Delaware Health and Social Services
Division of Developmental Disabilities Services
Dover, Delaware

Title: **Appeal Process** **Approved By:** Acting Division Director

Written/Revised By: **DDDS Policy Committee** **Date of Origin:** **June 1988**

Date of Current Review/Revision: **January 2010**

I. Purpose

To establish a process for appealing decisions made by the Division of Developmental Disabilities Services (DDDS) regarding an individual receiving services or applicant.

II. Policy

The Division of Developmental Disabilities Services shall provide an internal process to appeal decisions regarding an individual receiving services or applicant.

III. Application

All DDDS staff, all individuals supported, guardians, advocates and applicants

IV. Definitions

A. Appeal: A DDDS internal evidentiary review of a decision by an objective committee appointed by the Division Director.

B. Appeal Committee: A group whose purpose is to objectively review formal appeals and submit recommendation(s) to the Division Director based on a review of the facts presented. The appeals Committee membership shall include the Executive Director of Stockley Center or designee, Director of Community Services or designee, and two adjunct members appointed by the Division Director (one of whom will serve as the chairperson).

C. Individual /Applicant: Any person who is either applying for or receiving services from the DDDS.

D. Advocate: Any individual who has been designated by the individual and/or has a vested interest in the individual's well being.

E. Guardian: A legal relationship in which a person is authorized to make decisions for another person who has been determined by a court to be incompetent to mange his/her affairs and /or property.

F. Medicaid Fair Hearing: A review process that is available to Medicaid recipients and applicants for Medicaid funded services, independent of the DDDS appeals process, in accordance with 42 CFR §431.

G. Working Days: A period of time including Monday-Friday and excluding recognized holidays and days of approved absence.

V. Standards

A. Applicants for DDDS Services and/or his or her surrogate or legal guardian shall be informed of the right to appeal a DDDS eligibility determination, via the DDDS appeals process and/or the Division of Social Services (DSS) Medicaid Fair Hearing process.

B. DDDS staff shall facilitate the participation of the individual and/or the surrogate or guardian in decision making processes. Efforts shall be made to resolve disputes in a manner that is acceptable to all involved parties.

C. DDDS decisions that involve the omission of choice between institutional care and home and community based services, the denial of services or provider of choice and/or the denial, reduction, suspension or termination of services and the outcome of an Individual Rights Complaint shall be explained to the individual and/or the surrogate or guardian, via written correspondence. Information explaining the process for requesting a DDDS Appeal and/or a DSS Medicaid Fair Hearing shall be included, as well as an explanation of the reason(s) for the action taken.

D. A request for a DDDS Appeal must be made within thirty (30) calendar days of receiving written notification of a rights complaint outcome, DDDS eligibility determination or discontinuation of DDDS services.

E. Contact with the appellant by the Appeals Committee Chairperson shall be initiated within five (5) working days of receiving the Appeals Request (and copy of Applicant Services file for eligibility decisions).

F. The Appeals Committee chairperson shall review with the appellant his/her reason for appealing, provide clarification as necessary, describe the appeals process and schedule within ninety (90) days of receiving the appeals request.

G. If not previously implemented, a DDDS decision shall **not** be implemented during the time an appeal is active with the DDDS Appeals Committee, or is being reviewed by a Medicaid Fair Hearing Officer.

H. A written appeal request shall be considered active until reviewed by the DDDS Appeals Committee and a disposition sent to the appellant.

I. The DDDS Appeals Committee Chairperson shall maintain a copy of all appeals and their dispositions.

I. The Appeals Committee Chairperson shall track the receipt and disposition of all appeals in an electronic database.

J. A Medicaid recipient may request a DSS Medicaid Fair Hearing, up to 90 days following receipt of written notice of the DDDS decision that the recipient decides to appeal.

K. The Appeals Committee Chairperson shall notify the Risk Management Committee of identified trends at the conclusion of each calendar year or as requested.

VI. Procedures

Responsibility	Action
DDDS Staff	1. Communicates with the individual/advocate/guardian in an effort to resolve disagreements relative to a DDDS decision.

	2. Informs the individual/advocate/guardian of the DDDS and Medicaid Fair Hearing appeal procedures on an annual basis, and when decisions/actions arise that are appealable.
	3. Documents notification of right to appeal
Appeals Committee Chairperson	4. Schedules an appeal hearing date within 5 working days of receipt of an Appeals Request (or receipt of the Office of Applicant Services file if denied eligibility). Coordinates presentations by the individual/advocate/guardian and applicable representatives of the DDDS who were involved in making the decision in dispute.
Appeal Committee	5. Meets with the individual /advocate/guardian and representatives of the DDDS staff responsible for the original decision in dispute to hear the appeal.
Appeals Committee Chairperson	6. Completes Section II of the Appeals Request and forwards the original to the DDDS Director within five (5) working days of the appeal hearing.
DDDS Director	7. Reviews the Appeals Committee's recommendations.
	8. Sends written notification to the individual filing the appeal, within 15 working days of the hearing, and to the Appeals Committee Chairperson relative to the final disposition of the appeal.

VII. References

DHSS Living Will; Power of Attorney; Guardianship; 12 Del.C. 1987, §3914.
42CFR431.201; 42CFR431.210

VIII. Exhibits

A. Appeals Request Form
B. Appeal Process

Exhibit A

DELAWARE HEALTH AND SOCIAL SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES
APPEALS REQUEST FORM

Section I **- To be completed by individual/advocate/guardian appealing decision:**

Date:_____

Name of Applicant\Individual: _____

Please check the reason(s) that you are requesting a DDDS Appeal:

☐ Choice of institutional care or home and community based services not offered

☐ Services are denied

☐ Provider of choice is denied

☐ Services are reduced, suspended or terminated

☐ Disagree with outcome of Individual Rights Complaint

☐ Other (please explain) : _____

_____

_____

Please describe efforts made to resolve the disputed issue, if applicable:

_____

_____

Requested By: _____
Name and Relationship to Applicant/Person Receiving Services

Mailing Address: _____

_____

Daytime Phone #: _____

E-Mail Address: _____

Please only list your phone number and e-mail address if you give DDDS permission to use use it for the purposes of facilitating your appeal request.

Section II- ***To Be Completed by DDDS Appeals Chairperson:***

Date of Appeal:_____

Persons Participating in Appeal: _____

_____

_____

_____

Committee Recommendation(s) to the Division Director: _____

_____

_____

_____

_____

_____

_____
Signature of DDDS Appeals Committee Chairperson or Designee

_____
Date

Reviewed and Approved by PARC : January 2003
Revised: 12/23/09
Form #11/Admin

Appeal and Fair Hearing Rights and Procedures

IF YOU DISAGREE with an action taken or decision made by the DDDS, you have a **RIGHT TO APPEAL** the action or decision to the (1) DDDS Appeals Committee (2) Division of Social Services Medicaid Fair Hearing Officer, or (3) both. They will give you a chance to explain why you do not agree. After the appeal/hearing, a decision will be made if action/decision needs to be changed. If you want a DDDS appeal or DSS Medicaid Fair hearing, you must ask for it in writing. You may have someone, such as a lawyer or a friend, help you with your appeal or fair hearing. You may also contact the Community Legal Aid Society, Inc., for free legal advice or representation. They can be reached by calling their toll free number which is: **1-888-225-0582.**
The actions or decisions that you may appeal are:

- You are determined to be not eligible to receive services from the DDDS
- You are not offered a choice of either (1) home and community-based services or (2) institutional services
- You are not offered a choice of service provider, or the service provider you choose is not approved
- A service you are receiving is reduced, suspended, or terminated
- You are not satisfied with the outcome of an Individual Rights Complaint Inquiry (this can only be appealed to DDDS).

If any of the actions or decisions listed above apply to you, then

OPTION #1 (DDDS Appeal): You have 30 calendar days from the time you are formally notified of the action or decision to complete and submit the attached "Appeals Request Form" and send it to:

Mary Anderson, M.S.W.
DDDS Appeals Committee
26351 Patriots Way
Georgetown, DE 19947
(302) 933-3151

OR,

OPTION #2 (Medicaid Fair Hearing): You have 90 days from the date of action or decision that you wish to appeal to contact the State of Delaware's Medicaid Fair Hearing Officer (in writing) to request a Medicaid Fair Hearing:

Medicaid Fair Hearing Officer
Division of Social Services
PO Box 906
New Castle, DE 19720
(302) 255-9528

OR,

You can do both Option #1 and Option #2 at the same time.