

# **DHB ADMINISTRATIVE LETTER NO: 03-22, HEARINGS AND APPEALS – REMOTE HEARINGS**

**DATE:** March 31, 2022

**SUBJECT:** Hearings and Appeals – Remote Hearings

**DISTRIBUTION:** County Departments of Social Services  
Medicaid Supervisors  
Medicaid Eligibility Staff

## **I. BACKGROUND**

On March 17, 2022, procedures regarding eligibility hearings and appeals request options for Medicaid and North Carolina Health Choice (NCHC) applicants and beneficiaries (a/b) was updated. The procedures outlined in this letter will be effective April 1, 2022, for all Medicaid/NCHC hearings and appeals requests received on or after April 1, 2022.

## **II. POLICY AND PROCEDURES**

The following policies and procedures must be implemented effective April 1, 2022:

### **A. Expedited Hearing Requests**

An a/b may request an expedited hearing if the standard timeframe for adjudicating an appeal at the state hearing level could jeopardize the a/b's life, health, or ability to attain, maintain, or regain maximum function.

1. In cases involving issues other than disability, the a/b has the right to request a state hearing only after a local hearing has been held and a decision has been rendered.
2. The a/b may request an expedited state hearing for disability related appeals **or** when the a/b disagrees with the local hearing decision.
3. On the day the a/b requests an expedited state appeal, the local agency must submit the following via ZixMail:
  - a. The ZixMail must include a complete [DSS-1473](#) and [DSS-1473B](#) and all applicable and required information including:

- (1) Medical records provided by the a/b documenting the a/b's urgent health need for an expedited hearing. Medical records consist of:
    - (a) Physical examinations
    - (b) Signs, symptoms, laboratory findings, etc.
    - (c) May not consist of a doctor's letter giving an opinion of the a/b's medical condition.
  - (2) The [DHB-4037, Medical Disability Determination Transmittal](#) or the State of North Carolina Disability Transmittal form from DDS and a copy of all medical records returned from DDS if applicable.
  - (3) DSS notification letter that prompted the appeal.
  - (4) Relevant documents related to the appeal.
- b. If the a/b does **not** provide medical records at the time of the request to support the need for an expedited appeal, the caseworker must:
- (1) Contact the a/b requesting the appeal by telephone on the day the expedited hearing request is received.
  - (2) Inform the a/b that the expedited hearing will transition to a standard fair hearing time frame and standard hearing procedures will apply.
  - (3) Do **not** complete the [DSS-1473B](#) if medical records are not provided. However, the [DSS-1473](#) must still be completed.
- c. On the day the a/b requests an expedited state appeal, the caseworker must contact the DHHS Hearings and Appeals Section by telephone at (919) 855-3260 to confirm the expedited appeal request has been received by ZixMail.
- d. The local agency must contact DHHS Hearings and Appeals if there is no response from a State Hearing Officer within five days of the date the DSS-1473 and 1473B Addendum, Expedited State Appeal Request were sent. DHHS Hearings and Appeals can be reached at (919) 855-3260.

**B. Revised Forms:**

1. [DSS-1473, Request for State Appeal](#) has been revised:

- a. To include the options for the mode of the requested appeal. The a/b requesting state appeal must be given the following options.
  - (1) **In-person hearing at the county DSS office** (Hearing officer and all parties present at the DSS).
  - (2) **Remote phone hearing** (Hearing officer participates by phone and appellant chooses to participate by using their own phone **or** by notifying the DSS that they will come to the DSS to participate with the county when the county connects by phone for the hearing).
  - (3) **Remote video hearing using Microsoft TEAMS** – the a/b must include an e-mail address for this option (Hearing officer participates by video and appellant chooses to participate by connecting to Microsoft TEAMS [must have internet access and camera capability] **or** by notifying the DSS that they will come to the DSS to participate with the county when the county connects to Microsoft TEAMS for the video hearing).
- b. Caseworkers **must** use the revised [DSS-1473](#) when submitting state hearing requests and the mode of hearing must be selected. DHHS Hearings and Appeals will **NOT** accept prior versions of the [DSS-1473](#) or incomplete forms.

2. **[DSS-1473A, Addendum for Program Integrity](#) has been revised:**

The form should be used for any state disqualification/over issuance appeal from any program.

3. **[DSS-1473B, Addendum for Expedited Medicaid Appeal](#) has been revised:**

- a. To remove disability appeal as a requirement for expedited state hearings.
- b. To add Secure, ZixMail address.
- c. To add instructions for providing office address in the event that the county has multiple DSS office locations.
- d. To include NCHC for expedited state appeals.

**C. State Hearing Decisions**

1. For standard hearing decisions, the State Hearing Officer must render a decision not more than 90 calendar days from the date the state appeal was requested, unless the hearing was delayed at the a/b's request.
2. For expedited hearing decisions, the State Hearing Officer must render a decision not more than seven state business days from the date the state appeal was requested, unless the hearing was delayed at the a/b's request.
3. When the state hearing has been held and the local agency has not received a response, the caseworker should follow policy found in MA-[2420/3430](#), Notice and Hearings, section V.J.2.b. to check the status of the decision.

### III. IMPLEMENTATION

Policy in this administrative letter is effective for all state hearings and appeals requests received on or after April 1, 2022.

Local agencies who are currently unable to access the Microsoft TEAMS platform have until May 1, 2022, to make system updates to ensure remote video access is available to the a/b and the local agency for appellants who wish to have their remote hearing at the local agency. Failure to provide this access by May 1, 2022, will result in the local agency being non-compliant with the mandatory rule requirements of beneficiary choice.

If you have any questions regarding this information, please contact your Medicaid Operational Support Team representative.

DocuSigned by:

*Jay Ludlum*

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Jay Ludlum for Dave Richard  
Deputy Secretary, NC Medicaid