



We have the legal right of way.

MEDICAID APPEALS:

Preparing for and Participating in State Hearings

How can I prepare for my state hearing?

You have the right to request two things from the agency that made the decision you're appealing. First, you can request that the agency give you your case file. This should have your documents (like medical records, except for confidential records) and the rules and policies that apply to your case.

Second, the agency must also provide you their appeal summary at least three business days before the state hearing. The appeal summary is a document prepared by the agency that provides a summary of the reasons for making their decision, the documents they relied on in making their decision, and the rules and law that apply to your case. You should ask the agency to give you the appeal summary. If you do not receive it from the agency, you should call or email the ODJFS Bureau of State Hearings to send a copy to you.

What if I do not receive the appeal summary in time?

If you do not receive the appeal summary when you are supposed to and this seriously harms your ability to prepare for the hearing, this may be good cause to postpone the hearing to allow you time to review it and respond. You can tell the hearing officer at the state hearing that you did not receive the appeal summary in time and need additional time to review it and respond, but the hearing officer does not have to reschedule the hearing. Instead, the hearing officer may choose to "keep the record open" to allow you to submit a written response to the agency's appeal summary after the state hearing ends.

Can I submit documents for the state hearing to help with my case?

Yes. You should prepare and gather your own documents that you want the hearing officer to review and to include in the official hearing record. This could include letters from your doctors, other medical records or assessments, etc. Medicaid services must be "medically necessary," so you may need to ask your doctor to provide you a letter explaining why you need the services or

equipment. You are not required to submit your own “appeal summary” in writing. For example, you may simply testify at the hearing, present your argument and submit any supporting documents you have. However, some people choose to write their own summary statement and submit it with their other documents.

How do I submit my documents for the state hearing?

You should submit your documents to the ODJFS Bureau of State Hearings before your hearing. Your local county department of job and family services can help you do this, or you can send them by email (bsh@jfs.ohio.gov) or fax (614-728-9574) to the ODJFS Bureau of State Hearings. It is helpful to include your name, appeal number, and hearing date, and explain that you are submitting your documents for inclusion in the hearing record. You should bring copies of your documents with you to the hearing as a backup.

Can I bring people with me to my state hearing to support my arguments?

Yes. You should see if there are people or witnesses who are willing to attend the state hearing to provide helpful information for your appeal. This could include family members, doctors or other medical providers, therapists, case managers, other advocates, etc.

Can someone be forced to come to my state hearing, or can someone be required to give me documents that I need to support my case?

If there are witnesses or documents that you need for your case and they are not otherwise available, you can ask the ODJFS Bureau of State Hearings to issue a subpoena. A subpoena is a document that legally requires someone to show up to your hearing, or legally requires someone to provide documents to your hearing.

You must make the request to ODJFS Bureau of State Hearings in writing, and it must be made at least five calendar days before the state hearing. You must provide the name and address of the person or document you want subpoenaed. The ODJFS Bureau of State Hearings will decide whether to issue subpoenas. If the request is denied, the reason for the denial will be explained in the state hearing decision.

What happens at the state hearing?

The hearing officer begins the state hearing by starting the recording equipment and providing introductory information. The hearing officer records the name and role of each person in attendance. Then, people who are testifying must take an oath or affirmation to tell the truth.

The hearing officer will state the issue for the hearing. You should make sure the hearing officer is stating the issue correctly. If not, you can ask the hearing officer to change it. If you have more issues to address that were not included with the initial state hearing request, those issues can be added only if:

- both you and the agency agree;
- both you and the agency are prepared to address the additional issues; and
- there is enough time to address additional issues.

The hearing will be conducted informally. Normally, the agency will make their arguments first. The agency will explain the reasons for their decision, what rules they used to make the decision, and any other information and documents about their decision. You and the hearing officer will have the opportunity to ask questions of the agency and their witnesses and show that their testimony or evidence is wrong.

Then, you will have the opportunity to present your arguments, testimony and evidence. The agency and hearing officer may ask you and your witnesses questions or try to show that your testimony or evidence is wrong.

At the end of the state hearing, both you and the agency are allowed to say a brief closing statement. The hearing officer will then end the hearing. The hearing officer will not make a decision at the hearing. You will receive a written decision in the mail sometime after the hearing.

What are some of my rights at a state hearing?

- You may bring a lawyer to represent you at the hearing;
- If you do not have a lawyer representing you, the hearing officer must help make sure you understand the issue and the rules that relate to it. The hearing officer should also help you present any testimony and evidence you might need to address any questions that might come up that are related to the issue;
- You may bring witnesses, friends or relatives to help you present your case (although the hearing officer may limit the number of witnesses allowed in the room at a time);
- You must be treated fairly, be given adequate opportunity to address the issues and present your arguments and evidence in your own way and without unreasonable interference;
- You have the right to submit documents or other evidence to support your case;
- You must be allowed an adequate opportunity to look at your case file (except for certain confidential information) at a reasonable time before the hearing as well as during the hearing;
- You have the right to look at all of the evidence used at the hearing;
- You have the right to question all witnesses and respond to testimony and evidence presented against you;
- You can ask for a free copy of the recording by contacting the Bureau of State Hearings; and
- You have a right to an interpreter or disability accommodations you need.

Who has the burden of proof at the hearing?

The agency must provide enough evidence to show that its decision is correct and follows the law.

What if the agency brings a document to the hearing that I have never seen before?

If the agency presents a document at the state hearing that you have never seen before, you must be given a reasonable time to review. You may want to ask for more time to respond after the hearing.

Can I submit more documents to support my case after the hearing is over?

If you believe that there are more documents that you need to give to the hearing officer to support your case, or you need more time to review documents that you did not receive from the agency in a timely manner, you have two options. You can ask the hearing officer to “reconvene” the hearing (continue with the hearing at a later date) or you can ask to “leave the record open” to allow you and the agency to submit more documents after the hearing. Any documents submitted after the hearing can only be included in the official hearing record if the other side is given the opportunity to respond to them. The hearing officer will decide whether or not to grant your request.

Can I ask the hearing officer to make a decision quickly?

If you are appealing a decision of a managed care plan and your health and safety is in serious jeopardy, at your hearing you can ask for the hearing decision to be “expedited.” This means the hearing decision would be made within three working days (instead of longer). The ODJFS Bureau of State Hearings will make a decision on whether or not to grant your request.

If I win, does the agency have to follow the hearing officer's decision?

Yes. The agency must do what the hearing officer's decision says within no more than 15 days from the date the decision is issued.

What should I do if the agency does not follow the hearing officer's decision?

The ODJFS Bureau of State Hearings is responsible for monitoring timely compliance with decisions. If the agency fails to follow the decision, you can contact the Bureau's compliance office at 866-635-3748 (press options 1, 1, and 5) or state_hearings_compliance@jfs.ohio.gov.

Where can I find more information about state hearings?

There is information about state hearings on the ODJFS Bureau of State Hearings' website:

- ODJFS Bureau of State Hearings website: <http://jfs.ohio.gov/ols/bsh/index.stm>.
- ODJFS Bureau of State Hearings' explanation of state hearing procedures: <http://www.odjfs.state.oh.us/forms/num/JFS04059/pdf/>.
- ODJFS Bureau of State Hearings' supervisor directory: http://jfs.ohio.gov/ols/bsh/Supervisor_Roster_03202018.stm.

The Ohio law and rules that govern appeals are available at:

- Ohio Admin. Code 5101:6 (<http://codes.ohio.gov/oac/5101%3A6>)
- Ohio Rev. Code 5101.35 (<http://codes.ohio.gov/orc/5101.35v2>)
- Ohio Rev. Code 119.12 (<http://codes.ohio.gov/orc/119.12>)
- Ohio Rev. Code 5160.31 (<http://codes.ohio.gov/orc/5160.31>)

What should I do if I have questions?

If you have questions throughout your appeals process, call Disability Rights Ohio at 800-282-9181 and select option 2 for intake.