Madison County Board of MR/DD

**Policy Manual**

# Chapter 16

## Medicaid Due Process

# Board Adopted: December 21, 2000

**Next Scheduled Review: December 2001**

### 1600 Purpose

The Madison County Board of Mental Retardation and Developmental Disabilities will insure compliance with Ohio Administrative Code (OAC) 5101:6-1 through 5101:6-9 concerning hearing rights and appeal requirements which apply to individuals receiving or requesting Medicaid covered services. This includes services that the Board directly provides or contracts with another agency to provide. Medicaid services covered in this policy include, but are not limited to CAFS Skills Development and Supports, Active Treatment, Professional Services, Targeted Case Management, Service Coordination and Waiver services. (cross reference Chapter 11 Waiting List Policy regarding Waivers).

All time frames specified in this policy are in calendar days.

This policy and procedure will be reviewed annually with all enrollees and parents/guardians by the Service Coordinator at the time of the program review.

**1601 Notification**

When any notification to an individual is given under this policy and the individual may not be able to understand and/or exercise his/her right to a state hearing due to factors such as the individual’s mental capability or language barriers, the individual shall be assisted in naming a responsible party such as a guardian, relative, next friend, legal counsel including a Legal Rights Service Attorney, or any other advocate for the individual. The advocate selected by the individual shall receive a copy of any notice given to the individual and shall be permitted to act as the authorized representative of the individual. Reference: OAC 5101:6-1-01(C).

### 1602 Notice of denial, reduction, suspension or termination

When a request for an initial Medicaid service or a request to increase the frequency/duration of an existing Medicaid service is denied, the individual or his/her authorized representative must be given a notice of denial by the County Board. ODJFS (ODHS) form 7334, “NOTICE OF DENIAL OF YOUR APPLICATION FOR ASSISTANCE” must be used for this purpose.

When a decision has been made to terminate a service being received or to reduce the frequency and/or duration of the service, ODJFS (ODHS) form 4065, “IMPORTANT NOTICE ABOUT YOUR WELFARE BENEFITS” must be issued.

When a Medicaid service is denied, reduced, suspended, or terminated, or an application for Medicaid services is not acted upon with reasonable promptness or acted upon erroneously, the individual shall be notified of his/her right to a state hearing. Reference: OAC 5101:6-3-01. This notice shall be sent by mail or personally provided to the individual and/or guardian as applicable not less than 15 calendar days prior to the processing of the proposed action. The notice shall include:

1. A clear and understandable statement of the action the Board has proposed;
2. Reasons for proposing the action;
3. Applicable regulations;
4. An explanation of the individual’s rights to and the method of obtaining a county conference and a state hearing;
5. An explanation of the circumstances under which a timely hearing request will result in continued benefits; and,
6. The telephone number of the Ohio Legal Rights Service.

Reference: OAC 5101:6-2-04

The service will continue to be provided for the 15 day period. Services will continue if an appeal is received in 15 days. If there is no appeal services will be terminated. Services will not be reinstated if the appeal is received within 90 days, but after 15 days. If an individual fails to request a hearing within the 15 day prior notice period, but requests a hearing within 10 days following the effective date of the proposed adverse action, and has good cause for failing to request a hearing within the prior notice period, services shall be reinstated to the previous level and continued until the hearing is decided (OAC 5101:6-4-01).

Determination of good cause is the responsibility of the ODJFS hearing authority, who is the hearing supervisor in the ODJFS district office with jurisdiction over the county in which the individual lives. If good cause is found, the hearing authority will issue an order that services be reinstated.

“Prior Notice of Right to a State Hearing”, ODJFS (ODHS) 4065 shall be used. Reference: OAC 5101:6-2-04. This notice is to be filed in the individual’s file. Reference: OAC 5123:1-2-02(E)(2)(g)(vii). Services shall continue if an appeal is received within 15 days, pending the outcome of the hearing. Reference: OAC 5101:6-4-01.

**1603 Right to Appeal**

Whenever an individual expresses disagreement with an action or lack of action regarding Medicaid services they receive/request, the individual shall be reminded of the right to request a state hearing by giving the individual form “Explanation of Hearing Procedures” ODJFS (ODHS) 4059. Reference OAC 5101:6-2-08. The individual may verbally request an appeal. The County Board will then be responsible for putting this request in written form.

When the agency’s decision is being appealed, the agency shall, upon request of ODJFS use ODJFS (ODHS) Form 4067, “Appeals Summary”, to explain its decision. Reference OAC 5101:6-5-01(B).

### 1604 Exceptions to Prior Notice

Under the following circumstances, prior notice of an adverse action is not required, but the individual shall be provided written notice on or before the effective date of the action:

1. Death of the individual;
2. The agency receives a clear, written statement, signed by the individual, that he/she no longer wishes to receive benefits, or that gives information which requires reduction or termination, and indicates that the individual understands that this must be the consequence of supplying the information;
3. The individual has been placed in skilled nursing care or intermediate care where he/she is ineligible for further benefits;
4. The individual has been admitted or committed to an institution where he/she is ineligible for further benefits;
5. The individual’s whereabouts are unknown and agency mail directed to the individual has been returned by the post office indicating no known forwarding address;
6. The individual has moved to another state;
7. A child is removed from the home as a result of a judicial determination or is voluntarily placed in foster care by the child’s legal guardian;
8. A service implemented for a specific period of time is terminated at the end of the specified time.

Reference: OAC 5101: 6-2-05

The notice shall contain a clear and understandable statement of the action being taken, and the reasons for it, cite the applicable regulations, explain the individual’s right to and the method of obtaining a county conference and a state hearing, explaining the circumstances under which a timely hearing request will result in reinstated benefits, and contain the telephone number of the Ohio Legal Rights Service. Reference : OAC 5101:6-2-05(A)(2). “NOTICE OF RIGHT TO STATE HEARING” ODJFS (ODHS) 4085 shall be used. Reference OAC 5101:6-2-05(A)(3). This notice is to be filed in the individual’s file. Reference: OAC 5123:1-2-02(E)(2)(g)(vii).

All forms referenced in this policy are attached, along with instructions for completing them.