



Office of General Counsel  
Department of Human Services

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# Complaints, Grievances and Fair Hearings

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# When Can a Participant File a Complaint or Grievance

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- If a Participant is unhappy about something a CHC-MCO or a provider has done the Participant can file a Complaint or Grievance.
- If a Participant disagrees with a CHC-MCO's decision a Participant can file a Complaint or Grievance.



# What Is a Complaint

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- A dispute or objection regarding a participating health care provider or the coverage, operations or management of a CHC-MCO.
- Examples of Complaints:
  - Participant is unhappy with the care the Participant is receiving.
  - The Participant cannot receive a service or item the Participant wants because it is not a covered service or item.
  - Participant has not received services that the CHC-MCO has approved for the Participant.



# What Is a Grievance

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- A request to have a CHC-MCO or utilization review entity reconsider a decision concerning the medical necessity and appropriateness of a covered service.
- Examples of Grievances:
  - CHC-MCO denies a service a Participant requested because it is not medically necessary.
  - CHC-MCO decreases a service a Participant has been receiving because the amount of the service the Participant has been receiving is not medically necessary.
  - CHC-MCO approves a service different from the service requested because the service requested is not medically necessary.



## Levels of CHC-MCO Review

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- Depending on the subject of the Complaint, a Complaint will either have one or two levels of CHC-MCO review.
- All Grievances have only one level of CHC-MCO review.



# How to File a Complaint or Grievance

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- Complaints and Grievances can be filed orally or in writing.
- If in writing, the Complaint or Grievance can be mailed or faxed to the CHC-MCO.
- A Participant can write a letter or use a Complaint/Grievance Request Form.



# Who Can File a Complaint or Grievance

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- A Complaint or Grievance can be filed by:
  - Participant.
  - Participant's representative.
  - Provider.
- If filed by a representative or a provider, the Participant must provide written consent for the representative or provider to be involved or act on the Participant's behalf.




# Time Frame for Filing a First Level Complaint

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- If the Complaint is the result of a decision by the CHC-MCO, the Complaint must be filed within 60 days of the date the Participant receives written notice of the decision.
- If it is a Complaint as a result of the failure of the CHC-MCO to provide a service or item in a timely manner, the Complaint must be filed within 60 days from the date the services should have been provided.
- If it is a Complaint as a result of the failure of the CHC-MCO to decide a Complaint or Grievance within the time frames for deciding a Complaint or Grievance, the Complaint must be filed within 60 days of the date the Participant receives written notice of the CHC-MCO's failure to timely decide the Complaint or Grievance.
- There is no time limit for filing all other Complaints.





# Decisions that Require a Notice to the Participant

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A Participant can file a Complaint after receiving notice of the following decisions:

- A denial because the service or item is not a covered service;
- A denial of payment after a service or item has been delivered; and
- A denial of a Participant's request to dispute a financial liability, including cost sharing, copayments, premiums, deductibles, coinsurance, and other Participant financial liabilities.



# Who Can Decide a First Level Complaint

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- First level Complaint review committee:
  - One or more CHC-MCO staff.
  - CHC-MCO staff may not have been involved in and may not work for someone involved in the issue the Complaint is about.
  - If the Complaint involves a clinical issue, the committee must include a licensed physician and the physician must decide the Complaint.



# Time Frame for Deciding a First Level Complaint

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- CHC-MCO has 30 days to decide a first level Complaint and send written notice of the decision to the Participant.
- Time frame can be extended by up to 14 days if requested by the Participant.



# Options After a First Level Complaint Is Decided

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If the Complaint is about the following the Participant may request a Department of Human Services (DHS) Fair Hearing, request an external Complaint review by either the Department of Health (DOH) or the Insurance Department (PID), or request both a Fair Hearing and an external review:

- CHC-MCO's decision to deny a service or item because it is not a covered service or item;
- CHC-MCO's decision to not pay a provider after a service or item has been delivered;
- CHC-MCO's failure to provide a service or item in a timely manner;
- CHC-MCO's failure to decide a Complaint or Grievance within the specified time frames; or
- CH-MCO's decision to deny a request to disagree with CHC-MCO's decision that the Participant has to pay a provider.

For all other Complaints, the Participant may request a second level Complaint review.



# Options After a First Level Complaint Is Decided

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- Requests for Fair Hearings must be filed within 120 days from the date on the written notice of the CHC-MCO's first level Complaint decision.
- Requests for external review by either DOH or PID must be filed within 15 days of the date the Participant receives the written notice of the CHC-MCO's first level Complaint decision.
- Second level Complaints must be filed within 45 days from the date the Participant receives the written notice of the CHC-MCO's first level Complaint decision.



# Who Can Decide a Second Level Complaint

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Second level Complaint review committee:

- Three or more individuals.
- At least one-third of the members may not be employees of the CHC-MCO.
- CHC-MCO staff may not have been involved in and may not work for someone involved in the issue Complaint is about.
- If the Complaint involves a clinical issue, the committee must include a licensed physician and the physician must decide the Complaint.



# Time Frame for Deciding a Second Level Complaint

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CHC-MCO has 45 days to decide a Second level Complaint and send written notice of the decision to the Participant.



# Option After a Second Level Complaint Is Decided

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- The Participant may request an external review by either DOH or PID.
- Requests for external review must be filed with either DOH or PID within 15 days of the date the Participant receives the written notice of the CHC-MCO's second level Complaint decision.





# External Complaint Review

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- DOH reviews Complaints that involve the way a provider provides care or services.
- PID reviews Complaints that involve the CHC-MCO's policies and procedures.
- DOH and PID will determine the appropriate agency to review the external Complaint.



# Time Frame for Filing a Grievance

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All Grievances must be filed within 60 days from the date the Participant receives written notice of the CHC-MCO's decision about the medical necessity and appropriateness of a covered service.



# Who Can Decide a Grievance

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Grievance review committee:

- Three or more individuals.
- At least one-third of the members may not be employees of the CHC-MCO.
- CHC-MCO staff may not have been involved in and may not work for someone involved in the issue the Grievance is about.
- Must include a licensed physician and the physician must decide the Grievance.



# Time Frame for Deciding a Grievance

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- CHC-MCO has 30 days to decide a Grievance and send written notice of the decision to the Participant.
- Time frame can be extended by up to 14 days if requested by the Participant.



# Options After a Grievance Is Decided

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- A Participant may request a DHS Fair Hearing, request an external review by DOH, or request both a Fair Hearing and an external review.
- Requests for Fair Hearings must be filed within 120 days from the date on the written notice of the CHC-MCO's Grievance decision.
- Requests for external review must be filed within 15 days of the date the Participant receives the written notice of the CHC-MCO's Grievance decision.



# External Grievance Review

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- Review by a doctor who does not work for CHC-MCO.
- A written decision will be issued within 60 days from the filing of the request for the external Grievance review.
- The external Grievance decision may be appealed to a court of competent jurisdiction.



# Expedited Review

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Expedited review is when a CHC-MCO decides a Complaint or Grievance faster than the normal time frames.



# Expedited Review

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- A CHC-MCO must conduct expedited review if:
  - The CHC-MCO determines that waiting the usual amount of time to receive a decision about a Complaint or Grievance could harm the Participant's health.
  - The Participant provides the CHC-MCO with a certification from the Participant's provider that explains why waiting the usual amount of time to receive a decision about a Complaint or Grievance could harm the Participant's health.





# Who Can Decide an Expedited Complaint and Grievance

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- Review committee for an expedited Complaint:
  - Must include a licensed physician.
  - The physician must decide the Complaint.
- Review committee for an expedited Grievance is the same as review committee for a regular Grievance.



# Time Frame for Deciding an Expedited Complaint or Grievance

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- CHC-MCO must issue a decision within either 48 hours of receiving the provider certification or 72 hours of receiving the request for expedited review, whichever is shorter.
- Participant can request that the time frame for deciding an expedited Complaint or Grievance be extended by up to 14 days.



# Options After an Expedited Complaint Is Decided

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- A Participant may request a DHS Fair Hearing, request an expedited external Complaint review by either DOH or PID, or request both a Fair Hearing and an expedited external Complaint review.
- Requests for Fair Hearings must be filed within 120 days from the date on the written notice of the CHC-MCO's expedited Complaint decision.
- Requests for expedited external review by either DOH or PID must be filed within 2 business days from the date the Participant receives the CHC-MCO's expedited Complaint decision.



# Options After an Expedited Grievance Is Decided

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- A Participant may request a DHS Fair Hearing, request an expedited external review by DOH, or request both a Fair Hearing and an expedited external review.
- Requests for Fair Hearings must be filed within 120 days from the date on the written notice of the CHC-MCO's expedited Grievance decision.
- Requests for expedited external review by DOH must be filed within 2 business days from the date the Participant receives the CHC-MCO's expedited Grievance decision.



# What Happens After a Complaint or Grievance Is Filed

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- Participant receives an acknowledgement letter.
- Participant may ask to see any information the CHC-MCO has about the issue the Complaint or Grievance is about, at no cost to the Participant.
- Participant can send information it has about the Complaint or Grievance to the CHC-MCO.



# Participation in the Complaint or Grievance Review

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- Participant may attend the Complaint or Grievance review.
- The CHC-MCO will tell the Participant the location, date, and time of the review in advance.
- The Participant can appear at the review in person, by telephone, or by videoconference.
- If the Participant does not attend the review, the review must be conducted as if the Participant was present and it will not affect the decision.



# Fair Hearings

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- Fair Hearings are conducted by the Department of Human Services, Bureau of Hearings and Appeals (BHA).
- No direct access to a Fair Hearing.



# Fair Hearing Process

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- Participant must participate in the Fair Hearing.
- Participant can participate in the Fair Hearing by telephone or in person.
- CHC-MCO will participate in the Fair Hearing to explain why CHC-MCO made the decision or explain what happened.
- Participant can ask CHC-MCO for any records, reports, and other information CHC-MCO has about the issue, at no cost to the Participant.





# Time Frame for Deciding a Fair Hearing

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A Fair Hearing must be decided within 90 days of the date the Participant filed for a first level Complaint or a Grievance, not including the number of days between the date on the written notice of the CHC-MCO's first level Complaint or Grievance decision and the date the Participant requested a Fair Hearing.



# Expedited Fair Hearings

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- No direct access to an expedited Fair Hearing.
- BHA will conduct an expedited Fair Hearing:
  - If the Participant provides BHA with a signed written certification from the Participant's provider explaining why waiting the usual amount of time to receive a Fair Hearing decision could harm the Participant's health.
  - If the Participant's provider provides testimony at the Fair Hearing which explains why using the usual time frames for deciding a Fair Hearing would harm the Participant's health.
- An expedited Fair Hearing must be decided within 3 business days from the request for expedited review.



# Continuation of Services

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Services that are denied must continue when:

- Participant has been receiving the services.
- Participant requests any level of Complaint or Grievance review or files a request for a Fair Hearing.
- The request for review is made within 10 days from the mail date on the written notice of the CHC-MCO's decision.



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QUESTIONS?