

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

House Bill 100 (Delegate Hammen)
Health and Government Operations

Finance

Developmental Disabilities Administration - Medicaid Fair Hearings

This bill requires the Secretary of Health and Mental Hygiene to provide notice and an opportunity for a Medicaid fair hearing to (1) applicants for Developmental Disabilities Administration (DDA) Medicaid waiver services who are denied eligibility; (2) applicants for DDA Medicaid waiver services who contest the priority category they are assigned; and (3) recipients of DDA Medicaid waiver services whose claim for DDA Medicaid waiver services is denied or not acted upon with reasonable promptness, or who believe DDA has acted erroneously.

The bill takes effect July 1, 2015.

Fiscal Summary

State Effect: The bill codifies the current practice of providing applicants (who are denied eligibility, who contest the priority category assigned, whose claim for DDA Medicaid waiver services is denied or not acted upon with reasonable promptness, or who believe DDA has acted erroneously) a letter of notice and the opportunity for hearing before an administrative law judge. The Office of Administrative Hearings (OAH) will continue to hold hearings on denials of eligibility, priority category, denials of claims, or questions of promptness or whether the administration has taken an action erroneously. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The Health-General Article specifies that recipients of Medicaid waiver services who are denied services to be provided in accordance with their plan of habilitation are entitled to notice and an opportunity for a Medicaid fair hearing. This category is substantially similar to the proposed category of recipients of DDA Medicaid waiver services whose claim for DDA Medicaid waiver services is denied. Applicants for DDA Medicaid waiver services who are denied eligibility, or who contest the priority category they are assigned, may request an informal hearing or request review of the decision from such a hearing. Current law does not specifically allow for Medicaid fair hearings when claims have not been acted upon with reasonable promptness, or when an individual believes DDA has taken an action erroneously, unless the erroneous action falls under one of the specific categories of decisions related to eligibility or priority.

Background: Almost all requests for DDA services are for Medicaid waiver-funded services. DDA reviews each application for services to determine if the applicant is eligible. If the individual is found to be eligible for DDA services, including waiver-funded services, the applicant is placed in a priority category. The priority category determines if, and when, the applicant will actually receive services. An applicant denied eligibility or the priority category requested has the right to some form of hearing. Current practice is that, if the services requested are Medicaid waiver-funded services, the hearing must be a Medicaid fair hearing. The bill codifies this practice.

The Department of Health and Mental Hygiene reports that the bill puts Maryland in compliance with federal Medicaid regulations and ensures that all applicants who are denied eligibility for Maryland's Medicaid waiver for DDA services are provided a Medicaid fair hearing. Federal regulations governing states' waiver programs require that a state with an approved Medicaid waiver program offer applicants a Medicaid fair hearing for denials of eligibility for the waiver. If the state has its own hearing process for denial of eligibility, it must meet the requirements laid out under federal regulations. Maryland's informal hearing process does not meet those requirements. Therefore, in order to comply with federal regulations, State law must provide a Medicaid fair hearing, rather than an informal hearing, to applicants found ineligible for DDA waiver services.

The U.S. Department of Health and Human Services has not threatened Maryland with an audit or disallowance of federal funding for failure to comply with federal requirements. However, should this change, DDA reports that it stands to lose millions of dollars in federal funds.

The bill is also intended to resolve any ambiguity in the jurisdictional basis for OAH to hold Medicaid fair hearings for all appeals of eligibility, denials, and adverse decisions on priority category.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Office of Administrative Hearings, Department of Legislative Services

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