

Appeals and Hearings 101

- Want to file an appeal?
- Have you already filed one and want to know what to expect?
- Are you representing a beneficiary, provider, or the agency at an appeal?

Please view this presentation for more information.

The contents of this presentation are for informational purposes only. This presentation is only meant to provide an overview of the appeals process. It provides useful information for any party participating in the appeals process. Please read any orders or other communications received from a hearing officer carefully and follow any instructions given.

What is an appeal?

- An appeal is the formal process of reviewing and ruling on agency determinations by hearing officers who are part of the Division of Appeals and Hearings.
- Beneficiaries and providers may appeal agency determinations.
- The person or provider filing an appeal is called the Petitioner. The opposing party (SC Department of Health and Human Services [SCDHHS] or another party) is called the Respondent.
- A hearing officer presides over the appeal and creates a record.
 - > The record includes all communication and documentation related to the appeal (ie: medical records, appeal letters, notices, emails, etc.).



An appeal is not...

- It is not a reconsideration process.
 - > For providers seeking reconsideration of claim and other denials, please exhaust your options with the Provider Service Center (888.289.0709) before seeking an appeal.
- An appeal is not a rubberstamp process for agency determinations.
- It is not a desk or paper-based review.
 - > By filing an appeal, you are requesting an in-person hearing before a hearing officer.



What is a Hearing Officer?

- A hearing officer is a neutral third party who presides over an appeal before the Division of Appeals and Hearings.
- Among other things, a hearing officer has authority to issue orders, schedule hearings and prehearing conferences, require the submission of briefs, call and cross examine any witnesses, recess or conclude any hearing, and dismiss for failure to comply.



A hearing officer is not . . .

- An advocate for either party
- A legal advisor
- A negotiator or mediator



Do I need a lawyer?

- You do not have to have an attorney represent you at the hearing.
- You may represent yourself or have another person represent you.
- If you would like to hire an attorney, the attorney should file notice of appearance with the hearing officer as soon as possible.
- If you are not an attorney and are representing a provider, you will need to obtain unanimous consent from the board of directors or owners to represent them in an appeal.
 - > Proof of unanimous consent should be submitted to the hearing officer assigned to the appeal.



Ex Parte Communication

- Ex parte communication is when one party tries to speak with the hearing officer about the issues in the case without the other party included on the discussion. Ex parte communication is not allowed.
- To avoid ex parte communication, parties should only contact the hearing officer if they have included the other party on the call, email, or other communication.
- You may contact the hearing officer to discuss procedural issues (where is the hearing, what is the due date, etc.).
- However, discussion of substantive issues without including the other party is considered ex parte.



When do I file an appeal?

- You can file an appeal when you receive written notice of an agency action.
 - > You could receive a notice from the SC Department of Health and Human services (SCDHHS), the SC Department of Disabilities and Special Needs (SCDDSN), a Managed Care Organization (MCO), or other entity.
 - > Be sure to include your contact information (name, address, phone number, email).
 - > Please include a copy of the denial or other notice you received.
 - > State what and why you are appealing.
 - > You have 30 days to appeal – check your notice to see if you have 30 days from the date of the notice or 30 days from receipt of the notice to appeal.



Eligibility Appeals

- An Eligibility Respondent Coordinator will review your eligibility appeal.
 - > If they can resolve your appeal without need for a hearing, they will contact you and the hearing officer.
 - > If they cannot resolve the underlying issue, they will send you and the hearing officer a copy of an Eligibility Appeal Summary.
 - > The appeal summary includes documentation used in making the determination (ie: policies, medical records, etc.).
 - Once the hearing officer receives this, he or she will continue with the appeal process.



How do I submit an eligibility appeal?

- Eligibility appeals should be submitted:
 - > Online via a secure connection at:
www.scdhhs.gov/appeals
 - > Mail: SCDHHS
PO Box 100101
Columbia, SC 29202
Attn: Division of Appeals and Hearings
 - > Fax: 803-255-8251
 - > Email: appeals@scdhhs.gov
 - > Phone: 888-549-0820 / TTI 888-842-3620

You may hand deliver your written appeal request to a Healthy Connections Medicaid (SCDHHS) county office or visit the county office to tell us verbally that you would like to appeal. You can find a full list of addresses online at scdhhs.gov/site-page/where-go-help or by calling (888) 549-0820.



Other Types of Appeals

- Other types of appeals may need to go through reconsideration or internal appeal before coming to the Division of Appeals and Hearings.
- For example, if you are enrolled in an MCO, you must exhaust the MCO's appeals process before filing with the Division of Appeals.
- SC Department of Disabilities and Special needs also has an internal reconsideration process.
 - > Contact information for these organizations is listed on our main page.
- Please read the notices you receive carefully and follow the directions included for how to proceed with an appeal.



How do I file other types of appeals?

- You may file an appeal several ways:
 - > The preferred method is to appeal online through a secure connection at: www.scdhhs.gov/appeals
 - > Mail:
 - The Division of Appeals and Hearings
 - PO Box 8206
 - Columbia, SC 29202
 - > Fax: 803.255.8251
 - > Email: appeals@scdhhs.gov
 - > In Person: (See slide 10)



You can request an expedited appeal

- A beneficiary can request an expedited appeal. This means your appeal would be resolved as quickly as possible.
 - If your request to expedite is denied, your appeal will follow the standard 90-day timeframe.
- The agency will look at the medical urgency of your request as well as other facts such as:
 - whether you have already scheduled a procedure
 - you are unable to schedule a procedure due to lack of coverage.
- You can request an expedited appeal when you file your appeal request or after you file an appeal.
- Please state why you are requesting an expedited appeal and submit any supporting documentation with your request



Expedited appeals, cont'd

- The Appeals division will review and grant or deny your request to expedite your appeal. This determination will be made as quickly as possible.
- You will be notified of the result by phone and by mail or email if you have elected to receive documents from us electronically.
- If granted, the hearing officer will send you a Notice of Hearing
- If denied, your appeal will follow the standard 90-day timeline



You can elect to receive all correspondence from us electronically

- You can choose to receive all communication and Orders from the Appeals division and Eligibility Respondent Coordinators via email.
 - Receiving documents via email is presented as an option when you appeal on the website. You can also indicate you'd like to receive documents electronically by fax, email, or mail.
- The Appeals division and/or Eligibility Respondent Coordinator will send you a written confirmation if you elect to receive correspondence electronically. We will also send a test message to your email address and ask you to confirm you received it.
- If the Appeals division sends a message to you electronically and it does not bounce back as undeliverable, it is presumed to have been delivered.
 - If it bounces back as undeliverable, we will try to send it to the designated email address one more time. If it is returned as undeliverable again, we will place a hard copy of the correspondence or Order in the mail to you.
- Please be sure to provide an up to date and working email address.



What happens next?

- Often the Division receives appeals that are incomplete.
- Incomplete appeals are accepted, but the Division will contact the person filing the appeal to obtain additional information before assigning the appeal to a hearing officer.



When will I hear from the hearing officer?

- Typically, you will receive communication from the hearing officer within a week or two of filing your appeal.
- Please read the orders or letters you receive very carefully and follow the instructions. You may be required to submit additional information or respond by a certain date.
- Failure of any party to respond may result in the dismissal of the appeal against the party that did not respond/comply.



Prehearing Conference Orders

- One common type of Order is a Prehearing Conference Order.
 - > Generally requires the Petitioner to contact the Respondent to discuss the appeal.
 - > Can be in person but are most often held over the phone.
 - > Both parties must then provide a summary to the hearing officer of the issues discussed and list what issues remain outstanding.
 - > Petitioner must indicate if they want to move forward with a hearing.
 - > Always read the order carefully and follow any instructions.



What happens if we resolve the appeal?

- Often appeals are resolved through the prehearing conference.
- If a beneficiary wishes to withdraw his or her appeal, he or she may withdraw the appeal by phone, email, fax, on the website, or mail
- Simply having the agency representative report they have provided the service or approved a beneficiary's request is not sufficient for dismissal.
- The hearing officer may send a letter of intent to Petitioner – failure to return the intent form may result in dismissal of the appeal.



What happens if we don't resolve the appeal?

- If the parties are unable to resolve the appeal, the hearing officer will review the information and determine whether a hearing is necessary.
- If a hearing is scheduled, you will receive a Notice of Hearing telling you when and where the hearing will be held.
- The Notice of Hearing will include general instructions on the process and procedures used in a hearing.



The Hearing

- Hearings are typically held in a conference room at Jefferson Square, 1801 Main Street, Columbia, SC 29202.
- The Petitioner is given a turn to speak and present witnesses to support his/her argument.
- The other party (agency, MCO, etc.) is then allowed to question the witnesses.
- Then the agency (or MCO, etc.) presents its witnesses and arguments, and Petitioner can question them.
- The hearing officer will determine the order of presentation. He or she may ask the agency to go first if the Petitioner is not represented by counsel or the agency action is particularly complex.
 - > The agency making its presentation first often clears up or better explains the agency action up front, which can be helpful for all parties in particularly complex cases.



The Hearing (cont'd)

- The hearing may last for 30 minutes; some go for several days. The hearing officer will work with the parties to estimate the time needed for the hearing.
- No decision will be made the day of the hearing.
- The hearing officer may leave the record open for a set number of days to receive additional information identified during the hearing as missing, helpful, or necessary.



After the Hearing

- Once the record has been closed, the hearing officer will review all information and issue a decision.
- You will receive the decision in the mail and/or by email.
- The decision will include instructions on how to appeal to the Administrative Law Court.



How can I make my hearing go more smoothly?

- **Be organized.**
 - > Bring all the documents you want the hearing officer to consider.
 - Please be sure to bring 3 copies – one each for you, the other party, and the hearing officer.
- **Be prepared.**
 - > Before the hearing, think about what points you wish to make or the types of questions you want to ask. It may be helpful to make a list.
 - > Bring documentation to support those points.
 - The hearing officer may not have all the documents you have submitted to different agencies or divisions. Be sure to compare what you receive from the hearing officer and the Respondent to your records to ensure all information is included.
- **Be responsive.**
 - > Respond to the hearing officer's orders and provide requested information.



How can I make my hearing go more smoothly? (cont'd)

- Tell a story.
 - > The hearing officer's knowledge of the case is limited to the documents and testimony offered by the parties.
 - > Your testimony and documentation should connect the dots or paint a complete picture for the hearing officer.
 - > Include who/what/when/where/why.
 - What services were you receiving or requesting?
 - What happened to them?
 - Why do you think the agency decision is in error?
 - Why do you think you are eligible?
 - Why should the provider be granted a prior authorization or have its claim paid?
 - For program staff, why was the agency's action correct?



How can I make my hearing go more smoothly? (cont'd)

- Tell a story (cont'd)
 - > From a beneficiary's perspective, please tell us:
 - Diagnoses
 - Treatments
 - Hospitalizations
 - Why you need a certain amount of services
 - Why you think you are eligible, etc.



How can I make my hearing go more smoothly? (cont'd)

- Tell a story (cont'd)
 - > From a provider's perspective, please tell us:
 - Why you provided the service;
 - specific information about the claim (beneficiary name, date of service, etc.);
 - any prior denials (prior-authorization or claim) you received;
 - why the agency recoupment is in error;
 - why you should not have been terminated or excluded as a provider.



How can I make my hearing go more smoothly? (cont'd)

- Tell a story (cont'd)
 - > From the agency's perspective, please tell us:
 - Why the action was taken.
 - Bring any and all documents pertaining to the decision made, including:
 - > relevant policy
 - > State Plan
 - > waiver documents
 - > criteria considered
 - > medical records considered.



How can I make my hearing go more smoothly? (cont'd)

- Notify people well in advance if they should attend the hearing.
 - > For beneficiaries, please contact anyone you wish to testify or represent you to make sure they are available for the hearing.
 - > For providers, please be aware this is not a reconsideration process or desk review but a hearing request and in-person attendance is required.
 - > For agency managers, please notify staff they are going to hearing in a prompt manner and allow them sufficient time to prepare.
- Please have all the parties who participated in an assessment or determination present.



Special Accommodations

- If you require special accommodations (translator, wheelchair access, transportation, etc.), please state that in your appeal or call the Division of Appeals and Hearings at (803) 898-2600 or (800) 763-9087 so we may assist you.
- The agency has a limited number of visitor parking spaces available. If you would like to park in a visitor spot, please contact the Division so we may assist you.
 - > Most parking around Jefferson Square is either private parking garages or metered parking.
 - > Reserved parking may not always be available due to limited spaces.



Questions?

Contact:

Division of Appeals and Hearings

1801 Main Street

PO Box 8206

Columbia, SC 29202

803.898.2600

800.763.9087 (toll free)

803.255-8251 (fax)

appeals@scdhhs.gov