

## Eligibility (Clearinghouse) Fair Hearing Process

The **Eligibility Fair Hearing** process is for people who are in the **eligibility process (application or renewal process)** for receiving KanCare.

### What is a State Fair Hearing?

- The state fair hearing (SFH) is defined as an administrative hearing involving the presentation of evidence and argument before a presiding officer from the Kansas Office of Administrative Hearings (OAH) concerning an adverse determination. (Note: Also referred to as a fair hearing.)
- A **notice of adverse benefit determination** letter is mailed to tell a KanCare member or applicant that there has been a change made regarding their KanCare services (sometimes this means services have been denied or not renewed for various reasons). The letter should tell the member why services were denied and there is an option to file a fair hearing. The Eligibility SFH must be filed within 30 calendar days from the sent date on the letter (plus 3 calendar days if the letter was mailed).
- The eligibility fair hearing process is done through the Office of Administrative Hearings (OAH) with the State of Kansas. It is an opportunity for the member to:
  - speak about his/her issue
  - Present documentation that supports the case.
- The member and the Medicaid state agency will meet before a Presiding Officer that is an administrative law judge, who is an impartial individual. He or she will enter an order based upon what is presented by you and the agency at the hearing.
- Most fair hearings are done on the phone as a conference call, but a member can request to have the hearing in person.
- There is no fee required for a fair hearing, either on the phone or in person.

### When do I file for a Fair Hearing?

The Eligibility SFH must be filed within 30 calendar days from the sent date on the letter (plus 3 calendar days if the letter was mailed).

- The Eligibility SFH is usually
  - Due to a denial of a new application
  - Due to a denial of a renewal application or renewal process.
  - A fair hearing can also be filed if the application process takes longer than the deadlines determined by Centers for Medicare and Medicaid Services (CMS).
    1. Pregnancy application – 10 days to two weeks
    2. Disability application – 90 days
    3. Balance of applications – 45 days

### Filing an Eligibility Fair Hearing

- You should not be treated differently by the KanCare Clearinghouse, MCO or MCO Care Coordinator if you file a fair hearing.

- ***DO NOT WAIT. Turn in the fair hearing form right away.*** You can always withdraw the request if you decide not to go forward with the fair hearing. They do not make exceptions for missed deadlines.
- The Eligibility Hearing has to do with issues of errors made in the processing of the application, renewal, loss of eligibility, client obligation or spenddown. It does NOT have to do with the need for the services.

### **What documentation do I need?**

- Send the “request for administrative hearing” form, see page 4, to the Office of Administrative Hearings along with the Notice of Adverse Benefit Determination letter.
- Contacts made, and information provided with the KanCare Clearinghouse regarding this issue.
- Timeline of letters sent and received, calls made, action taken regarding this issue.
- Send in your fair hearing request form as soon as possible saying you want a hearing. An explanation of why the decision/final action is unsatisfactory in your circumstances. Include a copy of the “adverse determination” letter. This initial request does not have to state all the details of your case yet. Follow up with a letter and documentation from yourself and other professionals that will support your case.
- Full name, address, telephone number, a copy of the notice from which you are appealing (if you received one). If at any time during the appeal process your address changes, it is your responsibility to provide that address change to the Presiding Officer. There is also a Request for Administrative Hearing form, page 4, you can use if you prefer. Either a letter or the form will work.
- In the ***Eligibility Fair Hearing process***, the information you provide needs to show that the state or a state worker did not follow the rules in processing the application or renewal, rather than show reasons why a person needs KanCare.
  - Example 1: Renewal was turned in on time with all information filled out and KanCare/Medicaid was still dropped with no other reasons given.
  - Example 2: My application was denied because I was lacking necessary information, but I have the fax receipt showing that this information was both sent and received on a specific date and was on time.

### **Where do I file an Eligibility Fair Hearing?**

**Mail to:**

Office of Administrative Hearings  
1020 S. Kansas Ave.  
Topeka, KS 66612-1327

**Or Fax:** 785-296-4848

## What happens to my services while I am filing an Eligibility Fair Hearing?

- The first-time applicant does not have services during the application process.
- If the beneficiary has been on Medicaid and was dropped, the services may be reinstated if the beneficiary is still eligible. It will depend on the circumstances for each case.

## Other Fair Hearing Information

- You may have an attorney represent you at the hearing. The attorney will be at your expense. If you hire an attorney, he or she must be licensed in the State of Kansas and enter their appearance on your behalf prior to the hearing. If you choose Kansas Legal Services or Disability Rights Center of Kansas, they do not charge a fee. The Ombudsman's office recommends members consider having a lawyer assist with preparing for the fair hearing and come to the fair hearing with them.
  - ***Deadlines for this information will come by letter from the Office of Administrative Hearing. Be sure to read every letter from them thoroughly.***
  - The ***most frequent mistake*** made by individuals during the process of preparing is failing to read the notices and documents issued as part of the hearing process. Read everything you receive ***very carefully***.

## Legal Services

- The Disability Rights Center of Kansas  
The Disability Rights Center of Kansas (DRC) is a public interest legal advocacy agency empowered by federal law to advocate for the civil and legal rights of Kansans with disabilities. DRC is the Official Protection and Advocacy System for Kansas and is a part of the national network of federally mandated and funded protection and advocacy systems.

### Contact Information

214 SW 6<sup>th</sup> St., Suite 100  
Topeka, KS 66603  
Voice: (785) 273-9661  
Toll Free Voice: (877) 776-1541

- Kansas Legal Services  
Kansas Legal Services is a statewide non-profit organization dedicated to helping low-income Kansans meet their basic needs through the provision of essential legal, mediation and employment training services. Kansas Legal Services can assist individuals with cases involving health issues, housing, employment, juvenile issues (delinquent, termination of parental rights), income maintenance, Indian laws, family issues, individual rights and consumer issues.

### Legal Assistance Toll Free Central Intake Line

Phone: (800) 723-6953  
Main Office: (785) 233-2068 (voice)



KanCare Ombudsman Office  
Phone: Toll Free: 1-855-643-8180  
TTY: 771  
Email: [KanCare.Ombudsman@ks.gov](mailto:KanCare.Ombudsman@ks.gov)  
Website: [www.kancare.ks.gov/kancare-ombudsman-office](http://www.kancare.ks.gov/kancare-ombudsman-office)

**REQUEST FOR ADMINISTRATIVE HEARING**

Date: \_\_\_\_\_  
Name: \_\_\_\_\_  
Case Number or Medicaid ID Number: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Representative: \_\_\_\_\_  
Representative's Address: \_\_\_\_\_

I request an administrative hearing to review the decision or final action taken by:

Worker/Employee/Agent: \_\_\_\_\_  
Agency Office: \_\_\_\_\_  
Type of Program: \_\_\_\_\_  
Date of Action Being Appealed: \_\_\_\_\_

I am requesting consideration of this matter because: *(continue on an attached page if necessary)*  
(Explain why decision or final action is not satisfactory in your circumstances)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I understand that this is a hearing before an impartial Presiding Officer of the Office of Administrative Hearings.

\_\_\_\_\_  
Signature: Person Requesting Administrative Hearing

\_\_\_\_\_  
Date

**Where do I file a Fair Hearing?**

- Mail:  
Office of Administrative Hearings  
1020 S. Kansas Ave.  
Topeka, Kansas 66612
- Fax: 785-296-4848



## **RULES AND REGULATIONS RELATING TO FAIR HEARINGS**

1. K.S.A. 75-3306, as amended, provides that “The secretary ... shall provide a fair hearing for any person ... who appeals from the decision or final action of any agent or employee of the secretary”. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act, K.S.A. 77-501 et. seq.
2. A dissatisfied individual or entity must request an administrative hearing in writing and sign it (except for food assistance where the request may be oral). This form may be used but it is not a requirement. The request for an administrative hearing should be returned to the local agency office or sent to the Office of Administrative Hearings, 1020 S. Kansas Ave., Topeka, KS 66612. The individual or entity requesting the administrative hearing shall then be called an appellant and the party whose decision is appealed shall be called the respondent.
3. Written notice of the time and place of the hearing or prehearing shall be given by the Office of Administrative Hearings to the appellant and to the respondent at least ten days prior to the hearing.
4. The appellant may have a representative of his/her own choice at the hearing, along with the ability to have witnesses and produce documentary evidence relating to his/her appeal. Failure to participate in the scheduled hearing or any other matter scheduled regarding your appeal may result in your appeal being dismissed.
5. The hearing shall be conducted by a Presiding Officer from the Office of Administrative Hearings. (K.S.A. 75-37,121)
6. A recording shall be made of the hearing, and this recording shall be reduced to a transcript if requested for good cause shown by any of the parties to the hearing. If such a request is made, it will be the requesting party’s responsibility to pay for the transcript.
7. A copy of the initial order of the Presiding Officer shall be mailed to the appellant and the respondent.
8. A request for administrative hearing shall be in writing (except in food assistance where the request may be oral) and received by the agency within 30 days (90 days for food assistance) from the date of the order or notice of action taken by the agency.
9. If an individual is in need of any special accommodation, in order to be involved in their hearing, they should notify the Office of Administrative Hearings, 1020 S. Kansas Ave., Topeka, KS 66612.
10. The Office of Administrative Hearings does not accept any filings by e-mail without prior approval of the Presiding Officer or their designee.

This form taken from the Office of Administrative Hearings website at: [www.oah.ks.gov/Home/Forms](http://www.oah.ks.gov/Home/Forms)