**R410. Health and Human Services, Integrated Healthcare, Administrative Hearings.**

**R410-14. Administrative Hearing Procedures.**

**R410-14-1. Authority and Purpose.**

(1) Subsections 26B-1-202(1) and 26B-1-204(1), 42 CFR 431 Subpart E (2025), and 42 U.S.C. 1396a(a)(3) authorize this rule.

(2) This rule sets forth the administrative hearing procedures for actions that the Division of Integrated Healthcare or other agency, as defined in Section R410-14-2, takes.

**R410-14-2. Definitions.**

(1) Terms in this rule are defined in Rule R414-1 and Section 63G-4-103. Additionally:

(2) "Action" means:

(a) a denial or termination of eligibility for participation in a program or as a provider;

(b) a denial, reduction, or revocation of reimbursement for services for a provider;

(c) a denial, reduction, suspension, or termination of medical assistance for a member;

(d) a determination by a skilled nursing facility or nursing facility to transfer or discharge a resident;

(e) an adverse benefit determination, as defined in Subsection R410-14-20(2)(a);

(f) an adverse determination, as defined in Subsection (2)(b); or

(g) the placement of a Medicaid member on the restriction program, as described under Section R414-29-3.

(3) "Adverse determination" means a determination, in accordance with Subsection 1919(b)(3)(F) or Subsection 1919(e)(7)(B) of the Social Security Act, that:

(a) an individual does not require the level of services provided by a nursing facility; or

(b) an individual does or does not require specialized services.

(4) "Agency" means:

(a) the Division of Integrated Healthcare (DIH) within the Department of Health and Human Services, except the Office of Substance Use and Mental Health;

(b) the Department of Workforce Services (DWS); or

(c) any MCO that conducts or performs an action.

(5) "Aggrieved person" means any member, enrollee, or provider who is adversely affected by an action.

(6) "Child Health Evaluation and Care" program or "CHEC" means Utah's version of the federally mandated Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Medicaid child health program.

(7) "De novo" means anew or considering the question of a case for the first time.

(8) "Decision" or "order" means a ruling by a presiding officer that determines the legal rights, duties, privileges, immunities, or other legal interests of a party.

(9) "Department" means the Department of Health and Human Services.

(10) "Eligibility agency" means:

(a) the department;

(b) DWS; or

(c) any entity the agency contracts with to determine medical assistance eligibility.

(11) "Ex parte communication" means direct or indirect communication in connection with an issue of fact or law, between the presiding officer and only one party.

(12)(a) "Grievance" means an expression of dissatisfaction about any matter other than an action as defined in this rule.

(b) A grievance may include:

(i) the quality of care of services provided; or

(ii) an aspect of interpersonal relationships, such as rudeness of a provider or employee or the failure to respect the rights of an MCO member.

(13) "Grievance system" means the overall process for an MCO to collect, review, and make a determination on a grievance or appeal and for the individual who files an appeal to access the administrative hearing process set out in this rule.

(14) "Mail" means to send through mail services, email, fax, or hand-delivery.

(15) "Managed care organization" or "MCO" means an entity that:

(a)(i) is a health maintenance organization;

(ii) is a prepaid mental health plan; or

(iii) is a dental managed care plan; and

(b) contracts with DIH to provide health, behavioral health, or oral health services to Medicaid or Children's Health Insurance Program members.

(16) "Medical record" means a record that contains medical data of a medical assistance member.

(17) "Office" means the Office of Administrative Hearings within the Department of Health and Human Services.

(18)(a) "Party" includes:

(i) the agency or an individual designated by the agency head to represent the agency in an adjudicative proceeding;

(ii) an aggrieved person; or

(iii) a claimant.

(b) "Party" does not include:

(i) the general public;

(ii) a witness testifying at an adjudicative proceeding; or

(iii) an Artificial Intelligence (AI) bot, computer, or program.

(19) "Presiding officer" means an agency head, or individual designated by the agency head, by rule, or by statute to conduct an adjudicative proceeding and may include:

(a) a division or office director;

(b) a hearing officer;

(c) a statutorily created board or committee;

(d) an administrative law judge; and

(e) the superintendent of an agency institution.

(20) "Provider" means any person or entity that is licensed and otherwise authorized to furnish health care to members.

(21) "Scope of service" means behavioral, medical, or oral health services under Title R414, Integrated Healthcare, as a covered benefit.

(22) "State fair hearing" means an administrative hearing conducted pursuant to this rule.

**R410-14-3. Administrative Adjudicative Procedures.**

(1) Except as provided in this rule or otherwise designated by rule or statute or converted pursuant to Subsection 63G-4-202(3), each adjudicative proceeding conducted pursuant to this rule shall be designated an informal adjudicative proceeding.

(2) An aggrieved person may file a written request for agency action, pursuant to Subsections 63G-4-201(3)(a) and (b) and in accordance with this rule.

(a) A provider may file a written request for agency action without the consent of the member or MCO enrollee if the request for agency action pertains to the denial of an authorization for service or a denial of payment on a claim.

(b) A provider may not file a request for agency action if the request for agency action pertains to the denial, change, or termination of eligibility of a member for a medical assistance program.

(3) If a medical issue is in dispute, each request shall include supporting medical documentation. The office may schedule a hearing only when it receives sufficient medical records and may dismiss a request for agency action if it does not receive supporting medical documentation in a timely manner.

(4) An agency shall provide a written notice of action to each aggrieved person. These actions include:

(a) denial or limited prior authorization of a requested service including the type or level of service;

(b) eligibility for assistance;

(c) payment of a claim; and

(d) scope of service.

(5) The notice shall include:

(a) a statement of the action the agency intends to take;

(b) the date the intended action becomes effective;

(c) the reasons for the intended action;

(d) the specific regulations that support the action, or the change in federal law, state law, or DIH policy which requires the action;

(e) the right to request a hearing;

(f) the right to represent oneself, the right to legal counsel, or the right to use another representative at the hearing; and

(g) if applicable, an explanation of the circumstances under which reimbursement for medical services will continue or may be reinstated pursuant to this rule.

(6) The agency shall mail the notice at least ten calendar days before the date of the intended action except that:

(a) the agency may mail the notice before the date of action in accordance with 42 CFR 431.213 (2025); and

(b) the agency may shorten the period of advance notice to five days before the date of action if the agency has facts that indicate the agency shall take action due to probable fraud by the member or provider and the facts have been verified by affidavit.

**R410-14-4. Hearings.**

(1) The office shall conduct informal hearings. The presiding officer may convert the proceeding to a formal hearing if an aggrieved person requests a hearing that meets the criteria set forth in Section 63G-4-202.

(2) If a hearing under this rule is converted to a formal hearing pursuant to Section 63G-4-202, the formal hearing shall be conducted in accordance with these criteria except as otherwise provided in Sections 63G-4-204 through 63G-4-208 or other applicable statute.

(3) The office shall conduct a hearing in connection with an action if the aggrieved person requests a hearing and there is a disputed issue of fact. If there is no disputed issue of fact, the presiding officer may deny a request for an evidentiary hearing and issue a decision without a hearing based on the record. In the decision, the presiding officer shall specifically set out any material and relevant fact not in dispute.

(4)(a) There is no disputed issue of fact if every material fact the agency relied upon in taking the adverse action or in obtaining the relief sought in the adjudicative proceeding is established by:

(i) the aggrieved person's own acknowledgment or admission;

(ii) an adjudication from a court of competent jurisdiction; or

(iii) a record submitted by either party if the aggrieved person does not challenge the record's accuracy.

(b) When the reasonableness of the agency's action is the primary issue under consideration, rather than whether there is a factual basis for the agency's action, the issue of reasonableness remains in dispute even if there is no dispute as to any underlying material fact that resulted in the agency's action.

(5) If the aggrieved person objects to the hearing denial, the person may raise that objection as grounds for relief in a request for agency review.

(6) An MCO may not require an aggrieved person to use arbitration or mediation to resolve an action. An aggrieved person may file a request for hearing relating to an action regardless of any contractual provision with an MCO that may require arbitration or mediation.

(7) The presiding officer may not grant a hearing if the issue is a state or federal law requiring an automatic change in eligibility for medical assistance or covered services that affect the aggrieved person.

**R410-14-5. Request for Hearing.**

(1)(a) An aggrieved person shall request a hearing by:

(i) completing the DIH Form to Request a State Fair Hearing; and

(ii) submitting the form by mail, fax, or other electronic means as directed on the form or the notice of agency action.

(b) The request shall explain why the aggrieved person is seeking agency relief.

(2) Except as described in Section R410-14-20, a hearing shall be requested within the following deadlines:

(a) a medical assistance provider or member shall request a hearing within 30 calendar days from the date that DIH sends a written notice of agency action.

(b) a medical assistance member shall request a hearing with DWS regarding medical assistance eligibility within 90 calendar days from the date the agency sends a written notice of agency action.

(c) a medical assistance member shall request a hearing with the office regarding a determination of disability for medical assistance eligibility within 90 calendar days from the date that DIH sends a written notice of agency action.

(d) a medical assistance member shall request a hearing regarding approval or denial of a scope of service within 30 calendar days from the date the agency sends written notice of agency action.

(3) A hearing request that an aggrieved person sends through the mail is considered filed on the date of the postmark. If the postmark date is illegible, erroneous, or omitted, the request is considered filed on the date the agency receives it, unless the sender can demonstrate the mailing date through credible evidence.

(4) Failure to submit a timely request for a hearing constitutes a waiver of an individual's due process rights.

(5) The office may dismiss a request for a hearing if the aggrieved person:

(a) withdraws the hearing request in writing;

(b) verbally withdraws the hearing request at a prehearing conference;

(c) fails to appear or participate in a scheduled proceeding without good cause;

(d) prolongs the hearing process without good cause;

(e) cannot be located or agency mail is returned without a forwarding address;

(f) fails to provide medical records that the agency requests; or

(g) does not respond to any correspondence from the office.

**R410-14-6. Continuation and Reinstatement of Services.**

(1) If the agency mails a notice of agency action in the time required by Section R410-14-3 and the recipient requests a hearing within ten days of the date the notice was mailed, the agency shall continue services until a decision is rendered after the hearing. The agency may terminate or reduce services if it is determined at the hearing that the sole issue is one of federal or state law or policy and the agency promptly informs the recipient in writing that services are to be terminated or reduced pending the hearing decision.

(2)(a) The agency may reinstate services if a recipient requests a hearing no more than ten days after the date of the action. The reinstated services shall continue until a hearing decision is rendered unless, at the hearing, it is determined that the sole issue is one of federal or state law or policy.

(b) The agency shall reinstate and continue services until a decision is rendered after a hearing if:

(i) the agency takes action without giving a ten-day notice as required by Section R410-14-3;

(ii) the recipient requests a hearing no more than ten days after the date the notice of agency action is mailed; and

(iii) the action is not the result of the application of federal or state law or policy.

**R410-14-7. Notice of Hearing.**

The office shall notify each party or a party representative in writing of the date, time, and place of the hearing and shall mail the notice at least ten calendar days before the date of the hearing unless each party agrees to an alternative timeframe. Each party shall inform the agency of a current email address, mailing address, and telephone number.

**R410-14-8. Prehearing Procedures.**

(1) The office shall schedule a prehearing conference in a timely manner after the office receives the request for a hearing.

(2) The purpose of the prehearing conference is to:

(a) arrange for the exchange of proposed exhibits or prepared expert testimony;

(b) formulate or simplify the issues;

(c) obtain admissions of fact and documents that will avoid unnecessary proof;

(d) outline procedures for the hearing; or

(e) agree to other matters that may expedite the orderly conduct of the hearing or settlement.

(3) The presiding officer may request a review of the medical record by a DIH CHEC Utilization Review committee to evaluate the medical necessity of benefits or services under dispute.

(a) The committee's recommendation is not binding but may be admitted as evidence and included in the hearing record.

(b) If a party to the proceeding objects to the committee's determination, a representative of the committee shall be available at the hearing for examination by the presiding officer and each party.

(4) The presiding officer may require any party to submit a prehearing position statement setting forth that party's positions.

(5) A party may enter into a written stipulation during the preliminary conference or at any time during the process.

(6) Ex parte communication with the presiding officer is prohibited.

(a) If a party attempts ex parte communication, the presiding officer shall inform the offeror that any communication the presiding officer receives off the record will become part of the record and furnished to every party.

(b) Ex parte communication does not apply to communication on the status of the hearing and uncontested procedural matters.

(7) The agency shall allow the aggrieved person or a representative to examine each DIH document and record upon written request to DIH at least three days before the hearing.

(8) A party may request access to protected health information in accordance with Rule R380-250, which implements the privacy rule under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

(a)(i) The agency may request copies of pertinent records in the possession of a party and the member's health care providers.

(ii) In the event the member or provider fails to produce the records within a reasonable time, DIH may review each pertinent record in the custody of the member or provider during regular working hours at least three days after issuing written notice.

(b) The member shall submit necessary medical records with the hearing request when possible, including:

(i) the provision of each service and activity addressed in the hearing request;

(ii) the first and last name of the party;

(iii) the reason for performing the service or activity that includes the party's complaint or symptom;

(iv) the member's medical history;

(v) examination findings;

(vi) diagnostic test results;

(vii) the goal or need the plan of care identifies; and

(viii) the observer's assessment, clinical impression, or diagnosis that includes the date of observation and identity of the observer.

(c) The necessary medical records shall demonstrate that the service is:

(i) medically necessary;

(ii) consistent with the diagnosis of the member's condition; and

(iii) consistent with professionally recognized standards of care.

(9) The presiding officer may require each party to file a signed prehearing disclosure form at least ten calendar days before the scheduled hearing that identifies:

(a) fact witnesses;

(b) expert witnesses; and

(c) any exhibits and reports each party intends to offer into evidence at the hearing.

(10) Each party shall supplement the disclosure form with information that becomes available after filing the original form.

**R410-14-9. Form and Service of Papers.**

(1) Any document that a party files with the office in a proceeding shall:

(a) be signed and dated by the party or the party's authorized representative;

(b) be typed or legibly written;

(c) bear a caption that clearly shows the title of the hearing;

(d) bear the docket number, if any; and

(e) contain the address and telephone number of the party or the party's authorized representative.

(2) The party that files a document with the office shall also serve a copy of the document to each party to the proceeding or the party's representative and file a proof of service with the office consisting of a certificate of service.

(3) A document may be served by mail, fax, or email address to the party's address or phone number on record with the agency.

(4) In addition to the methods described in this rule, a party may be served as permitted by the Utah Rules of Civil Procedure.

**R410-14-10. Conduct of Hearing.**

(1) The office shall conduct hearings in accordance with Section 63G-4-203 on a de novo basis.

(2)(a) The department shall appoint an impartial presiding officer to conduct hearings.

(b) An officer involved in the initial determination of the action may not be appointed as the presiding officer.

(3) Any telephonic hearing shall be held at the discretion of the presiding officer.

(4) The department is not responsible for any travel costs incurred by the member in attending an in-person hearing.

(5) The presiding officer shall take testimony under oath or affirmation.

(6) Each party has the right to:

(a) present evidence, argue, respond, conduct cross-examination, and submit rebuttal evidence;

(b) introduce exhibits;

(c) impeach any witness regardless of which party first called the witness to testify; and

(d) rebut the evidence against the party.

(7)(a) Each party may admit any relevant evidence and use hearsay evidence to supplement or explain other evidence as may be required for full disclosure of all facts relevant to the disposition of the hearing.

(b) Hearsay is not sufficient by itself to support a finding unless admissible over objection in a civil action.

(c) The presiding officer shall give effect to the rules of privilege recognized by law and may exclude irrelevant, immaterial, and repetitious evidence.

(8) The presiding officer may question any party or witness.

(9) The presiding officer shall control the evidence to obtain full disclosure of the relevant facts and to safeguard the rights of each party. The presiding officer may determine the order in which the officer receives the evidence.

(10)(a) The presiding officer shall maintain order and may recess the hearing to regain order if a person engages in disrespectful, disorderly, or disruptive conduct.

(b) The presiding officer may remove any person, including a participant from the hearing, to maintain order.

(c) If a person shows persistent disregard for order and procedure, the presiding officer may:

(i) restrict the person's participation in the hearing;

(ii) strike pleadings or evidence; or

(iii) issue an order of default.

(11) To employ a court reporter to make a record of the hearing, a party must file an original transcript of the hearing with the presiding officer at no cost to the agency.

(12) The party who initiates the hearing process through a request for agency action has the burden of proof as the moving party.

(13) When a party possesses but fails to introduce certain evidence, the presiding officer may infer that the evidence does not support the party's position.

(14) An AI bot, computer, or program may not appear, dictate, listen to, record, or summarize any adjudicative proceeding or hearing under this rule.

(15) If a party sends an AI bot, computer, or program to appear at a hearing instead of the party, the presiding officer:

(a) shall consider this a failure to appear on the part of the party; and

(b) may issue an order of default against the party under the relevant default provisions of Title 63G, Chapter 4, Administrative Procedures Act.

(16) A party shall mail a copy of any motion or pleading that the party files with the office to each of the other parties named in the action.

(a) The non-moving party shall:

(i) unless the office dictates otherwise, file any response to a motion or pleading filed with the office within ten calendar days; and

(ii) mail a copy of that response to each of the other parties named in the action.

(b) Any motion or pleading received by the office after the regular business hours of Monday through Friday, 8 a.m. to 5 p.m., excluding state holidays, is considered received the following business day.

**R410-14-11. Witnesses and Subpoenas.**

(1) A party shall arrange for a witness to be present at a hearing.

(2) At the request of a party or at the presiding officer's discretion, the presiding officer may order a witness excluded so that the witness cannot hear another witness's testimony.

(3) Discovery is prohibited, but the office may issue a subpoena or other order to compel the production of necessary evidence.

(4)(a) An attorney may issue a subpoena for necessary evidence.

(b) A party who is not represented by an attorney may request a subpoena from the office.

(c) When the presiding officer issues a subpoena to a party, the party shall serve that subpoena on the witness.

(5)(a) A party shall request a subpoena as soon as possible after a hearing date is set.

(b) The office may not issue a subpoena fewer than 16 calendar days before the hearing.

(6) The presiding officer may issue a subpoena on the presiding officer's own motion.

(7) A party may file an affidavit that requests the presiding officer to subpoena a witness to produce books, papers, correspondence, memoranda, or other records. The affidavit shall include:

(a) the name and address of the person or entity being served the subpoena;

(b) a description of any account, book, document, letter, object, paper, photograph, or other tangible item that the applicant seeks;

(c) material that is relevant to the issue of the hearing; and

(d) a statement by the applicant that, to the best of the applicant's knowledge, the witness possesses or controls the requested material.

(8) A party shall arrange to serve any subpoena that the presiding officer issues on the party's behalf and shall serve a copy of the affidavit that the party presents to the presiding officer.

(9) Except for an employee of an agency, a witness that the presiding officer subpoenas to attend a hearing is entitled to appropriate fees and mileage. The witness shall file a written demand for fees with the presiding officer within ten calendar days from the date that the witness appears at the hearing.

(10) The presiding officer may issue an order of default against any party that fails to appear, participate, or obey an order entered by the presiding officer.

**R410-14-12. Record.**

(1)(a) The presiding officer shall make a complete hearing record.

(b) A hearing record is the sole property of the office, and the office shall maintain the complete hearing record electronically in a secure area.

(2) Proceedings other than hearings may be recorded at the discretion of the presiding officer.

(3) If a party requests a copy of a hearing's recording, that party may transcribe the recording at the party's sole cost.

(4) The office or a designated agent shall keep recordings of each hearing for one year.

(5) The office shall keep written records of each hearing for ten years pending further litigation.

**R410-14-13. Continuances or Further Hearings.**

(1) The presiding officer, on the officer's own motion or at the request of a party showing good cause, may:

(a) continue the hearing to another time or place; or

(b) order a further hearing.

(2) If the presiding officer determines that additional evidence is necessary for the proper determination of the case, the officer may:

(a) continue the hearing to a later date and order any party to produce additional evidence; or

(b) close the hearing and hold the record open to receive additional documentary evidence.

(3)(a) The presiding officer shall provide to each party any evidence that the officer receives.

(b) Each party shall have the opportunity to rebut that evidence.

(4) The presiding officer shall provide written notice of the time and place of a continued or further hearing, except when the officer orders a continuance during a hearing and each party receives oral notice.

**R410-14-14. Orders.**

(1) Within a reasonable time after the close of a hearing, or after a party's failure to request a hearing within a reasonable time prescribed by agency rules, the presiding officer shall issue a signed order that conforms to Subsection 63G-4-203(1)(i).

(2) The office shall mail a copy of the order to each party or representative, notifying the party of any right to agency review and judicial review.

(3) Each party shall comply with the order from the presiding officer reversing the agency's decision within ten calendar days.

(4)(a) The department's executive director shall review each order to determine approval of medical assistance for an organ transplant.

(b) The executive director's decision constitutes final administrative action and is subject to judicial review.

**R410-14-15. Amending Administrative Orders.**

(1) The presiding officer may amend an order if the officer determines the order contains a clerical error.

(2) The office shall mail a copy of the final amended order to each party.

**R410-14-16. Availability of Agency Review.**

A party may obtain agency review of a final order by filing a request with the department's executive director, pursuant to Section 63G-4-301.

**R410-14-17. Judicial Review.**

A party to the proceeding may obtain judicial review in accordance with Section 63G-4-102 and Title 63G, Chapter 4, Part 4, Judicial Review.

**R410-14-18. Declaratory Orders.**

(1) DIH may issue a declaratory order in accordance with Rule R380-1.

(2) If DIH does not issue a declaratory order within 60 days after receipt of the request, the petition shall be denied.

(3) DIH shall retain the request for a declaratory ruling in DIH's records.

(4) DIH may not issue a declaratory order if an adjudicative proceeding that involves the same parties and issue is pending before the office, state court, or federal court.

**R410-14-19. Interpreters.**

(1) If a party notifies the office that the party needs an interpreter, the office shall arrange for an interpreter at no cost to the party.

(2) The party may arrange for an interpreter to be present at the hearing only if the presiding officer can verify the interpreter is at least 18 years of age and fluent in English and the language of the person testifying.

(3) The presiding officer shall instruct the interpreter to interpret word for word and not to summarize, add, change, or delete any of the testimony or questions.

(4) The interpreter shall swear under oath to truthfully and accurately translate each statement, question, and answer.

**R410-14-20. MCO Grievance and Appeal System.**

(1) The procedures in this section apply only to an appeal or request for agency action arising from an action taken by an MCO.

(2) Terms in this section are defined as follows:

(a) "Adverse benefit determination" means one of the following actions by an MCO:

(i) the denial or limited authorization of a requested service, including the type and level of service, any requirement for medical necessity, appropriateness, setting, or effectiveness of a covered benefit;

(ii) the reduction, suspension, or termination of a previously authorized service;

(iii) the denial, in whole or in part, of payment for a service;

(iv) the failure to provide a service in a timely manner;

(v) the failure to act within the time frames provided in 42 CFR 438.408(b) (2025);

(vi) the denial of a request by a Medicaid member who is a resident of a rural area with only one MCO to exercise the member's right under 42 CFR 438.52(b)(2)(ii) to obtain services outside of the network;

(vii) the denial of a member's request to dispute a financial liability, including cost sharing or any copayment, premium, deductible, coinsurance, and other member financial liability; or

(viii) the restriction of a Medicaid member who uses services at a frequency or amount that is not medically necessary, in accordance with state utilization guidelines.

(b) "Appeal" means a review by an MCO of an action as defined in this section or a request for the office to review a final decision made by an MCO as a result of the MCO's appeal process.

(c) "Grievance" means an expression of dissatisfaction about any matter other than an adverse benefit determination, including:

(i) the quality of care or services provided and aspects of interpersonal relationships, such as rudeness of a provider or employee or failure to respect the member's rights, regardless of whether remedial action is requested; and

(ii) a member's right to dispute an extension of time proposed by the MCO to make an authorization decision.

(d) "Grievance and appeal system" means the processes the MCO implements to handle an appeal of an action and grievance.

(e) "Party" means the agency, or other person commencing an adjudicative proceeding, any respondent, and any MCO who is or may be obligated to pay a claim or provide a benefit or service to a member.

(3) An MCO shall establish a grievance and appeal system in accordance with this rule, 42 CFR 431.200 et seq. and 42 CFR 438.400 et seq. and the MCO's contractual obligations entered into with DIH.

(4) The MCO grievance and appeal system shall include a written internal grievance and appeal procedure for an aggrieved person to challenge an action by the MCO.

(5) The MCO shall provide to its members and providers written information that explains the grievance and appeal procedure, including a right to request a state fair hearing in accordance with this rule.

(6) The MCO's notice of action shall comply with the requirements set forth in Section R410-14-3, 42 CFR 438.402, and 42 CFR 438.404.

(7) The MCO's written notice of final decision shall comply with the requirements set forth in 42 CFR 438.408 and include an explanation of the aggrieved person's right to a state fair hearing in accordance with this rule.

(8)(a)(i) Unless otherwise stated in this section, an aggrieved party may appeal an MCO final written disposition on an action by requesting a state fair hearing in accordance with this rule.

(ii) The hearing request shall include a copy of the final written notice of the MCO disposition.

(b)(i) An aggrieved person must exhaust the MCO grievance and appeal procedure before requesting a state fair hearing for an action other than the restriction of a Medicaid member. In the case of an MCO that fails to adhere to the notice and timing requirements in 42 CFR 438.400 et seq., the member is considered to have exhausted the MCO's appeals process.

(ii) The hearing request shall include a copy of the final written notice of the MCO decision.

(c) The aggrieved party shall request a hearing within 120 days from the date of the MCO final written notice of the decision.

(d)(i) If an appeal is based on a dispute regarding the payment liability between two or more MCOs, the aggrieved person is not required to exhaust the MCO grievance procedure for each MCO before requesting a state fair hearing under this rule.

(ii) If DIH identifies an MCO that may be liable to pay the claim and did not participate in the underlying grievance procedure, DIH shall send notice to that MCO that the MCO may be subject to liability and of the MCO's right to participate in the state fair hearing.

(iii) If more than one MCO is party to the state fair hearing, DIH shall provide a notice to each party that shall include:

(A) the identity of each party;

(B) the reason for the dispute;

(C) a copy of the hearing request;

(D) a statement specifying that any MCO that did not participate in the underlying MCO grievance and appeal procedure may be subject to payment liability, described in Subsection (8)(d)(ii); and

(E) a statement of the right to participate in the state fair hearing.

(e) DIH may file an answer or other response or position statement in the hearing proceeding at any time so long as it gives notice to other parties no fewer than five days before the hearing. If DIH chooses not to file a response or position statement, DIH does not waive the right to participate in the hearing.

(9)(a) If the MCO or state fair hearing presiding officer reverses a decision to deny, limit, or delay services that were not furnished while the appeal was pending, the MCO shall authorize or provide the disputed services promptly and as expeditiously as the member's health condition requires but before 72 hours from the date the MCO receives notice reversing the determination.

(b) If the MCO or state fair hearing presiding officer reverses a decision to deny authorization of services and the member received the disputed services while the appeal was pending, the MCO or DIH shall pay for those services in accordance with state policy and rule.

**R410-14-21. Preadmission Screening Resident Review (PASRR) Hearings.**

Pursuant to 42 U.S.C. 1396r, any resident or potential resident of a nursing facility, whether Medicaid eligible or not, who disagrees with the preadmission screening and appropriateness of a placement decision that DIH or a designated agent makes, has the right to an informal hearing upon request in accordance with this rule and the requirements set out in 42 CFR 483.200, Subpart E.

**R410-14-22. Nurse Aide Registry Hearings.**

(1) Pursuant to 42 U.S.C. 1395i-3, each nurse aide is subject to investigation of any allegation of resident abuse, neglect, or misappropriation of resident property.

(2) Before a substantiated claim can be entered into the registry:

(a) DIH or a designated agent shall investigate each complaint; and

(b) the nurse aide shall be entitled to a hearing that the office conducts.

**R410-14-23. Skilled Nursing Facility (SNF), Intermediate Care Facility (ICF), and Intermediate Care Facility for Persons with Intellectual Disabilities (ICF/ID) Hearings.**

Pursuant to 42 CFR 431, Subpart D, DIH shall provide an appeals hearing procedure for SNFs, ICFs or ICF/IDs. The office shall conduct the informal hearing pursuant to this rule and the requirements of 42 CFR 431.153 and 42 CFR 431.154.

**R410-14-24. Home and Community-Based Waiver Hearings.**

(1) Pursuant to 42 CFR 431 Subpart E, DIH shall provide an appeals hearing procedure for home and community-based waiver hearings. The office shall conduct the informal hearing pursuant to this rule and the requirements of 42 CFR 431.200 through 431.250.

(2)(a) For home and community-based waivers in which the Division of Services for People with Disabilities (DSPD) is the designated operating agency and the grievance is based on whether the person meets the eligibility criteria for state matching funds through the department in accordance with Section 26B-1-430, the eligibility determination of the operating agency is final.

(b) If DSPD determines that an individual does not meet the eligibility criteria for state matching funds through the department, DSPD shall inform the individual in writing and provide the individual an opportunity to appeal the decision through the administrative hearing process in accordance with Section R539-3-8.

(c) The DSPD decision is dispositive for the purposes of this subsection. The office shall sustain the determination, and there is no right to further agency review.

**R410-14-25. Restriction Program Hearings.**

(1) Pursuant to 42 CFR 431.54(e), the department may restrict a Medicaid member who uses services at a frequency or amount that is not medically necessary, in accordance with state utilization guidelines.

(2) DIH shall give the member notice and opportunity for an informal hearing pursuant to this rule before imposing restrictions.

**R410-14-26. Eligibility Hearings.**

DWS conducts eligibility hearings in accordance with Section R414-301-7.

**KEY: Medicaid**

**Date of Last Change: September 19, 2025**

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**Authorizing, and Implemented or Interpreted Law: 26B-1-202(1); 26B-1-204; 63G-4-102**