DUE PROCESS FOR MEDICAID COVERED SERVICES POLICY

This policy establishes the Due Process procedures for individuals who are requesting or receiving Medicaid covered services from the Erie County Board of Developmental Disabilities (ECBDD) in accordance with Ohio Revised Code (ORC) 5101.35 and Ohio Administrative Code (OAC) 5101:6-01 to 5101:6-08. This policy is in addition to ECBDD's Administrative Resolution of Complaints for Individuals Policy.

The Superintendent shall establish, revise, and keep current the procedures to be utilized in the implementation of this policy. The Superintendent/ designee shall ensure compliance with these procedures. All revisions and changes will be shared with Board Members when made.

Superintendent Signature: _____ Date: 2/19/26

Implemented: 11/04

Board Member Approval: 11/04, 5/18/17, 5/16/19, 5/20/21, 2/17/22, 2/15/24, 2/19/26

Revised: 2/21/08, 5/19/11, 5/18/17, 5/14/19, 5/20/21, 2/17/22, 2/15/24, 2/19/26

Reviewed: 7/26/16, 5/18/17, 5/14/19, 5/20/21, 2/17/22, 2/15/24, 2/19/26

Cross Reference: Ohio Administrative Code (OAC): 5101:6-1 to 5101:6-8; Ohio Revised Code (ORC): 5101.35; ECBDD Administrative Resolution of Complaints for Individuals Policy, ECBDD Service and Support Administration Policy

ERIE COUNTY BOARD OF DEVELOPMENTAL DISABILITIES
DUE PROCESS FOR MEDICAID COVERED SERVICES PROCEDURE

I. APPLICATION

A. In addition to the ECBDD Administrative Resolution of Complaints for Individuals Policy, individuals who are receiving or requesting a Medicaid covered service are afforded due process protections when services are proposed to be increased, denied, reduced, or terminated by the ECBDD.

B. Although this procedure outlines a formalized process to resolve complaints, all individuals are encouraged to discuss concerns with involved parties to resolve issues as quickly as possible.

C. The provisions of this procedure shall apply to an individual applying for or enrolled in services provided pursuant to the Medicaid Home and Community Based Services (HCBS) Waiver (Individual Options, Level 1 and SELF).

D. Individuals may appeal other ECBDD decisions related to services or administrative practices of the ECBDD, other than HCBS waiver services, using the applicable process (ECBDD Administrative Resolution of Complaints for Individuals Policy).

E. Medicaid services are to be based upon an assessed and medically related need for the service.

   1. The type, frequency, and implementation of the needed service is to be reflected in the individual's OhioISP. The OhioISP is developed and implemented upon written acceptance by the Medicaid eligible individual or his/her authorized representative. The person centered plan development process allows for specific services to be identified and be adjusted as needs change. Adverse actions to increase, deny, reduce, or terminate specific services may be the result of assessment outcomes, professional opinion, and/or the individual's request.

F. When Medicaid funded services are increased, denied, reduced, or terminated, the affected Medicaid eligible individual has the right to a state hearing if he/she wishes to appeal the decision. If the individual or his/her authorized representative does not provide written authorization for the change in services, notification must be sent prior to reducing services. There are exceptions to the requirement for prior notice of proposed adverse action. (See OAC 5101:6-2-05.)

G. The individual or his/her authorized representative has ninety (90) calendar days from the mailing or delivery date of the notice in which to file an appeal. No reduction or termination of the service or service frequency or duration may occur without giving notice to the individual or his/her authorized representative no less than fifteen (15) calendar days prior to the effective date of the proposed action.

   1. A copy of the notice will be maintained in the individual's file.
   2. Payment to the provider will continue if an appeal is received within fifteen (15) days. If no appeal is received, services will be denied, reduced, or terminated and payment will stop or be reduced in accordance with the proposed change. Payment will not be reinstated unless overturned in the appeal process in accordance with the Reinstatement of Services section of this policy. (See OAC 5101:6-4-01)

II. AUTHORIZED REPRESENTATIVE

OAC 5101:6-1-01 makes provision for a Medicaid recipient's case to be presented by the recipient, their legal or natural guardian, or by an authorized representative. An authorized representative means an individual, eighteen years or older, who stands in the place of the Medicaid recipient. The authorized representative may include a legal entity. ORC 5101:6-3-02 states that written authorization including but not limited to letters of guardianship or power of attorney, must accompany all requests made on an individual's behalf by an authorized representative.

III. GENERAL APPEAL PROCESS

A. OAC 5101:6-2-04 requires that individuals currently receiving Medicaid covered services be given written notice of any proposed increase, denial, reduction, or termination of their services.
   1. Written prior notification of a proposed action will be sent electronically, by regular U.S. mail or hand delivered no less than fifteen (15) calendar days prior to the effective date of the proposed action.
   2. The notice will contain:
      a) A clear and understandable statement of ECBDD's proposed action and the reasons for it.
      b) Citations of the applicable regulations.
      c) An explanation of the individual's right to and the method of obtaining a county conference and a state hearing.
      d) An explanation of the circumstances under which a timely hearing request will result in continued benefits.
      e) A telephone number to call about free legal services.

B. The individual may request the hearing in writing, verbally, or electronically to Ohio Department of Job and Family Services (ODJFS). ODJFS must receive the request ninety (90) days from the date the notice was given to the individual.
   1. If the request is made orally, the request shall immediately be converted to a written record by the person to whom the request is made.
   2. Requests made by telephone must be made by the individual.
   3. Requests made electronically must be made through the individual's State Hearing Access to Records Electronically account (SHARE).
   4. Any action cannot be implemented until the hearing decision is issued if the affected individual requests a hearing within fifteen (15) calendar days from the delivery date of the action notification.

C. ODJFS is responsible for coordinating all aspects of the hearing. In cases where ECBDD's decision is being appealed, ECBDD will be responsible for the preparation of the 'Appeals Summary' and defending the decision in the hearing. A copy of the summary and all related material (inclusive of the certified letter receipt) is to be kept on file as part of the individual's record/file.
   1. The 'Appeals Summary' will be provided to ODJFS and the individual before the scheduled date of the hearing.
   2. The actual hearing is typically held virtually. The appellant or authorized representative is typically present with the local ODJFS case worker, and the other relevant parties participate from their respective location.

3. The individual or authorized representative presents the basis of the appeal and ECBDD presents its justification or defense of its decision/action.
4. The hearing decision is typically not made during the hearing. The decision shall be made known in a written document to all relevant parties at a later date.

D. The individual may also request a County Conference in which the Director of Individual of Family Supports (or designee) and the individual and/or authorized representative discuss the complaint or issue and attempt a resolution.

IV. REINSTATEMENT OF SERVICES

A. OAC 5101:6-4-01 provides that when the request for a state hearing is received by the state or local agency within ten (10) calendar days after the effective date of the adverse action, and when good cause is shown for the delay in making the request, benefits shall be reinstated to the previous level. 'Reinstatement of benefits to the previous level' means that benefits shall be reinstated retroactive to the date the benefits were reduced, suspended, or terminated.

B. "Good cause" is defined as death in the immediate family, sudden illness, or injury of the individual or a member of the individual's immediate family, or other circumstances that reasonably prevented requesting a hearing within the timely notice period.

C. The individual's assigned SSA will be responsible for assuring the required forms are completed and delivered.

V. CONFIDENTIALITY

ECBDD shall, at all times, maintain confidentiality concerning the identity of individuals, complainants, witnesses, and other involved parties who provide information unless the individual, in writing, authorizes the release of information.