



California's Protection & Advocacy System
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County Mental Health Plan (MHP) Grievances, Appeals, and Fair Hearings

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Each county has a County Mental Health Plan (MHP). MHPs either directly provide specialty mental health services, or they arrange and pay for specialty mental health services through other providers.

This publication only discusses Grievances, Appeals, and Fair Hearings against a County MHP. For more information on Medi-Cal funded specialty mental health services generally, see [Specialty Mental Health Services through a County Mental Health Plan](#)" Publication 5084.01.¹

If you are unhappy with service(s) you received at a county mental health facility or provider, or if you disagree with a decision handed down by your MHP, the following information will help you in deciding how to move forward with your issue.

A grievance is a general complaint with an experience you had with your MHP. An appeal is a disagreement with a decision made regarding your mental health services. Both grievances and appeals are described in more detail below.

¹ See also: Cal. Health & Human Services Agency, MHSUDS Information Notice No. 16-061, [CLARIFICATION ON MENTAL HEALTH PLAN RESPONSIBILITY FOR PROVIDING MEDI-CAL SPECIALTY MENTAL HEALTH SERVICES TO BENEFICIARIES ENROLLED IN MEDI-CAL MANAGED CARE HEALTH PLANS \(2016\)](#).[\(Return to Main Document\)](#).

GRIEVANCES AGAINST COUNTY MENTAL HEALTH

You can file a grievance if you are unhappy with an experience you had with your MHP. For example, if you are unhappy with the quality of care or services provided or the attitude of an employee.²

How do I file a grievance with my MHP?

You can file a grievance with your MHP orally or in writing at any time.³ Each county must post notices and provide booklets in all locations at MHP provider sites explaining the grievance and appeals processes.⁴ You may call your county MHP's toll-free telephone number to get help with a grievance. You may also obtain grievance forms and self-addressed envelopes at provider sites.

The MHP has to let you know that it has received your grievance.⁵

When will I get a decision on my grievance?

Your MHP should process the grievance by recording the grievance in a log within one working day of receiving the grievance.⁶ MHP staff will be available to provide you with information regarding your grievance or the status of your grievance.⁷ MHP staff will make a decision on the grievance and notify you of the result. According to state law, California MHPs must

² 42 C.F.R. §438.400(b).

³ 42 C.F.R. § 438.402(c)(3)(ii); 9 C.C.R. §1850.206(a).

⁴ 9 C.C.R. §1850.205(c)(1)(B).

⁵ 42 C.F.R. §438.406(b)(1); 9 C.C.R. §1850.205(d)(4).

⁶ 9 C.C.R. §1850.205(d)(1).

⁷ 9 C.C.R. §1850.205(d)(3).

provide a decision on a grievance and notify you within 60 calendar days of receipt of the grievance.⁸

If you believe that your grievance must be processed immediately due to imminent and serious threat to your health, you can request an expedited grievance. The MHP will process your expedited grievance within 72 hours.⁹

APPEAL OF A COUNTY MENTAL HEALTH PLAN ACTION

An appeal is a review of an action by a MHP. You can file an appeal when a MHP makes an Adverse Benefit Determination. You must file an appeal and complete the appeal process before you can file for a fair hearing.¹⁰

What is an Adverse Benefit Determination?

An Adverse Benefit Determination is a decision made by an MHP that affects your services. An Adverse Benefit Determination may be any of the seven actions below:

1. If you are denied or limited access to a service;
2. If your service is reduced, suspended, or terminated;
3. If your MHP denies you payment for a service;
4. If you're not provided services in a timely manner;
5. If an MHP does not act within the timeframes regarding standard grievances and appeals;
6. If you live in a rural area with little access to providers and you are denied the right to obtain services outside your network; or

⁸ 9 C.C.R. §1850.206(b); Please note, however, according to federal law, MHPs must resolve your grievance within 90 days. 42 C.F.R. §438.408(b)(1). ([Return to Main Document](#)).

⁹ Cal. Health & Safety Code §1368.01(b).

¹⁰ 42 C.F.R. §438.408(f)(i).

7. If you are denied the request to dispute cost sharing, copayments, premiums, deductibles, coinsurance, and other enrollee financial liabilities¹¹

When an MHP denies or modifies an MHP authorization request from a provider for a service to the beneficiary, the MHP must provide you with a Notice of Action.¹² A Notice of Action is a written notice from the MHP to you letting you know that the MHP has made an Adverse Benefit Determination.

You must file a standard or expedited appeal within 60 calendar days from the date on the Notice of Action from the MHP.¹³

If you do not receive a Notice of Action, but your services are denied, reduced, suspended, or terminated, you should still file an appeal as soon as possible.

How do I file an appeal?

You can file a standard appeal orally or in writing. If you file an appeal orally, you must follow it up with a written appeal.¹⁴ You should keep a copy of your written appeal for your records.

Your MHP must let you know they have received your appeal by sending you written acknowledgement within 5 days of receiving the appeal.¹⁵

Can I still receive benefits if I file an appeal?

¹¹ 42 C.F.R. §438.400(b).

¹² 9 C.C.R. §1850.210(a).

¹³ 42 C.F.R. §438.402(c)(2)(ii).

¹⁴ 42 C.F.R. §438.402(c)(3)(ii); 9 C.C.R. §1850.207(a-b).

¹⁵ 42 C.F.R. §438.406(b)(2)(1); 9 C.C.R. §1850.205(d)(4).

In order to have your benefits continue while you go through the appeal process, you must ask for “aid paid pending” within 10 days of receiving the notice of action, or before the effective date of the decision, whichever date is later.¹⁶

When will I get a decision on my appeal?

According to California law, your MHP must issue a decision within 45 days of receiving the appeal.¹⁷ The MHP may take an additional 14 days if you request an extension or the MHP determines that there is a need for additional information and the delay is in your interest.¹⁸

When your MHP makes a decision on your appeal, they will send you a Notice of Appeal Resolution explaining the decision. The Notice of Appeal Resolution must include the results of the resolution process and the date it was completed, the right to request a State Fair Hearing and how to make that request, and the right to request and receive benefits while the hearing is pending and how to make that request.¹⁹

EXPEDITED APPEALS WITH COUNTY MENTAL HEALTH

¹⁶ 42 C.F.R. §438.420(a-c).

¹⁷ 9 C.C.R. §1850.207(c). Please note federal timelines are different. According to federal law, your MHP must issue a decision called a Notice of Appeal Resolution, within 30 days of receiving the standard appeal. 42 C.F.R. §438.408(b)(2-3). ([Return to Main Document](#)).

¹⁸ *Id.* The MHP may take an additional 14 days if the MHP shows they need additional information and the delay is in your interest. 42 C.F.R. §438.408(c)(1)(i-ii). If the MHP does not issue a decision within that timeframe, that will be considered a denial. Cal. Health & Human Services Agency, All Plan Letter 17-006, [GRIEVANCE AND APPEAL REQUIREMENTS AND REVISED NOTICE TEMPLATES AND “YOUR RIGHTS” ATTACHMENTS](#) (2017). ([Return to Main Document](#)).

¹⁹ 42 C.F.R. §438.408(e).

You can file an expedited appeal with County Mental Health if you or your provider believe the lengthier standard appeal could seriously jeopardize your health, life, or ability to maintain maximum function.²⁰

You can make an oral request with an MHP for an expedited appeal. Unlike regular appeals, you do not have to follow up your oral request for expedited appeal with a request in writing.²¹ However, we suggest you always follow up in writing and keep a copy for your records.

The MHP has to let you know that it has received your expedited appeal.²²

When will I get a decision on my expedited appeal?

According to California law, your MHP must notify you of its decision within three working days of receiving your appeal.²³ The MHP may take an additional 14 days if you request an extension or if the MHP shows they need additional information.²⁴

STATE FAIR HEARINGS

A state fair hearing is a review of a decision or action made by your MHP. You can file for a fair hearing if you disagree with your MHP's decision on your appeal.²⁵

²⁰ 42 C.F.R. §438.410(a); 9 C.C.R. § 1850.208(a).

²¹ 42 C.F.R. §438.406(b)(3); 9 C.C.R. §1850.208(b).

²² 42 C.F.R. §438.406(b)(1); 9 C.C.R. §1850.205(d)(4).

²³ 9 C.C.R. §1850.208(d). Please note federal timelines are different. According to federal law, your MHP must notify you of its decision within 72 hours of receiving your appeal. ([Return to Main Document](#)).

²⁴ The MHP may take an additional 14 days if you request an extension or if the MHP shows they need additional information. ([Return to Main Document](#)).

²⁵ 42 C.F.R. §438.402(c)(1)(i).

How do I request a state fair hearing?

After July 2017, you **must** file an appeal before you can file for a state fair hearing. Please see above for information on the internal appeal process.

After you go through the appeal process, if you disagree with the decision made by the MHP, you can request a state fair hearing with the California Department of Social Services.²⁶ A State Fair Hearing is an independent review held to determine your rights under your MHP. MHPs must provide you with information on the right to request a fair hearing and how to make the request.²⁷

If the MHP fails to give notice or otherwise comply with notice and timing requirements, you can request a state fair hearing.²⁸

You have 120 days to request a state fair hearing from the date of the MHP's decision regarding the appeal.²⁹ If you do not receive a written decision from your MHP, you should file your request for state hearing as soon as possible.

Can I keep my benefits during a state fair hearing?

You can keep receiving your benefits while the state fair hearing is pending if you ask for aid paid pending within 10 calendar days of the notice of the original decision regarding the appeal or before the effective date of the decision, whichever is later.³⁰

RIGHT TO SECOND OPINION

²⁶ 42 C.F.R. §438.402(c)(1)(i).

²⁷ 42 C.F.R. §438.408(e)(i); 9 C.C.R. 1850.207(h)(3).

²⁸ 42 C.F.R. §438.408(f)(1)(ii).

²⁹ 42 C.F.R. §438.408(2).

³⁰ 42 C.F.R. §438.420(a); 22 C.C.R. §51014.2(a).

You also have the right to ask for a second opinion if you disagree with a decision to deny you specialty mental health services. The review must be done by a licensed mental health professional who did not make the first decision. The MHP determines whether this review is a paper review or should be done in person.³¹ You can still grieve or appeal any denial.

GENERAL INFORMATION

Where can I find information regarding grievances and appeals?

MHPs must explain the grievance, appeal, and expedited appeal process in a written handbook.³² MHPs must provide this information to you by mailing a copy to you, emailing a copy to you, or posting the information online and informing you of the internet address where the information can be found.³³

Who is making the decisions on my grievances and appeals?

All grievances and appeals related to medical quality of care issues are submitted to your MHP's medical director for action.³⁴ Your MHP must ensure that the person making the final decision on your grievance or appeal has not participated in any prior decision related to the grievance or appeal. Additionally, the decision-maker will generally be a health care professional with clinical expertise in treating a beneficiary's condition.³⁵

Can I get help filing a grievance, appeal, or State Fair Hearing?

California law requires each county to provide a Patients' Rights Advocate (PRA) to empower and assist recipients of mental health services to

³¹ 9 C.C.R. §1810.405(e)

³² 42 C.F.R. §438.10(g)(2)(xi); 9 C.C.R. § 1850.205(c)(1)(A).

³³ 42 C.F.R. §438.10(g)(3).

³⁴ 22 C.C.R. § 53858(e)(2).

³⁵ 42 C.F.R. §438.406(b)(2).

exercise their civil and human rights.³⁶ You can ask your MHP for the contact information for your County's PRA, or you can find a list of Patients' Rights Advocates in each county at www.disabilityrightsca.org/pod/pradirectory.

You may have a legal representative represent you in the grievance, appeal, expedited appeal process, or a state fair hearing.³⁷ You may also authorize another person (such as a friend or family member) to represent you process.³⁸

If your appeal is with the MHP, but regarding services provided through a contracted provider, you may authorize the provider to represent you in the appeal/expedited appeal process against your MHP.³⁹

³⁶ 9 C.C.R. §863.1(a).

³⁷ 42 C.F.R. §438.402(c)(1)(ii); 9 C.C.R. §§1850.205(c)(2)&(3).

³⁸ 9 C.C.R. §1850.205(c)(2).

³⁹ 9 C.C.R. §1850.205(c)(2).