



## The Makofsky Minute | April 9, 2018

### What is a Medicaid Fair Hearing?

A fair hearing is a proceeding where two sides come before an administrative law judge (ALJ), who hears from both parties, and ultimately decides who is right in a dispute regarding a determination by Medicaid. But more importantly, it is an opportunity for a client to tell his or her story.

These hearings are requested by Medicaid applicants or recipients for a number of different reasons. For example, an applicant may disagree with the Medicaid "pick-up" date, the date that Medicaid agrees to begin paying for services. Another common reason to request a fair hearing is when a Medicaid applicant disagrees with Medicaid's decision to deny the application.

With all of the recent changes in the New York State Medicaid program, including the transition to Managed Care, it has become increasingly common for Medicaid applicants to turn to fair hearings in order to challenge the number of home care hours they are being awarded by Medicaid.

While fair hearings are less formal than traditional court proceedings, they have their own procedures and rules that must be adhered to; most critically are the time limits for filing a request for a fair hearing. If a request for a fair hearing is not timely made, there runs the risk of losing the right to challenge Medicaid's decision altogether.



Another important procedural issue that is often missed by the party challenging Medicaid is requesting the evidence packet. The petitioner, or the party requesting the fair hearing, has the right to see the evidence that the Medicaid representative will discuss at the hearing before the hearing takes place. This is a valuable tool for the petitioner, as he or she can be prepared with evidence or information to refute the claims made by Medicaid.

Finally, if the petitioner is already receiving Medicaid services, but is disputing a change or reduction in his or her benefits, it is critical that the request for a hearing include the directions that the services continue unchanged, pending the outcome of the hearing.

Unfortunately, not all issues with Medicaid can be resolved at a fair hearing. There will still be delays with processing applications, having your services start, or difficulty getting a representative on the phone, but fair hearings provide an important opportunity to ensure that benefits are being maximized.

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