

New laws change regional center appeal process

Assembly Bills 2494 (Aguiar) and 2780 (Gallegos) became law this year. Both made changes in the regional center fair hearing process. These changes, except for a new mediation step, go into effect January 1, 1999. The mediation step will begin on July 1, 1999.

Changes should improve process

Major changes include:

- There is a new, optional, mediation step.
- In a dispute about services funded through the federal waiver program,¹ the Department of Health Services (DHS) must review the hearing officer's decision.
- In administrative hearings, regional centers usually have to present their case first.
- Parties (consumer, regional center, etc.) must exchange documents and witness lists five days before the hearing.
- Parties may also introduce documents when the hearing begins.

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- The Department of Developmental Services (DDS) must collect data about the outcome of fair hearings, mediations and informal hearings.
- DDS must make that data available to the public.

New fair hearing steps and time lines

With the changes in place, the new fair hearing process will follow these time lines and steps:

When a dispute over services or supports arises in an IPP meeting —

- 5 days — regional center sends a written notice; the notice must give the reason for denying or reducing a service, and set out the appeal process.
- 10-30 days — consumer files a request for hearing. (If the dispute is over current services and the consumer files a request within 10 days, current

services must continue until ten days after the final administrative hearing decision issues. In any case, the consumer must file a request for hearing within 30 days of receiving the notice.)

When a hearing request is filed (time lines run from the filing date) —

- 10 days — informal meeting with regional center director (consumer or consumer's representative can waive this informal meeting).
- 15 days — regional center director sends out a written informal meeting decision.
- 20 days — mediation (either party can waive mediation).
- 50 days — hearing (can last more than one day).
- 60 days — hearing officer's decision issues ten days after the hearing (but never more than 80 days after the request for a hearing is filed). This is the final administrative decision if services **are not** funded through a Medi-Cal waiver.
- 90 days — if services **are** funded through a Medi-Cal waiver, DHS reviews the hearing officer's decision, and adopts or modifies it. Final administrative decision.

Consumers often agree to longer time lines — to get more information, to get help, to accommodate a witness

Consumers may waive time lines

The above time lines are in the law. Consumers can, and often do, agree to longer time lines so they can get more information, get help from an advocate, or accommodate a witness.

Memo outlines fair hearing changes

For more in-depth information on changes in the fair hearing process and procedures, call PAI and ask for our new memo, *Changes to Regional Center Appeal Process - 1998*, PAI document #5296.01. Or, you can download it from www.pai-ca.org/pubs/529601.htm.

¹ The federal Home and Community-Based Waiver program allows California to use Medi-Cal funds to pay for many regional center services. It brings federal Medicaid money into the regional center system for services like supported living, supported employment, and Medi-Cal services for children who otherwise might not qualify because their

family's income is too high.

Services should be the same as services paid for by the state funds that go to regional centers. The consumer will get a notice saying so if the waiver pays for some services. A consumer who gets waiver services must have an IPP meeting every year. Fair hearing procedures may also be a little bit different. If you have questions about the federal waiver, ask your regional center or call PAI at 1-800-776-5746.