

# Hearings and Appeals Procedures

Office of Long-Term Living (OLTL)  
Bureau of Policy and Regulatory Management  
Hearings & Appeals Procedures  
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**Submit questions to:**  
[ra-oltlappeals@pa.gov](mailto:ra-oltlappeals@pa.gov)

# Hearings and Appeals Procedures

To find the Hearings and Appeals bulletin and related forms and documents, please go to:

<http://www.dpw.state.pa.us/publications/bulletinsearch/bulletinsearchresults/index.htm?po=OLTL>

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# Hearings and Appeals Procedures

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# Purpose & Background

## Purpose:

- To ensure Service Coordination Entities (SCEs) understand their responsibilities with providing notice and fair hearing requirements to Home and Community-Based Services (HCBS) waiver participants.

## Background:

- As described in State regulations at 55 Pa. Code Chapter 275 and Federal regulations at 42 C.F.R. part 431 Subpart E, and among other applicable regulations, a waiver participant has the right to receive notification of their approved service plan AND notice of revisions regarding their approved plan.

*(See bulletin)*

# Use of the MA 561 Form

- The SCE must provide notice of the approved plan and notice of revisions to the individual's plan involving the denial, reduction, termination, or suspension of a service.
- The SCE must clearly explain the basis for decisions or actions and any Departmental policy and/or regulation to support the decision.
- The SCE must provide notice of the fair hearing procedures to the individual.
- The SCE must provide the necessary appeal forms and explain to the individual how to file an appeal and, if necessary, help to fill out the forms.

*(See bulletin)*

# What can Participants Appeal?

- If the participant is dissatisfied with any decision to deny, reduce, terminate, or suspend service provided to them under the Medicaid Waiver or Home and Community Based Services Program.
- If the participant is denied the willing and enrolled provider of their choice.
- The participant can appeal the computation of the fee amount for Act 150 services, but not the fee itself.
- NOTE: The participant will **not** be granted a hearing if the action taken was caused solely by State or Federal law or regulation requiring a change in the type of services available under the waiver program.

*(See MA 561 Form)*

# How to Appeal – Participant's Role

- If participants decide to appeal, they must submit their request to their SC Agency within thirty (30) calendar days of the date of the notice. Their request must be postmarked on or before thirty (30) calendar days following the date of the notice.

**If the participant is currently receiving services and their appeal request is postmarked or received within ten (10) calendar days of the date of the notice, they will continue to receive services at the current level pending the outcome of the hearing. If, however, their appeal is postmarked after this date, their services will change as indicated by the SC.**

*(See MA 561 Form)*

# Appeal Process – SCE's Role

When the SCE receives a request for a hearing, it must date stamp it on the day of receipt and review the complaint of the individual to assure itself that the decision in question is in accordance with Departmental regulations and policies and to determine what additional step, if any, should be taken to resolve the issue without a hearing.

The SCE must forward the request for a hearing to the Bureau of Hearings and Appeals within 3 working days from the date that the appeal was received and date stamped. Email a copy to OLTL at [ra-oltlappeals@pa.gov](mailto:ra-oltlappeals@pa.gov). The participant will receive written notice from the Bureau when the hearing will be held.

*(See bulletin)*

# Agency (Pre-hearing) Conference

- The SCE must offer the individual the opportunity for an optional agency conference to resolve, if possible, the appeal. If the agency conference results in resolution of the dispute, the SCE must notify the Bureau of Hearings and Appeals by providing the participant's signed *Decision To Withdraw an Appeal Request MA 562 Form*.

*(See bulletin)*

# Representation

- Participants have the right to represent themselves **or** have someone else represent them. The SC Agency will refer the participant to agencies that may be able to provide legal help if requested. During the appeal process the participant and/or representative can present the reasons why they think the proposed action is incorrect and present evidence and/or witnesses to support your case.
- Participants may consult with family members and/or an attorney for assistance in determining whether to appeal. For some participants the long-term care ombudsman may serve as a point of contact in providing information.
- The participant and/or representative has the right to examine all information that will be introduced at the hearing, as well as other information in their case file that is not exempt under 55 Pa. Code § 105.5(b).

*(See MA 561 Form)*

# Type of Hearing

- The Bureau of Hearings and Appeals will hold a hearing for the participant either over the telephone or face-to-face. The participant may choose which type of hearing they want.
- If the participant does not have a telephone in their home and cannot get to one, they may go to the telephone hearing at their Local Agency or at a site approved by the Local Agency.
- If the participant wishes to have a face-to-face hearing, they must make such a request when they file their appeal; a face-to-face hearing will be scheduled for them at the closest available location. Transportation cost for a face-to-face hearing is the responsibility of the participant.

*(See MA 561 Form)*

# Interpreter Services

- If the participant speaks a language other than English or needs an alternative form of communication or if they need an interpreter, they may request help in obtaining an interpreter, but they must make that request in advance of the hearing. There will be no cost to the participant for this service.

*(See MA 561 Form)*

# Hearing Procedures

- *SCEs should refer participants to a local community legal services agency for further assistance, representation, and legal advice.*

The SCE must prepare for the hearing so that evidence supporting that decision or action at issue will be introduced at the hearing in an orderly and concise manner. This information should include, but is not limited to, the following:

- Names, relationships and ages of the persons affected, and the type of assistance involved.
- The decision or action which prompted the request for the hearing.
- Description of the relevant facts and events leading to the decision or action plus evidence to support the decision or action, including identification of the pertinent regulations applied in making the decision.
- Any other information that the SCE deems relevant to the decision.

*(See bulletin)*

# Examples when MA 561 is required...

-At the annual reevaluation, the SC learns of a change in functioning and a reduction in services is appropriate. After OLTL plan approval, update the ISP with a reduction of services and issue the MA 561. Provide the participant information materials packet including *Your Appeal and Fair Hearing Rights*.

-The participant requests additional services or an increase in current services and the SC or OLTL determines there is no justification for the change. If the request occurs at the time of the annual reevaluation, update the ISP with the current level of service and issue the MA 561. Provide the participant information materials packet including *Your Appeal and Fair Hearing Rights*. If the request occurs at a time other than the annual reevaluation, issue the MA 561.

NOTE: MA 561 is to be used in either the agency or participant-directed service model.

# Examples when MA 561 is NOT required...

-When the current level of service is determined to be appropriate, such as at the annual reevaluation, and the participant is satisfied with the current level of service. Update the ISP with services staying at the same level and provide the participant information materials packet including *Your Appeal and Fair Hearing Rights*.

-When the SCE or direct service provider makes the decision to no longer serve the participant, unrelated to the participant's assessed level of service or eligibility. Send a letter providing 30 days notice. See 55 Pa. Code Ch. 52.61 Provider Cessation of Services.

# MA 561 Form Instructions

## Section II:

- Numbers following each program are issue codes to be entered in Part V of the BHA Appeals Cover Sheet
- Effective Date is 10 days from the date entered on the MA 561 header

## Section III:

- SCs should keep a copy of the MA 561 for their records
- Remember to include the agency address

## Section VI:

- Mail the hard copy of the MA 561 form plus the BHA Cover Sheet
- Send to the appropriate BHA regional office based on the participant's county residence (BHA Regions Chart)

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