

Medicaid Fair Hearings and the Medicaid Managed Care Attorney

What is the easiest way to win a Fair Hearing? Avoid having the hearing heard in the first place. While this may sound easier said than done, a knowledgeable attorney can actually get many Fair Hearings dismissed on procedural grounds.

A member of a Medicaid Managed Care Plan can request a Fair Hearing when the Plan:

- Denies a requested service.
- Reduces, suspends, or terminates a previously authorized service.
- Denies payment for a service.
- Fails to timely provide a requested service.

A [Medicaid Managed Care](#) member must request a *timely* Fair Hearing in order to be heard by a Hearing Office. The time limit for requesting a Fair Hearing depends on whether the Plan is a Mainstream Plan (“Mainstream Plan”) or a Managed Long Term Care Plan (“MLTC Plan”). If a Medicaid Managed Care attorney can get a Fair Hearing dismissed as untimely, the Hearing Officer will not even consider the merits of the member’s appeal.

With a Mainstream Plan, the Fair Hearing must be requested within 60 days of the Initial Adverse Determination.

Even if the member uses the Mainstream Plan’s internal grievance procedure, the Fair Hearing request is only deemed timely if made within 60 days of the Initial Adverse Determination letter.

The member may be excused from the 60 day limit if the Initial Adverse Determination is defective. Accordingly, it is of utmost importance that every Initial Adverse Determination be timely and adequate.

In striking contrast to a Mainstream Plan, the regulations governing MLTC Plans require the Fair Hearing to be requested within 60 days of the Final Adverse Determination. If a member does not first exhaust the MLTC Plan’s internal appeals procedure, and becomes time-barred from doing so, the attorney representing the MLTC Plan may be able to get the Fair Hearing dismissed on jurisdictional grounds.

There is no way to overstate the importance of knowing the procedural rules that govern Medicaid appeals. An attorney who is well-versed in the procedural requirements can often insulate a Mainstream Plan or MLTC Plan from an unfavorable Fair Hearing decision.

The attorneys at Abrams Fensterman, LLP stand ready, willing, and able to represent our Medicaid Managed Care clients at Fair Hearings.