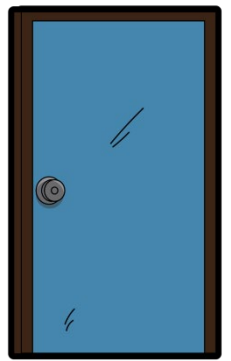
NJ FAMILY CARE
Affordable health coverage. Quality care.



Medicare Savings Program



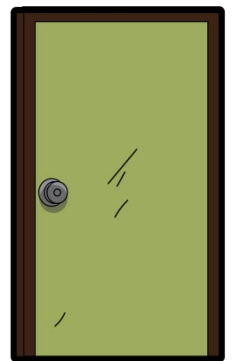
SSI Medicaid Only



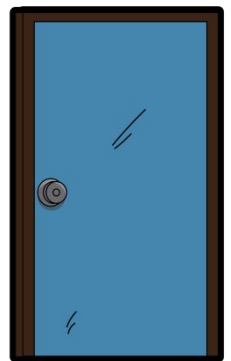
NJ Care ABD



NJ FamilyCare ACA Expansion MAGI Medicaid



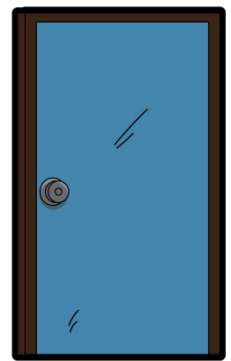
Workability



DDD Waiver



DAC



MLTSS



Eligibility Protection

- Before terminating someone's Medicaid coverage, Medicaid is supposed to review whether that person is eligible for Medicaid through any other "door."



Prior to termination: Medicaid must consider all program eligibility

- Federal Right: 42 C.F.R. §435.916(f)
- Lost SSI: Medicaid Communication 19-01
- Medicare Savings Programs: Appellate Division Decision: D.C. v. M.L. (July 28, 2020)
- Review must take place before termination, with no gap in coverage



What does a denial/termination letter look like

PHILIP D. MURPHY
GOVERNOR

SHEILA Y. OLIVER
LT. GOVERNOR



State of New Jersey
Department of Human Services
Division of Aging Services
P.O. Box 807
Trenton, N.J. 08625-0807

CAROLE JOHNSON
COMMISSIONER

LOUISE RUSSELL
DIVISION DIRECTOR

[Redacted]



Date: 02/11/2020
Date of Birth: [Redacted]

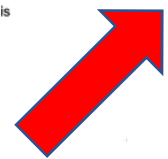
Dear [Redacted]:

This notice advises you of the following decision regarding your clinical eligibility which is the requirement for the Medicaid Programs of Managed Long Term Services and Supports (MLTSS), or the Program for All-inclusive Care of the Elderly (PACE).

- You are not clinically eligible for Nursing Facility Level of Care in a nursing facility or the community in accordance with N.J.A.C. 8:85-2.1 and New Jersey's NJ FamilyCare Comprehensive Demonstration, Section 1115.
- You are not clinically eligible for Special Care Nursing Facility (SCNF) Level of Care in-patient placement in the State of New Jersey in accordance with N.J.A.C. 8:85-2.21.
(SCNF facility type)
 - Although you do not require the level of care provided by the SCNF, you are still clinically eligible for nursing facility level of care in the nursing facility or the community in accordance with N.J.A.C. 8:85-2.1 and New Jersey's NJ FamilyCare Comprehensive Demonstration, Section 1115. A letter authorizing services for that level of care is attached.

Sincerely,
[Redacted] BSN, RN, RSN, CCC
Community Choice Counselor

- c: NRO
 SRO
 ADRG
 PACE Provider Organization
 Referring Facility
 MCO Provider
 Consumer/Legal Representative



Date: 02/11/2020

FAIR HEARING NOTICE:

You have the right to request a fair hearing regarding this action. You must request a fair hearing within 20 days of the date of this letter. If you have been receiving Medicaid benefits and request a fair hearing within the 20-day period, your Medicaid benefits may continue until a hearing decision is reached so long as you remain eligible in all other respects. However, if the fair hearing decision is not in your favor, you may be required to repay any Medicaid benefits to which you were not entitled.

Fair Hearing Request

You must submit a request for a fair hearing in accordance with N.J.A.C. 10:49-10.3. To request a fair hearing, complete the following section in full and send a legible copy of pages 1 through 3 of this notice to:

Office of Legal and Regulatory Liaison
Division of Medical Assistance and Health Services
Fair Hearing Unit
PO Box 712
Trenton, New Jersey 08625-0712
or Fax to 609-588-2435

I am requesting a fair hearing because: [Redacted]

If you are requesting a fair hearing for Medicaid benefits that you are currently receiving, check one:

- Continue my Medicaid benefits during the fair hearing process. I understand that if the fair hearing decision is not in my favor that I may be required to repay any Medicaid benefits I was not entitled to receive.
- Do not continue my Medicaid benefits during the fair hearing process.

If someone other than the individual identified on page 1 of this notice completed this request, please complete the following information:

Name of Representative: _____
 Relationship to Applicant/Recipient: _____
 Telephone Number: _____
 Address: _____

Date: 02/11/2020

YOUR RIGHTS:

- Concerning the fair hearing, you have the right to:
 - Present your own case or have a relative, friend, or attorney make the presentation.
 - Submit any evidence or bring any witnesses that bear on your case.
 - Examine records or case files including the application form. You may also examine the case record in advance except for those records which are protected from release and which may not be introduced by the Department of Human Services as evidence.
 - Review a complete copy of N.J.A.C. 8:85, and/or New Jersey's NJ FamilyCare Comprehensive Demonstration, Section 1115.
- You have the right to have legal counsel represent you at the fair hearing. The following is information regarding legal services:
 - There are legal services organizations that provide free legal counsel to individuals who cannot afford a private attorney.
 - Legal Services of New Jersey (LSNJ) provides free legal information, advice and/or representation for low-income individuals who qualify for their services. For more information about the LSNJ Health Care Access Project or their local legal services offices, contact the LSNJ toll-free legal hotline at 1-888-576-5529.
- You have the right to request another assessment to determine your clinical eligibility if you experience a change in your condition or circumstances.

Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 prohibit discrimination on the grounds of race, color, national origin, age or handicap in the administration of a program for which Federal funds are received.

SOMERSET COUNTY BOARD OF SOCIAL SERVICES
73 EAST HIGH STREET PO BOX 936
SOMERVILLE NJ 08876-0936



Reply To Worker: ABD-SP

Re:



Program:

Case No.:

Date: February 24, 2023

Importante: Si usted no entiende esta noticia, póngase en contacto con un representante de esta oficina.

This notification is to advise you of the following decision concerning your eligibility for the Medicaid program.

- Eligible effective
- Denied
- Delayed
- Terminated effective
- Dismissed effective
- Withdrawn

This action has been taken because:

Eligibility for your Medicaid will continue.

This action is required by the following regulations:

Request for a Fair Hearing

You have the right to request a fair hearing on this action. You must request a fair hearing within 20 days of the date of this letter. If you have been receiving Medicaid benefits and request a fair hearing within the 20 day period, your Medicaid benefits may continue until a hearing decision is reached so long as you remain eligible in all other respects. However, if the fair hearing decision is not in your favor, you may be required to repay any Medicaid benefits to which you were not entitled.

HOW TO REQUEST A FAIR HEARING

To request a hearing, complete the second page in full, and send a legible copy of this form to:

Division of Medical Assistance and Health Services
Fair Hearing Unit
CN 712
Trenton NJ 08625
Telephone (609) 588-2655

YOUR RIGHTS

Concerning the fair hearing, you have the right to:

- Present your own case or have a relative, friend or attorney make the presentation.
- Submit any evidence and or bring any witnesses that bear on your case.
- Examine records or case files including the application form. You may also examine the case record in advance except for those records which are protected from release and which may not be introduced by the county welfare agency as evidence.
- Review a complete and up-to-date copy of the Medicaid Only Manual.

Regarding Legal Services:

You have the right to legal counsel at your fair hearing. For individuals who cannot afford to pay for the services of an attorney, there are private legal service organizations available, which provide free legal counsel.

If you wish free legal counsel, you may consult with: Legal Services of New Jersey: Health Care Access Project (toll free) 1-888-576-5529 or local Legal Services - Somerset Legal Services, 90 East Main St., Floor 3, Somerville, NJ 08876, Telephone (908) 231-0840.

If you have been denied eligibility or have had your eligibility terminated, you have the right to reapply for Medicaid benefits if there is any change in your current circumstances.

Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 prohibit discrimination on the grounds of race, color, national origin, age, or handicap in the administration of any program for which Federal funds are received.

I WANT A FAIR HEARING BECAUSE:

ONLY IF YOUR MEDICAID BENEFITS WERE TERMINATED, CHECK ONE:

- I wish to continue my Medicaid benefits.
- I do not wish to continue my Medicaid benefits



If other than the applicant/recipient completed this request, please complete:

Name of representative _____

Address _____

Telephone # _____



What if you receive Medicaid termination

- Immediately request a Fair Hearing (within 10 days of the date on the notice for continuation of benefits during appeal, within 20 days to get a Fair Hearing)

- Contact an attorney



How to request Medicaid Fair Hearing

- Your denial notice will explain how to properly request a Medicaid Fair Hearing.
- Use the request form if you can, but any clear written request will work
- Retain copy of your denial letter
- KEEP PROOF that you sent the request (fax confirmation, certified mail receipt)
- **Mail to:** State of New Jersey
Division of Medical Assistance and Health Services
Fair Hearing Unit
P.O. Box 712
Trenton, NJ 08625-0712
- **Fax to:** DMAHS fair hearing unit **609-588-2435**



Requesting Fair Hearing - Timing

- You must submit a written request to the Division of Medical Assistance & Health Services (DMAHS) within 20 calendar days of the date on the notice. NJAC 10:49-10.3(b)(3)
 - The written request does not need to be in a particular format but should be a “clear expression” of the person’s “desire of the opportunity to present their case to a higher authority”
 - Your notice should include a written form you can use
- 10 days if you want your benefits to continue during the proceedings
- DMAHS will submit your request for Fair Hearing to the Office of Administrative Law (OAL) within 20 days



Medicaid Fair Hearing Request Form

[Redacted]

Date: 02/11/2020

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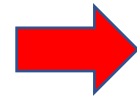
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Fair Hearing Unit
PO Box 712
Trenton, New Jersey 08625-0712
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I am requesting a fair hearing because: [Redacted]

[Redacted]



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Name of Representative: _____

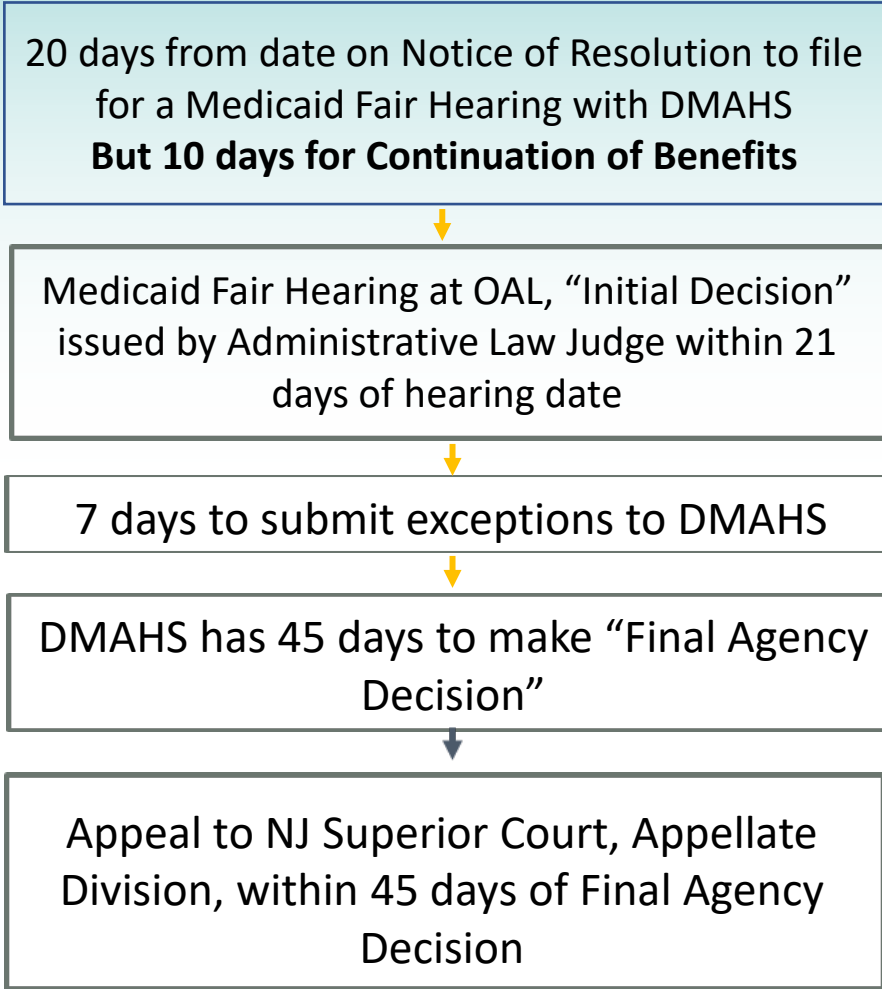
Relationship to Applicant/Recipient: _____

Telephone Number: _____

Address: _____



Appeal Process Summary





Finding an attorney

- Disability Rights New Jersey (DRNJ) at advocate@disabilityrightsny.org or call DRNJ at 1-800-922-7233 (TTY: 711) for free legal and advocacy services for people with disabilities; **or**
- Legal Services of New Jersey at www.LSNJLawHotline.org or call Legal Services of New Jersey at 1-888-576-5529; **or**
- Community Health Law Project (CHLP) at chlpinfo@chlp.org or call CHLP at 1-(973) 275-1175 to be directed to the appropriate office serving your county. A list of CHLP offices can also be found at www.chlp.org.



What if I am no longer Medicaid eligible?

- Consult an attorney with experience in Medicaid planning to become eligible
- Find affordable non-Medicaid health insurance via <https://nj.gov/getcoverednj/>
- If you have Medicare, you may qualify for help with premiums, co-pays, and deductibles through New Jersey's Medicare Savings Programs. Learn more about program eligibility and benefits by calling 1-609-792- 9745 (TTY: 711).



Key Takeaways

- Call 1-800-701-0710 to make sure NJ FamilyCare has your current address
- Respond to any mail you receive from NJ FamilyCare
- If you believe you have been incorrectly terminated, you have appeal rights
 - File for Fair Hearing in 20 days, 10 days to receive continuation of benefits
 - Get legal help
- If you are ineligible for NJ FamilyCare, you can apply for coverage through GetCoveredNJ



We're Here to Help:

**DISABILITY
RIGHTS
NEW JERSEY**

ADVANCING JUSTICE. ADVOCATING INCLUSION.

*New Jersey's designated Protection and
Advocacy agency under federal law.*



210 S. BROAD STREET, 3RD FLOOR
TRENTON, NEW JERSEY 08608



800.922.7233 (NJ ONLY) | 609.292.9742



advocate@disabilityrightsnj.org



@disabilityrightsnewjersey



@advocateDRNJ



disabilityrightsnj.org

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