

# APPEALS DIVISION OVERVIEW

Medicaid Member Advisory Committee  
Meeting

August 26, 2020

# Agenda

- Client Appeals Overview
- Client Appeals Resources
  - DMAS Appeals Webpage
  - Appeals Information Management System (AIMS)
  - Appeals Division Contact Information
- Questions

# CLIENT APPEALS OVERVIEW



# The Purpose of Appeals

- Provide due process to applicants and members
- Afford an opportunity to be heard
- Guarantee a neutral review of agency action
- Render a decision in accordance with law and regulations

# Client Appeals

- Individuals enrolled with Virginia Medicaid or seeking enrollment; case types include eligibility for Medicaid and service authorization
- One level of appeal with DMAS for client appeals (next step is Court)
- For MCO appeals, the first level of appeal is conducted by the MCO with a next level at DMAS

# Client Population and Appealable Issues

- There are over 1.65 million Medicaid and FAMIS clients in Virginia
- Client appeals involve eligibility for Medicaid or FAMIS benefits and medical necessity for every service / equipment that Medicaid covers

## Eligibility Issues

- Asset Transfers
- Agency Failure to Take App
- Citizenship/Alien Status
- FAMIS Eligibility Issues
- Excess Income
- Excess Resources
- HIPP
- Patient Pay
- RAU Recovery
- Spousal Impoverishment
- Undue Hardship
- Verifications
- Timely Processing

## Medical Issues

- Assistive Technology
- Behavioral Health
- Disability (Full & Limited)
- Durable Medical Equipment
- Drug Denials
- DD Waiver services
- Dental/Orthodontics
- Environmental Modifications
- Hospitalizations
- PET /CAT/MRI Scans
- Mental Health Services
- Nursing Facility Discharge
- Surgical procedures
- Personal Care Hours
- Preadmission screening
- Private Duty Nursing

# Appeal Rights under 42 CFR 431.220: When a Hearing is Required

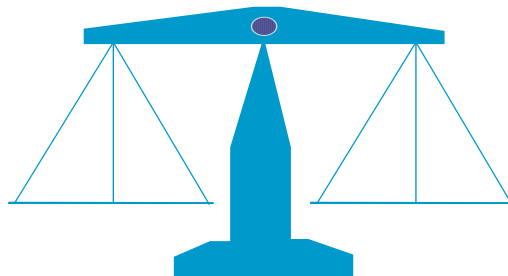
The State agency must grant an opportunity for a hearing to the following:

- 1) Any applicant who requests it because his claim for services is denied or is not acted upon with reasonable promptness
- 2) Any beneficiary who requests it because he or she believes the agency has taken an action erroneously
- 3) Any resident who requests it because he or she believes a skilled nursing facility or nursing facility has erroneously determined that he or she must be transferred or discharged
- 4) Any individual who requests it because he or she believes the State has made an erroneous determination with regard to the preadmission and annual resident review requirements
- 5) Any MCO enrollee who is entitled to a hearing under the federal code (note there are special rules for MCO appeals including must exhaust with MCO)
- 6) Any enrollee in a non-emergency medical transportation PAHP who has an action as stated in this subpart
- 7) Any enrollee who is entitled to a hearing under federal regulations

# Goldberg v. Kelly, 397 U.S. 254 (1970)

## Essential elements of due process:

- Right to receive adequate and timely written notice
- Right to present testimony and evidence to an impartial decision-maker
- Right to evaluate all documents relied upon by agency and to contest the agency's action
- Right to retain attorney or other representative
- Right to a decision solely on the legal rules and evidence adduced at hearing





# Agencies Subject to Appeals Division Review

- Local Departments of Social Services
- Cover Virginia
- Health Departments
- Department of Aging and Rehabilitative Services
- Community Service Boards
- Department of Behavioral Health and Disability Services
- Managed Care Organizations (final adverse determinations)
- KePro (service authorization contractor)
- Logisticare (transportation contractor)
- Magellan Behavioral Health (mental health service authorization)
- Nursing Facilities
- Assisted Living Facilities (only if providing skilled nursing care)
- PACE Facilities
- Other DMAS Divisions (e.g., HIPP, Fiscal, Program Integrity, Program Operations, Policy)

# Client Appeal Request Timeframes

- Timely filing: Appeals must be filed within 30 days of receipt of notification of an adverse action (12VAC30-110-160)
  - Exception → Good Cause (12VAC30-110-170)
    - Appellant was seriously ill and was prevented from contacting the division
    - Appellant did not receive notice of the agency's decision
    - Appellant sent the Request for Appeal to another government agency in good faith within the time limit
    - Unusual or unavoidable circumstances prevented a timely filing
- Timeliness is based on postmark date, if mailed, or receipt date if delivered other than by mail
- MCO appeals have different timelines (Part 438)

# MCO Client Appeals

- MCO client appeals are governed by regulations in the CFR that were recently amended - Chapter 438, Subpart F
  - Timeframes for decision issuance and various other deadlines are different for MCO appeals
    - Each MCO must have an internal appeal process for Clients, the exhaustion of which is a prerequisite to pursuing a DMAS State Fair Hearing
    - Clients have 120 days following the MCO appeal decision to request a DMAS State Fair Hearing (no good cause exception)
    - If a Client elects to request a DMAS State Fair Hearing following the MCO appeal decision, the time utilized by the MCO to decide the internal appeal (which can be as long as 30 or even 44 days) is deducted from the 90 day timeline for issuance of the DMAS State Fair Hearing decision

# Appeal Request Form

## VIRGINIA MEDICAID / FAMIS CLIENT APPEAL REQUEST FORM

A fillable form is available at [www.dmas.virginia.gov](http://www.dmas.virginia.gov)

Fill out this form completely including why you are appealing or write a letter with the same information. Include a copy of the written notice you are appealing.

### Signing guidelines:

If the appeal request is for **someone who is physically or mentally unable** to sign a document, clearly explain to us why he or she is physically or mentally unable to sign. Also let us know, to the best of your knowledge, if there is any known guardian.

If the appeal request is for **someone who has died**, provide written proof that you can represent them. If you do not have written proof, clearly explain your relationship to the deceased and why you are appealing for him or her. Also let us know, to the best of your knowledge, if there is any known executor or administrator of the estate.

A parent or legal guardian must file appeal requests for a **minor child**. If filing an appeal as a child's legal guardian, include proof of guardianship.

In some cases, we may require a power of attorney, a written statement from the appellant, or other additional information.

### Time limit for filing an appeal:

The time limit for filing an appeal is on the written notice from the agency. In most cases it is 30 days.

If you are filing your appeal late, the DMAS Appeals Division may grant an extension of the time limit if the reason is due to a good cause (as defined by regulation). There is a Good Cause Questionnaire on page 4 where you can provide information about why you filed your appeal late. A DMAS Hearing Officer will evaluate your response and make a determination whether filing your appeal late was due to a good cause.

Note: Managed Care Organization (MCO) appeals have two major differences 1) you must first appeal to the MCO and 2) you have 120 days to file an appeal with DMAS once you receive a final decision from the MCO with no exception.

### Ways to ask for an appeal:

- **By email.** Email your appeal request to DMAS at [appeals@dmas.virginia.gov](mailto:appeals@dmas.virginia.gov)
- **By fax.** Fax your appeal request to DMAS at (804) 452-5454
- **By mail or in person.** Send or bring your appeal request to Appeals Division, Department of Medical Assistance Services, 600 E. Broad Street, Richmond, VA 23219
- **By phone.** Call DMAS at (804) 371-8488 (TTY: 1-800-828-1120)

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## VIRGINIA MEDICAID / FAMIS CLIENT APPEAL REQUEST FORM

A fillable form is available at [www.dmas.virginia.gov](http://www.dmas.virginia.gov)

Last Name of Medicaid/FAMIS Appellant		First Name	Middle Initial	Suffix (Sr., Jr., III, etc)
Mailing Address - Street or PO Box		City	State and Zip	Date of Birth
Medicaid / FAMIS Case #	Client ID #	Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	Primary Phone # with Area Code	
Preferred Spoken Language	Preferred Written Language	Do you need an interpreter? <input type="checkbox"/> Yes <input type="checkbox"/> No	Alternate Phone # with Area Code	
Social Security #	Small	Have you already filed an appeal for the same issue (e.g. faxed and mailed)? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Are you a community spouse appealing the income or resource determination for your spouse? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Did you receive a written notice from an agency? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Agency Name	Telephone	Include a copy of the written notice you are appealing.		
Notice Dated	Case Worker			
Managed Care Organization (MCO) Are you appealing a decision by an MCO? <input type="checkbox"/> Yes <input type="checkbox"/> No				
If yes, you must first appeal to the MCO. If you disagree with the MCO's final decision, you can appeal that decision to DMAS.				
The agency (check all that apply):				
<input type="checkbox"/> Denied my application or terminated my coverage for:		<input type="checkbox"/> Medicaid <input type="checkbox"/> FAMIS		
<input type="checkbox"/> Refused to take my application for:		<input type="checkbox"/> Medicaid <input type="checkbox"/> FAMIS		
<input type="checkbox"/> Failed to determine my eligibility within the time limit for:		<input type="checkbox"/> Medicaid <input type="checkbox"/> FAMIS		
<input type="checkbox"/> Requested repayment of benefits paid for medical services previously received.				
<input type="checkbox"/> Declared me not disabled.				
<input type="checkbox"/> Took other action which affected my receipt of Medicaid, FAMIS or other medical services.				
<input type="checkbox"/> Denied medical services or authorization for medical services. Name of service: _____				
<input type="checkbox"/> Denied or terminated waiver services. Waiver name and service: _____				
<input type="checkbox"/> Transferred or discharged from a nursing facility. Facility name and phone #: _____				
Write a brief statement about why you are requesting an appeal. Attach an additional page if you need more space.  _____				
*Important Information if Requesting Continued Coverage* If the final appeal decision supports the agency's action, you may be expected to repay DMAS for all services received during the appeal process. For this reason, you may choose not to receive continued coverage.			Continued Coverage If you had Medicaid coverage before your benefits were canceled, do you want continued coverage through the appeal process if you qualify? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Authorized Representative Will the appellant be represented by another individual during the appeal process? If yes, fill out and return the Authorized Representative Form on page 3 of this Appeal Request. <input type="checkbox"/> Yes <input type="checkbox"/> No				
Signature of Appellant*			Date	

\*See signing guidelines on Page 1.

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# Supporting Forms

## VIRGINIA MEDICAID / FAMIS APPEAL AUTHORIZED REPRESENTATIVE FORM

### Appellant Information

Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_ Social Security #: \_\_\_\_\_  
 Medicaid / FAMIS Case #: \_\_\_\_\_ Phone with Area Code: (\_\_\_\_) \_\_\_\_\_

I understand:

- I can represent myself
- This authorization is voluntary and I have the right to refuse to sign or cancel it at any time
- This authorization will expire automatically when my Medical Assistance appeal is closed
- My signature does not waive my financial obligation if the appeal is decided in the agency's favor
- My authorized representative has access to all protected health information regarding my appeal and I agree that this information may be disclosed to other persons in connection with this appeal

### Authorized Representative Information

I appoint \_\_\_\_\_ as my representative during my Medical Assistance appeal.

Authorized Representative's Relationship to the Appellant: \_\_\_\_\_

Authorized Representative's Address: \_\_\_\_\_

Authorized Representative's Phone with Area Code: (\_\_\_\_) \_\_\_\_\_

Signature of Appellant / Parent or Guardian of Minor Child: \_\_\_\_\_ Date: \_\_\_\_\_

If signing on behalf of the appellant, see section below.

**If the Appellant is deceased, the Authorized Representative may sign below:**

I certify that (Appellant) \_\_\_\_\_ is deceased. To the best of my knowledge, the appellant does not have an executor or administrator of their estate. Initial \_\_\_\_\_

**If the Appellant is physically or mentally unable to sign, the Authorized Representative may sign below:**

I certify that (Appellant) \_\_\_\_\_ is physically or mentally unable to sign this Authorized Representative Form. To the best of my knowledge, the appellant does not have a legal guardian. Initial \_\_\_\_\_  
 Describe the physical or mental inability: \_\_\_\_\_

Signature of Authorized Representative: \_\_\_\_\_ Date: \_\_\_\_\_

DMAS Appeals Division			
Email	Fax	Phone	Mail
<a href="mailto:appeals@dmass.virginia.gov">appeals@dmass.virginia.gov</a>	(804) 452-5454	804-371-8488	DMAS Appeals Division 600 E. Broad Street Richmond, VA 23219

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## VIRGINIA MEDICAID / FAMIS APPEAL GOOD CAUSE QUESTIONNAIRE

Fill out this form if you are filing an appeal request more than 30 days after receipt of the agency's written notice.

### Appellant Information

Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_ Social Security #: \_\_\_\_\_  
 Medicaid / FAMIS Case #: \_\_\_\_\_ Phone with Area Code: (\_\_\_\_) \_\_\_\_\_

1. Did you receive a written notice from the agency?  Yes  No
2. What date did you receive the written notice? \_\_\_\_\_
3. If you did not receive a written notice, how did you find out about the denial or termination?  
 \_\_\_\_\_
4. What date did you find out about the denial or termination of coverage? \_\_\_\_\_
5. Have you had problems receiving mail?  Yes  No If yes, explain: \_\_\_\_\_
6. Has your address changed?  Yes  No Date of change: \_\_\_\_\_
7. Did you tell the agency about your address change?  Yes  No Date notified: \_\_\_\_\_
8. Why are you appealing now? \_\_\_\_\_
9. Did you contact the agency regarding the denial or termination?  Yes  No Date contacted: \_\_\_\_\_
10. Were you prevented from filing an appeal?  Yes  No How were you prevented: \_\_\_\_\_
11. Did you file an appeal with another agency or with your managed care organization (MCO) regarding the denial or termination?  Yes  No Date appeal was filed: \_\_\_\_\_
12. Enter the name of the agency you filed an appeal with: \_\_\_\_\_

Printed Name \_\_\_\_\_ Date \_\_\_\_\_  
 Signature \_\_\_\_\_

DMAS Appeals Division			
Email	Fax	Phone	Mail
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# Client Appeal Processing Timeframes

- Fee For Service Appeals:
  - The Appeals Division has 90 days to render a decision once a client appeal request is received (exception for appellant delay)
- MCO appeals
  - The Appeals Division has 90 days minus the time MCO took to decide the internal appeal (exception for appellant delay)
- Expedited Appeals:
  - When a doctor certifies that operating under the standard time frame (90 days) could seriously jeopardize the enrollee's life or health or ability to attain, maintain, or regain maximum function
    - 7 days for eligibility related matters
    - 3 days for benefit or services related matters

**Each step in the process must be completed by a certain day to meet these deadlines**

# Pre-hearing Decisions

- Administrative Resolution:
  - When an appeal is in progress, and the agency takes action to approve or reinstate coverage (rescind their action) because of new information or a new evaluation, a notice must be sent to the client with a copy (mailed or faxed) to the Appeals Division
  - This may resolve the issue and result in closure of the appeal, however, the Appeals Division will decide whether to terminate the appeal
  - The agency must complete an appeal summary unless the Appeals Division determines that appeal is resolved
- Invalid
- Abandon
- Withdrawal
- Administrative Dismissal

# Hearing Officer Responsibilities

- Conduct a fair and impartial hearing
- Maintain order
- Allow each side to present facts
- Keep the focus on the issue
- Gather evidence
- Research and analyze cases
- Issue written decision



# Client Appeal Fair Hearing Proceedings

- Introduction of participants
- Explanation of process
- Agency testimony about the action taken, the reason, and authority
- Appellant testimony, presentation of evidence
- Hearing officer questions
- Agency response
- Closing remarks by hearing officer

# Issuing Client Appeal Decisions

- Based on relevant facts, evidence, and testimony
  - Sustain
  - Reverse
  - Remand
- Must be rendered within the deadline as outlined earlier
- The client appeal decision is the final DMAS action
  - If the client disagrees, he or she may appeal to circuit court

# CLIENT APPEALS RESOURCES



# DMAS Appeals Webpage

- [www.dmas.virginia.gov/#/appealsresources](http://www.dmas.virginia.gov/#/appealsresources)
- Provides an overview of client and provider Medicaid appeals
- Includes links for Individuals and Families to Client Appeal Frequently Asked Questions, a Client Appeal Overview, and forms in English and Spanish
- New DMAS Appeals webpage will be rolled out with Appeals Information Management System

The screenshot shows the Virginia DMAS website. The top navigation bar includes 'Virginia.gov', 'Agencies | Governor', 'Select Language', and 'Search Virginia'. The main header features the 'DMAS' logo with the tagline 'INNOVATION • QUALITY • VALUE' and the text 'Department of Medical Assistance Services'. A search bar is located on the right. A left sidebar contains a menu with items: Home, About Medicaid, Eligibility Guidance, FAMIS, Managed Care Benefits, Programs & Services, Long Term Care, For Providers, DMAS Open Data, Report Fraud or Abuse, and Appeals (circled in yellow). The main content area is titled 'Client and Provider Medicaid Appeals' and includes a descriptive paragraph about the appeals process. Below this are two main sections: 'Client Medicaid/FAMIS Appeals' and 'Provider Medicaid Appeals'. The 'Client Medicaid/FAMIS Appeals' section has a sub-section for 'Individuals and Families' with a table of links in English and Spanish. The 'Provider Medicaid Appeals' section has a sub-section for 'Healthcare Providers' with a table of links.

**Client and Provider Medicaid Appeals**

The DMAS Appeals Division is responsible for fairly and impartially providing due process to clients and healthcare providers in full compliance with Virginia law and Medicaid policy. As part of the appeal process, an impartial representative will conduct a review to determine whether the action proposed or taken was correct. The end result of the appeal is a written decision. Client and provider decisions can be appealed to court for review of the record.

**Client Medicaid/FAMIS Appeals**

**Individuals and Families**

Individuals have the right to appeal an action that denies, reduces, or terminates Medicaid / FAMIS coverage.

	English	Spanish
?	Client Appeal Frequently Asked Questions [pdf]	
🔨	Client Appeal Overview [pdf]	Resumen del Proceso de Apelacion para el Cliente [pdf]
	Client Appeal Request Form [pdf]	Formulario para Cliente para Solicitud de Apelacion [pdf]
✍️	Client Authorized Representative Form [pdf]	Formulario para Cliente para Representante Autorizado [pdf]
	Client Appeal Withdrawal Form [pdf]	Formulario para Cliente para Retirar Apelacion [pdf]

**Provider Medicaid Appeals**

**Healthcare Providers**

Providers, individual or entities that have a contract with DMAS to provide services, may appeal any DMAS action subject to appeal under the applicable laws and regulations, including issues related to reimbursement for covered services, DMAS' interpretation and application of payment methodologies and provider enrollment.

?	Provider Appeal Frequently Asked Questions [pdf]
✍️	Provider Appeal Request Form [pdf]
	Provider Authorized Representative Sample Form [docx]

# Appeals Information Management System (AIMS)

The DMAS Appeals Division has a new system on the way to simplify the appeal process.

- AIMS is being designed to help us better manage and respond to appeals from both clients and providers, allowing us to provide better customer service to you!
- AIMS is another building block in the implementation of Virginia's modular Medicaid Enterprise System (MES), and continues our successes as a leader in modernizing statewide health insurance benefit programs
  - AIMS is also our first MES module that includes a public-facing component to serve our client, provider, and agency stakeholders
- AIMS will enable clients, providers, and agencies to interact with us through an online portal
  - The AIMS portal will allow you the convenience of filing your appeal, submitting documents, and monitoring the status of your appeal online throughout the process

# Appeals Division Contact Information

**Main Phone:** (804) 371-8488

**Fax:** (804) 452-5454

**Email:** [appeals@dmas.virginia.gov](mailto:appeals@dmas.virginia.gov)

- John Stanwix, Division Director
  - (804) 786-1505
  - [John.Stanwix@dmas.virginia.gov](mailto:John.Stanwix@dmas.virginia.gov)
- Jessie Bell, General Operations Manager
  - (804) 625-3684
  - [Jessie.Bell@dmas.virginia.gov](mailto:Jessie.Bell@dmas.virginia.gov)
- Josh Lief, Provider & Medical Cases Manager
  - (804) 786-2271
  - [Joshua.Lief@dmas.virginia.gov](mailto:Joshua.Lief@dmas.virginia.gov)
- Michael Puglisi, Eligibility Cases Manager
  - (804) 774-2447
  - [Michael.Puglisi@dmas.virginia.gov](mailto:Michael.Puglisi@dmas.virginia.gov)
- Aneida Winston, Quality Assurance Manager
  - (804) 225-3819
  - [Aneida.Winston@dmas.virginia.gov](mailto:Aneida.Winston@dmas.virginia.gov)

# QUESTIONS

