

STATE  
FAIR  
HEARINGS

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SUBJECT:	<u>State Fair Hearings</u>
EFFECTIVE DATE:	<u>1/2009</u>
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**POLICY**

When DBH makes the final Appeal decision, and it is not wholly in favor of the Enrollee, or DBH is not able to make a decision on the Appeal within the required time frame, the Enrollee, or a provider acting on behalf of the Enrollee, has the right to request a State Fair Hearing.

**PROCEDURES**

The Utah Department of Health (“Department”) is responsible to implement the procedures for State Fair Hearings; however, DBH includes this information in this policy as follows:

- 1.0 DBH’s appeal procedures must be exhausted before an Enrollee may request a State Fair Hearing.
- 2.0 When DBH makes the final Appeal decision, and it is not wholly in favor of the Enrollee, or DBH is not able to make a decision on the Appeal within the required time frame, the Department will permit the Enrollee, or a provider acting on the Enrollee’s behalf, to request a State Fair Hearing within 30 days from the date of DBH’s Notice of Adverse Action, Appeal Resolution and Right to Medicaid Hearing.
- 3.0 A request for a State Fair Hearing and continuation of benefits must be made by the Enrollee within 10 days from the date of DBH’s Notice of Adverse Action, Appeal Resolution and Right to Medicaid Hearing if the Enrollee wants to continue benefits pending the outcome of the State Fair Hearing. DBH will continue the Enrollee’s benefits during the Appeal process and pending the outcome of a State Fair Hearing if:
  - 3.1 the Action being appealed is to terminate, suspend, or reduce a previously authorized course of treatment;
  - 3.2 the services were ordered by an authorized provider; and
  - 3.3 the original period covered by the original authorization has not expired
  - 3.4 The Enrollee files the Appeal timely, which means filing the Appeal on or before the later of the following:
    - a. Within 10 days of DBH mailing the Notice of Action
    - b. By the intended effective date of DBH’s proposed Action.
  - 3.5 Enrollee requests extension of benefits in the Appeal

- 4.0 Parties to a State Fair Hearing include DBH as well as the Enrollee and his/her representative(s), which may include legal counsel, a relative, a friend or other spokesman, or the representative of a deceased Enrollee's estate.
- 5.0 The Enrollee or his/her representative(s) will be given an opportunity to examine, at a reasonable time before the date of the hearing and during the hearing, the content of the Enrollee's case file and all documents and records to be used by DBH.
- 6.0 The Enrollee will be given the opportunity to:
  - 6.1 Bring witnesses
  - 6.2 Establish all pertinent facts and circumstances
  - 6.3 Present an argument without undue interference
  - 6.4 Question or refute any testimony or evidence, including opportunity to confront and cross-examine adverse witnesses
- 7.0 The State Fair Hearing with the Department is a de novo hearing. If the Enrollee or provider requests a State Fair Hearing with the Department, all parties to the hearing are bound by the Department's decision until any judicial reviews are completed and are in the Enrollee's or provider's favor. Any decision made by the Department pursuant to the hearing shall be subject to appeal rights as provided by State and Federal laws and rules.
- 8.0 The Enrollee will be notified in writing of the State Fair Hearing decision and any appeal rights as provided by State and Federal laws and rules.
- 9.0 For Standard State Fair Hearing requests, the Department will reach its hearing decision within 90 calendar days from the date the Enrollee filed the Appeal with DBH, not including the days the Enrollee takes to file the request.
- 10.0 For Expedited State Fair Hearing requests, the Department will reach its hearing decision within three working days from the date the Department receives from DBH all needed information, including information from the Enrollee's medical record, for a State Fair Hearing request for a denial of a service that:
  - 10.1 Meets the criteria for the expedited appeals process but was not resolved using DBH's required expedited Appeal time frames, or
  - 10.2 Was resolved wholly or partially adversely to the Enrollee using DBH's expedited Appeal time frames.
- 11.0 If DBH or the State Fair Hearing Officer reverses a decision to deny, limit, or delay services that are not furnished while the appeal is pending, DBH will authorize or provide the disputed service promptly, and as expeditiously as the enrollee's health condition requires. If the DBH or the State Fair Hearing Officer reverses a decision to deny authorization of services, and the enrollee receives the disputed services while the appeal is pending, DBH will pay for those services in accordance with State regulations.