

Tips for Completing Medicaid Waiver Appeals

If you have a request for a service or item through Medicaid that is denied, you have the right to appeal that decision. During your appeals process, you can generally continue services that are being reduced or suspended (e.g., weekly care attendant hours) if you ask for an appeal within 10 calendar days of the denial and state your desire to continue services during the appeal. It is possible you will be asked to pay back Medicaid (DMAS) for any services you use during the appeals process if they do not find in your favor.

Most appeal cases are not won, so it is a good time to consider if there is another way to get the service requested that is more efficient. If not, then put as much time and energy into you can making the appeal as strong as possible.

Appeals Process

1. **Notification of denial and appeal rights.** You should be given notice of your rights to appeal when the denial is given, and that notice will include the 30-day timeline you have to provide a response. Managed Care Medicaid denials may have 120-day appeal timelines, so read the document carefully.
2. **Gather information to share with your reply.** Respond to the notice that you will be appealing, and send any materials you want to include in your appeal for consideration.
3. **Appeal summary sent.** DMAS (Medicaid) will send a summary of the appeal, including a schedule of when and where (usually phone) the appeal hearing will take place. Read anything the denying agency sends carefully and ensure you've responded to it in your written appeal.
4. **The appeal hearing is held.** The phone call or in person meeting will be held and everyone involved will have a chance to speak. Make sure you cover any information you sent in your written appeal clearly and calmly. Note that if the denial came through a Medicaid Managed Care agency, there is another level of appeal with Medicaid directly in the appeal to the Managed Care agency is denied.
5. **Written decision is issued.** Medicaid will issue a decision. If you do not agree with the decision, you can engage an attorney to file an appeal with the Circuit Court.

Appeal Tips

1. Closely read what was denied and why. Use the links in the Resources section below to read the full regulations around the service you want, and use those regulations in your appeal to demonstrate why what you have requested meets the language in the rules. If you have a DD Waiver, ask to talk to your Support Coordinator and have them go through it with you. They can also bring in a Supervisor and talk to team members about how or if other approvals for similar needs are being approved.
2. You can ask for a DBHDS Supervisor and the reviewer who looked at the claim to have a call with you and your Support Coordinators. This is a good time to clarify what had been requested in why to see if there was confusion or a misunderstanding about the written justification and request. If the parties can come to agreement on a call like that, it is possible for the denial to be reconsidered without an appeal.
3. You can ask for experts to speak on behalf of your appeal at your hearing, and to be represented by a lawyer. You can also have a hired expert or friend support you.

4. Ensure anything you want considered for the appeal is all set and received before the phone or in-person hearing. Check the documents carefully for accuracy before submitting, with a focus on maximizing detail on the reason for the needed item or service and any related proof (e.g., daily schedule, explanation of what a 1:1 caregiver does distinct from other caregivers, letter from a doctor).
5. If you have been denied a service you already had, review [Virginia Code's statement](#) noting that there is an assumption that previously approved coverage was correct and the related presumption that termination or reduction should occur only with proof of change in the individuals' circumstances.

Resources:

- You can hire a private advocate to help you navigate appeals before the Circuit Court level. Contact Lucy.Beadnell@TheArcofNOVA.org to learn about our private advocate or contact Inclusion Consultants, <https://inclusionconsultants.com/>.
- Visit the [Medicaid appeals webpage](#) to file an appeal and learn more about the process.
- See [Virginia State Code with Waiver regulations](#) for the law on what the Waiver does and does not do.
- View the [DD Medicaid Waiver manuals](#) for a detailed explanation of the rules of the DD Medicaid Waiver program.
- See a [recorded webinar on Medicaid appeals](#) put on by the disAbility Law Center.