

## 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 Action** letter is mailed to tell a KanCare member or applicant that there has been an adverse decision/determination made regarding their Medicaid eligibility. A Notice of Adverse Determination is issued for all: terminations, suspensions, reductions, denials, etc. The notice should tell the member why the eligibility decision was made and there is an option to file a fair hearing. The Eligibility SFH must be filed within 30 calendar days from the 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.

## What is an expedited (fast) fair hearing and how does it work?

- You can ask for an expedited (fast) hearing if you have an urgent medical need.
- **You must send medical documents as proof of the urgent medical need at the time you ask for a fast hearing.** The documents must be sent at the same time as the written request. (See the Fair Hearing form at the end of this document)
- We will review these requests as quickly as possible. We will approve or deny the request based on the documents submitted at the time of the request. If we approve the request, your hearing will be scheduled as quickly as possible. If we deny the request, your hearing will be scheduled in the usual amount of time.
- An expedited (fast) fair hearing cannot be done verbally. It must be in writing and documentation included to prove the need for a faster fair hearing process.
- If there is a change in health situation after a fair hearing has been requested, it is acceptable to, at a later time, send in medical documents and a request to make the hearing case expedited.

## **What adverse actions qualify for a fair hearing?**

- A termination, suspension of, or reduction in Medicaid eligibility.
- An increase in beneficiary liability
- An increase in a beneficiary's premiums or cost-sharing charges.
- A determination by a skilled nursing facility or nursing facility to transfer or discharge a Medicaid resident.
- An adverse determination by the Medicaid program with regard to the preadmission screening and resident review requirements.
- The agency denied his or her claim for eligibility.
- The agency has issued a determination of his or her individual liability.
- The agency has not acted upon his or her claim for eligibility with reasonable promptness including:
  - An initial or subsequent decision regarding eligibility.
  - A determination of the amount of premiums or cost sharing charges.
  - A change in the amount or type of benefits or services.

## **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 a 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.
- Include a timeline of letters sent and received, when calls were made, who you talked to, general info regarding the conversation, action taken regarding this issue.

## What documentation do I need (continued)?

- Send in your fair hearing request letter or form (either a letter or the form will work) as soon as possible saying you want a hearing. Be sure to include: (1) Your full name, address, telephone number; (2) an explanation of why the decision/final action is unsatisfactory in your circumstances; (3) a copy of the “adverse determination” letter (a copy of the letter from which you are appealing, if you received one). 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 healthcare professionals that will support your case.
- Have the healthcare individuals (doctors, nurses, LPN, physical therapists, home attendants, etc.) write something as well as the member. It will be helpful if the professionals know the specific things that are being denied and why.
- If at any time during the hearing process your address changes, it is your responsibility to provide that address change to the Presiding Officer.
- 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)

This document was created in cooperation with  
Kansas Department of Health and Environment/Health  
Care Finance.

**Request for Medicaid Hearing  
Applicant/Beneficiary Eligibility Hearing or Fee-For-Service Beneficiary Hearing  
Kansas Office of Administrative Hearings**

Date: \_\_\_\_\_

**I am requesting a hearing before an impartial hearing officer regarding my Medicaid eligibility or Fee-For-Service Medicaid Services. I understand I may represent myself or use an attorney, relative, friend or other spokesperson.**

Applicant/Beneficiary:

\_\_\_\_\_

Phone: \_\_\_\_\_

Case #: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Address:

\_\_\_\_\_

Representative (if applicable):

\_\_\_\_\_

Phone: \_\_\_\_\_

Representative's Address:

\_\_\_\_\_

Representatives should include their authorized representative form when submitting this form to the Office of Administrative Hearings.

Representative is (circle one):

a parent or relative, an advocate or friend, an attorney, a health care provider, a guardian, a conservator or other (please specify): \_\_\_\_\_

Date of Action Being Appealed: \_\_\_\_\_

Please attach a copy of the notice about which you are appealing.

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## Request for Medicaid Hearing Form (continued)

Explain why you are not satisfied with the decision and send copies of any papers you think may help explain the problem.

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(Continue on attached page if necessary)

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I would like to request a fast hearing. **I am sending medical documents that prove I have an urgent medical need for a fast hearing.**

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Name of Person Requesting Administrative Hearing

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Name of Person Completing This Form

Submitted Verbally \_\_\_\_\_ Written \_\_\_\_\_ (check one)



## **Request for Medicaid Hearing Form (continued)**

**You may submit your hearing request by mail, fax, or by telephone:**

**Mail:** Office of Administrative Hearings  
1020 S. Kansas Ave.  
Topeka, Kansas 66612

**Fax:** Office of Administrative Hearings  
1-785-296-4848

(Keep a copy of the page that shows your fax was successful.)

**Telephone:** KanCare Clearinghouse (Eligibility Decisions).....1-800-792-4884

This hearing request form can be found at  
[www.oah.ks.gov/Home/Forms](http://www.oah.ks.gov/Home/Forms)

## **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)