

# HOME AND COMMUNITY-BASED SERVICES WAIVER FOR INDIVIDUALS WITH MENTAL RETARDATION

## INSTRUCTIONS AND NOTICE OF RIGHT TO FAIR HEARING

IF YOU ARE APPLYING FOR WAIVER SERVICES OR AN ICFIMR LEVEL OF CARE, OR IF YOU OBJECT TO AN ACTION TAKEN AFFECTING YOUR CLAIM FOR WAIVER SERVICES, YOU HAVE THE RIGHT TO A COUNTY CONFERENCE OR FAIR HEARING, OR BOTH IF:

- YOU OR YOUR LEGAL REPRESENTATIVE HAVE NOT BEEN INFORMED OF FEASIBLE HOME AND COMMUNITY-BASED SERVICES, INCLUDING SERVICES FUNDED UNDER THE WAIVER, AS AN ALTERNATIVE TO CARE IN AN ICFIMR (INTERMEDIATE CARE FACILITY FOR INDIVIDUALS WITH MENTAL RETARDATION), AND ABOUT SERVICES IN AN ICFIMR.
- YOU OR YOUR LEGAL REPRESENTATIVE HAVE NOT BEEN OFFERED THE PREFERENCE OF HOME AND COMMUNITY-BASED SERVICES FUNDED UNDER THE WAIVER AS AN ALTERNATIVE TO CARE IN AN ICFIMR.
- a YOU OR YOUR REPRESENTATIVE HAVE BEEN DENIED YOUR PREFERENCE TO RECEIVE WAIVER-FUNDED HOME AND COMMUNITY-BASED SERVICES OR ICFIMR.
- YOUR CLAIM FOR SERVICES IS NOT ACTED UPON WITH REASONABLE PROMPTNESS.
- YOU OR YOUR LEGAL REPRESENTATIVE HAVE BEEN DENIED YOUR CHOICE OF a) HOME AND COMMUNITY-BASED SERVICES FUNDED UNDER THE WAIVER OR b) QUALIFIED PROVIDERS OF WAIVER FUNDED OR ICFIMR SERVICES.
- WAIVER-FUNDED SERVICES IN YOUR INDIVIDUAL PROGRAM PLAN WERE REDUCED, TERMINATED OR SUSPENDED WITHOUT YOUR CONSENT.

YOU ALSO HAVE THE RIGHT TO APPEAL ANY ACTION OR FAILURE TO ACT AND TO HAVE A HEARING IF YOU ARE DISSATISFIED WITH ANY DECISION TO REFUSE, SUSPEND, REDUCE OR TERMINATE MEDICAID HOME AND COMMUNITY-BASED WAIVER SERVICES. HOWEVER, YOU **WILL** NOT BE GRANTED A HEARING IF THE ACTION TAKEN WAS SOLELY CAUSED BY STATE OR FEDERAL LAW OR REGULATIONS REQUIRING A CHANGE IN THE TYPE OF SERVICES AVAILABLE TO YOU.

IF YOU WANT A CONFERENCE TO DISCUSS YOUR CONCERNS OR TO HAVE AN INDEPENDENT MEDIATION, PLEASE WRITE OR PHONE YOUR COUNTY MH/MR PROGRAM DESIGNEE.

YOUR COUNTY DESIGNEE **WILL** ALSO HELP YOU IN FILING FOR AN APPEAL BEFORE THE DEPARTMENT OF PUBLIC WELFARE, BUREAU OF HEARINGS AND APPEALS, IF YOU SO REQUEST.

YOUR COUNTY DESIGNEE IS \_\_\_\_\_  
NAME

**THIS COUNTY DESIGNEE CAN BE REACHED AT THE FOLLOWING ADDRESS AND TELEPHONE NUMBER:**

ADDRESS:
TELEPHONE NUMBER:

IF YOU CHOOSE TO HAVE A CONFERENCE OR MEDIATION WITH THE COUNTY **MH/MR** PROGRAM, YOU MAY DO SO WITHOUT FORFEITING YOUR APPEAL RIGHTS IF YOU CONTACT THE COUNTY **MH/MR** PROGRAM DESIGNEE WITHIN 10 DAYS OF YOUR NOTIFICATION OF THE CONTESTED ACTION. YOU DO NOT HAVE TO HAVE A COUNTY CONFERENCE OR MEDIATION IF YOU WANT TO GO DIRECTLY TO A DEPARTMENT OF PUBLIC WELFARE HEARING OFFICER TO HAVE YOUR APPEAL HEARD.

IF YOU CHOOSE TO HAVE A COUNTY CONFERENCE OR MEDIATION,, SERVICES SHOULD NOT CHANGE UNTIL A DECISION ON THE CONFERENCE OR INDEPENDENT MEDIATION IS MADE, UNLESS THAT CHANGE IS BASED SOLELY ON FEDERAL OR STATE LAW, REGULATION OR POLICY.

IF YOU ARE NOT SATISFIED WITH THE RESULTS OF THE CONFERENCE OR MEDIATION, YOU MAY APPEAL TO THE DEPARTMENT OF PUBLIC WELFARE, BUREAU OF HEARINGS AND APPEALS WITHIN 30 DAYS OF YOU BEING NOTIFIED OF THE COUNTY'S DECISION. IF YOU ARE APPEALING A CHANGE IN SERVICES WHICH ARE ALREADY PROVIDED TO YOU AND IF YOU APPEAL TO THE DEPARTMENT WITHIN 10 DAYS OF THE COUNTY'S DECISION, SERVICES WILL GENERALLY CONTINUE WITHOUT CHANGE UNTIL THE DEPARTMENT'S HEARING OFFICER MAKES HIS/HER DECISION. SERVICES WILL NOT CONTINUE IF THE ACTION IS BASED **SOLEY** ON A CHANGE IN FEDERAL OR STATE REQUIREMENTS.

IF YOU DECIDE TO APPEAL DIRECTLY TO THE DEPARTMENT OF PUBLIC WELFARE, BUREAU OF HEARINGS AND APPEALS, YOU MUST WRITE THE DEPARTMENT'S BUREAU OF HEARINGS AND APPEALS WITHIN 30 DAYS OF THE DECISION OR ACTION BEING TAKEN WHICH YOU WANT **TO** APPEAL USING FORM MR 458.

IF YOU ARE ALREADY RECEIVING WAIVER SERVICES, WAIVER SERVICES WILL CONTINUE WITHOUT CHANGE UNTIL THE **FAIR** HEARING DECISION IS MADE IF:

- YOU ARE APPEALING A DECISION TO REDUCE, TERMINATE OR SUSPEND WAIVER FUNDED SERVICES THAT YOU WERE AUTHORIZED TO RECEIVE IN YOUR INDIVIDUAL PROGRAM PLAN.
- YOU **FILE** THE APPEAL WITHIN 10 DAYS OF BEING INFORMED OF THE COUNTY'S DECISION.
- THE ACTION IS NOT DONE SOLELY TO COMPLY WITH FEDERAL OR STATE LAW, REGULATION OR POLICY.

THE DEPARTMENT OF PUBLIC WELFARE, BUREAU OF HEARINGS AND APPEALS TELEPHONE NUMBERS AND ADDRESSES FOLLOW

1. **HARRISBURG: 1401 NORTH 7th STREET, HARRISBURG. PA 17105-2675  
717-783-3950**
2. **PHILADELPHIA: 1608 PHILADELPHIA STATE OFFICE BUILDING,  
1400 SPRING GARDEN STREET, PHILADELPHIA, PA 19130-4088  
215-560-2203**
3. **ERIE: 448 WEST 11th STREET, ERIE, PA 16501-1501, 814-871-4433**
4. **PITTSBURGH: 10th FLOOR, CLARK BLDG., 717 LIBERTY AVENUE  
PITTSBURGH. PA 15222-3510, 412-565-5213**
5. **WILKES-BARRE: 111 NORTH PENNSYLVANIA AVENUE-ROOM 332  
WILKES-BARRE, PA 18711, 717-820-4904**
6. **READING: STATE OFFICE BLDG.. 625 CHERRY ST., READING, PA  
19602-9985, 215-378-4184**

AT THE HEARING, YOU CAN PRESENT TO THE HEARING OFFICER THE REASONS YOU DISAGREE WITH THE ACTION OR DECISION AND PRESENT EVIDENCE AND/OR WITNESSES TO SUPPORT YOUR CASE. YOU HAVE THE RIGHT TO REPRESENT YOURSELF OR TO HAVE SOMEONE ELSE REPRESENT YOU.

IF YOU NEED LEGAL COUNSEL, THE COUNTY MH/MR CONTACT PERSON WILL REFER YOU TO FREE COUNSEL AND ADVOCATES ON REQUEST.

IF YOU SPEAK A LANGUAGE OTHER THAN ENGLISH OR HAVE PROBLEMS IN COMMUNICATING AND NEED AN INTERPRETER, YOU MAY BRING AN INTERPRETER TO THE HEARING. IF YOU ARE UNABLE TO PROVIDE YOUR OWN INTERPRETER, YOU MAY REQUEST ASSISTANCE ON THE APPEAL REQUEST FORM AND/OR BY CONTACTING THE COUNTY CONTACT PERSON OR THE BUREAU OF HEARINGS AND APPEALS. YOU MUST REQUEST THIS IN ADVANCE OF THE HEARING.

IF YOU NEED SOME OTHER ACCOMMODATION TO ATTEND OR PARTICIPATE IN THE HEARING, YOU MAY REQUEST ASSISTANCE IN OBTAINING SUCH AN ACCOMMODATION, BUT YOU MUST MAKE THIS REQUEST IN ADVANCE OF THE HEARING. THESE REQUESTS MAY BE MADE BY CONTACTING YOUR COUNTY DESIGNEE.

THE BUREAU OF HEARINGS AND APPEALS WILL HOLD A HEARING FOR YOU EITHER OVER THE TELEPHONE OR FACE-TO-FACE. YOU MAY CHOOSE WHICH TYPE YOU WANT. IF YOU DO NOT HAVE A PHONE, YOU CAN USE THE PHONE AT THE COUNTY MH/MR PROGRAM OR THE PHONE OF A FRIEND, RELATIVE OR NEIGHBOR. INDICATE WHETHER YOU WANT A TELEPHONE OR FACE-TO-FACE HEARING ON THE ATTACHED APPEAL REQUEST FORM.

THE ATTACHED APPEAL REQUEST FORM SHOULD BE USED TO FILE YOUR APPEAL. YOUR COUNTY CONTACT PERSON OR REPRESENTATIVE MAY HELP YOU COMPLETE AND MAIL THIS FORM.

PLEASE COPY THE COUNTY MH/MR PROGRAM DESIGNEE ON YOUR APPEAL LETTER AND THE NEAREST REGIONAL OFFICE OF MENTAL RETARDATION. REGIONAL OFFICE OF MENTAL RETARDATION ADDRESSES ARE AS FOLLOWS:

1. SE REGION OFFICE OF MENTAL RETARDATION, 1400 SPRING GARDEN STREET  
PHILADELPHIA, PA 19130-4064
2. NE REGIONAL OFFICE OF MENTAL RETARDATION 100 LACKAWANNA AVENUE  
SCRANTON, PA 18503
3. CENTRAL REGION OFFICE OF MENTAL RETARDATION, RM 430, WILLOW OAK  
BLDG., HARRISBURG STATE HOSPITAL, HARRISBURG, PA 17120
4. WESTERN REGION OFFICE OF MENTAL RETARDATION, 300 LIBERTY AVENUE  
PITTSBURGH, PA 15222