



Office of Medicaid Board of Hearings

PURPOSE AND ORGANIZATIONAL OVERVIEW

WHAT IS THE BOARD OF HEARINGS?

Governed by:
801 CMR 1.00 – Standard Adjudicatory Rules of
Practice and Procedure;
130 CMR 610 – MassHealth Fair Hearing Rules;
and
G.L. c. 30A – State Administrative Procedure Act

PURPOSE OF THE BOARD OF HEARINGS

The Board of Hearings allows “dissatisfied applicants, members, or nursing facility residents to have administrative review of certain actions or inactions on the part of the MassHealth agency and of determinations by a MassHealth managed care contractor.”

TWO TYPES OF HEARINGS AT BOH:

FAIR HEARINGS
("MEMBER/APPLICANT/
NURSING FACILITY RESIDENTS
APPEALS") - approximately
20,000 fair hearing requests filed
annually pre-PHE

CLAIMS FOR ADJUDICATORY
HEARINGS
("PROVIDER APPEALS") –
approximately 15,000 active
claims for adjudicatory
requested annually pre-PHE

HOW A REQUEST FOR A FAIR HEARING BEGINS

DENIAL OF ELIGIBILITY/SERVICES/NURSING
FACILITY TRANSFERS OR DISCHARGES



60 days to file an appeal with BOH

MassHealth Fair Hearings



- Member appeals are governed by federal and state regulations which allow applicants, members/nursing facility residents to have an administrative review of MassHealth actions.
- Hearing Officers at BOH conduct the fair hearings and adjudicatory hearings (130 CMR 450. 450.241 to 450.248).
- A member has 60 days from the MH adverse action to appeal (610.015(B)).
- The date of the request for the fair hearing is the date the request is received by BOH.
- All appropriate documentation must be submitted with the request for fair hearing.
- If there is missing documentation, BOH will reach out to secure the additional documentation and allow 10 days for submission of the same.

Process for MassHealth Fair Hearings for Members/Appellants/NF Residents



If an appellant fails to timely submit the required documentation, the appeal will be dismissed.



If the appellant submits the required documentation in a timely manner, the matter will be scheduled before a Hearing Officer at BOH and a scheduling notice will be sent to all parties at least 4-6 weeks before the hearing



The Hearing Officer will conduct the hearing telephonically, by Zoom, in person, or by Teams.



All hearings are recorded.



The appellant will have reasonable opportunity to examine the appellant's entire case file as well as all records to be submitted by MassHealth or the MassHealth agency



Any party has the right to request a subpoena from the hearing officer requiring the attendance, testimony of witnesses and the production of an evidence relevant to the issues at hearing.

Board of Hearings Workflow



Intake

Appeal received

Appeal screened

Data entry into case management system

Sent to scheduling if appeal is “perfected”

Dismiss or unable appeal if screener identifies issues



Scheduling

Confirm available dates

Create scheduling packet

Quality assurance check

Enter schedules into APS

Send out letters/NOAs to all parties



Disposition

Hearing conducted

Decision issued

Decisions due 45 or 90 days from date of filing of FHR

The Intake Unit



The Gatekeepers



Intake Unit is the first to receive requests for a fair hearing



Ways in which an appeal can be submitted are:

Fax/eFax
Mail
Phone call (Maximus) AHS
Walk-in
Email



Intake Unit screens requests to ensure that it complete and the appeals representative has authority to file an appeal on behalf of the appellant.



Screening process consists of:

Is the FHR form signed?
Who filed the appeal? Des the appeals representative have authority?
Timeliness?
Is appeal reason/notice actionable?
Aid pending?

Intake Unit Responsibilities

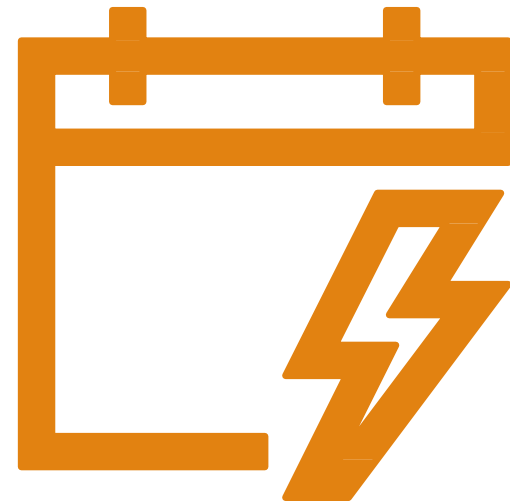
- BOH Intake team reviews and screens all fair hearing requests.
- After screening a request for fair hearing, the Intake team will enter the appeal in the case management system and an appeal number is assigned to the case.
- If an appeal is missing information, then the intake team member will issue an “unable” letter after the appeal is logged in case management system.
- Intake will enter aid protection if member qualifies for aid pending. See Eligibility Operations Memo 23-05 dated February 2023
- If an appeal is perfected, and is data entered, the completed appeal folder is given to the Scheduling Unit.

The Scheduling Unit



Scheduling Unit Responsibilities

- The goal of the scheduling unit is to have all appeals scheduled, heard, while affording the hearing officer the proper amount of time to write their decision prior to the time compliance deadline (i.e. 45 days, 90 days, etc.)
- Creating hearing days that are fair and equitable in relation to volume, appeal type, and number of days scheduled (3 hearing days for hearing officers)
- Reaching out to ACO/MCO/ICO or specific units with MH to mutually agree on a future hearing date
- Adding on appeals to existing schedules that have openings due to withdraws, reschedules, etc.
- Sending out Notice of Appeals (“NOAs”) and scheduling letters manually and electronically daily to provide all parties a minimum of 14 calendar days notice of hearing – 6 to 8 weeks advanced notice usually provided.
- Handling requests to reschedule hearing after Director’s decision.
- Handling ADA reasonable accommodation requests for the hearing.



Hearing Officer Duties in All Hearings

- To administer the oath of affirmation to witnesses, including interpreters
- To assist all present to make a full and free statement of the facts
- To ensure an orderly presentation of all the evidence
- To ensure all parties have a full opportunity to present their claims orally/ writing and to secure witnesses and evidence to establish their claims
- To receive, rule on, exclude or limit evidence
- To ensure a record is made of the proceedings.
- To render a fair, independent, and impartial decision based on the evidence presented and in accordance with MassHealth regulations and applicable case law.
- To issue subpoenas.



MassHealth Fair Hearing Decisions

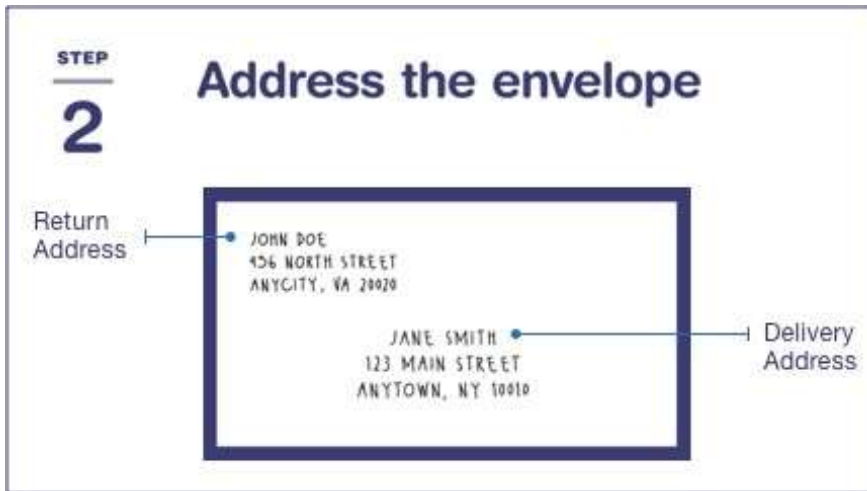
The decision of the hearing officer is based on the evidence submitted at hearing and proper applications of the regulations.

A hearing decision is rendered within 45/90 days of the date BOH received the appeal.

If a party requested time to submit additional information, reschedule or other good cause, the time for the issuance of decision is tolled.

The Medicaid Director, may for good cause shown, order the Director of BOH to conduct a rehearing of the appeal.

Final decisions of the Hearing Officer are subject to judicial review in the Superior Court pursuant to Rule 30A.



The Dispositions Unit



Fair Hearing Decisions

- Issues fair hearing decisions via first class mail
- Maintain logs of all BOH decisions.
- BOH decisions are available on the MassHealth website.
- Redacts decisions to ensure privacy.
- Creates the administrative record if appellant seeks judicial review of a BOH decision.

Judicial Review: G.L. c. 30A, s. 14



If there is a complaint for judicial review, BOH completes and certifies the administrative record and sends a copy to EHS Litigation in the General Counsel's Office

OneCare Appeals at BOH

- **CONTRACT**: Refer to Section 2.12. Enrollee Appeals in Contract Between the US Department of Health and Human Services, Center of Medicare & Medicaid Services In Partnership with the Commonwealth of Massachusetts and Commonwealth Care Alliance, Inc. - Effective January 1, 2022
- **TIME PERIOD TO APPEAL**: 60 days from date of notice to file an appeal with BOH – Section 2.12.1.25.
- **NO**: BOH does not have jurisdiction over claims involving Medicare Part D (MassHealth covered drugs excluded from Medicare Part D appeals accepted). These appeals will be automatically forwarded to the CMS Independent Review Entity (“IRE”) – 2.12.1.1
- **YES**: BOH has jurisdiction over appeals involving “services that are not covered Medicare fee-for-service” - 130 CMR 610.018(A) to (C). Overlaps with Home Health, Durable Medical Equipment and skilled therapies accepted but not Medicare Part D. - 2.12.1.2.4.3
- **AID PENDING PROTECTION**: If the appellant qualifies, aid pending will be placed by BOH. Federal Medicaid law states that if a member requests a hearing within 10 days from the date they receive a notice of action, MassHealth must reinstate and continue services until a decision is rendered after the hearing upon request - MassHealth Eligibility Operations Memo 23-05 dated February 2023

OneCare Appeals:

January 1, 2023 to December 5, 2023

OneCare ICO	Number of Appeals	Dismissed Outside Hearing	Withdrawn	Dismissed at or After Hearing	Decision - Overturned	Decision - Upheld	Pending
Commonwealth Care Alliance	24	8	0	9	1	1	5
Tufts HP Network Health	4	4	0	0	0	0	0
United Healthcare ICO	2	1	0	1	0	0	0
Totals	30	13	0	10	1	1	5

Contact Information

- Macy Lee, Director – Macy.Lee1@mass.gov
- BOH Website: <https://www.mass.gov/how-to/how-to-appeal-a-masshealth-decision>