

CONSUMERS/FAMILIES

<i>Funding Stream</i>	<i>Appeal Authority</i>	<i>Appealable Actions</i>	<i>Forms & Resources</i>
<p>BASE</p>	<p><u>Local Agency Law under 2 Pa. C.S. §§ 551-555.</u></p> <p>Office of Developmental Programs (ODP) Bulletin #00-08-05 - <u><i>Due Process and Fair Hearing Procedures for Individuals with Mental Retardation.</i></u> This bulletin provides ODP's policy on due process for individuals who register for or receive base-funded (non-Waiver) mental retardation services. Local Agency Law is referenced and discussed.</p>	<p>Individuals have the right to appeal when services are denied, reduced or terminated. Local Agency law mandates counties to establish an administrative review process to examine appeals when requested and to provide a written decision regarding the review as well as rights of appeal of the decision. If the individual is not satisfied with the reviewer's decision, the individual has further appeal rights through the Court of Common Pleas. Further, when an adverse decision to the appellant is rendered by the Director of the Bureau of Hearings and Appeals, the appellant has <u>30 calendar days</u> to appeal the decision and petition the Commonwealth Court (Title 55 Pa.Code § 275.4(h)(3)(i)).</p>	<p><u>FORMS (as bulletin attachments)</u></p> <p><u>CONTACTS (COUNTY MH/MR OFFICES)</u></p> <p><u>DPW SUMMARY OF INDIVIDUAL APPEAL PROCESS</u></p> <p><u>PA COURTS</u></p>

<i>Funding Stream</i>	<i>Appeal Authority</i>	<i>Appealable Actions</i>	<i>Forms & Resources</i>
<p>WAIVER (Consolidated and Person/Family Directed Support (P/FDS))</p>	<p><u>Title 55 Pa. Code Chapter 275 Appeal and Fair Hearing and Administrative Disqualification Hearings</u></p> <p>Office of Developmental Programs (ODP) Bulletin #00-08-05 - <u>Due Process and Fair Hearing Procedures for Individuals with Mental Retardation</u>. This bulletin delineates ODP's policy on fair hearings for individuals who apply for or receive services through the Consolidated and Person/Family Directed Support (P/FDS) Waivers. Chapter 275 is referenced and discussed.</p>	<ol style="list-style-type: none"> 1. A denial, suspension or discontinuance in whole or in part. 2. A denial, discontinuance, reduction or exclusion from a Departmental service program including the failure to take into account the client's choice of a service, or a determination that he must participate in a service program. 3. The individual is determined likely to meet ICF/MR level of care and is enrolled in medical assistance and not given the opportunity to express a service delivery preference for either waiver-funded or ICF/MRs. 4. The individual is denied the individual's preference of waiver-funded or ICF/MR services. 5. A qualified Mental Retardation Professional (QMRP) determines that the 	<p><u>FORMS (as bulletin attachments)</u></p> <p><u>CONTACTS (COUNTY MH/MR OFFICES)</u></p> <p><u>DPW SUMMARY OF INDIVIDUAL APPEAL PROCESS</u></p> <p><u>PA COURTS</u></p>

<i>Funding Stream</i>	<i>Appeal Authority</i>	<i>Appealable Actions</i>	<i>Forms & Resources</i>
		<p>individual does not require an ICF/MR level of care as a result of the level of care determination or redetermination process and eligibility for services is denied or terminated.</p> <p>6. The individual is denied waiver-funded services of the individual's choice, including the amount, duration, frequency and type of provider to furnish each service.</p> <p>7. The individual is denied the choice of willing and qualified waiver providers.</p> <p>8. A decision or action is taken to deny, suspend, reduce, or terminate a waiver-funded service authorized on the individual's ISP.</p> <p>9. Certain waiver actions related to level of care and Medicaid ineligibility are also subject to fair hearing and appeal procedures established through the local County</p>	

<i>Funding Stream</i>	<i>Appeal Authority</i>	<i>Appealable Actions</i>	<i>Forms & Resources</i>
		Assistance Office.	

<i>Funding Stream</i>	<i>Appeal Authority</i>	<i>Appealable Actions</i>	<i>Forms & Resources</i>
ICF/MR	<p><u>Title 55 Pa. Code Chapter 275 Appeal and Fair Hearing and Administrative Disqualification Hearings</u></p> <p>Office of Developmental Programs (ODP) Bulletin #00-02-13 - <u>Need for ICF/MR Level of Care</u>. This bulletin outlines ODP's policy when a county determines that an individual does not meet ICF/MR level of care for entrance into an ICF/MR.</p>	<ol style="list-style-type: none"> 1. A denial, suspension or discontinuance in whole or in part. 2. A denial, discontinuance, reduction or exclusion from a Departmental service program including the failure to take into account the client's choice of a service, or a determination that he must participate in a service program. 	<p><u>FORMS (as attachments to bulletin)</u></p> <p><u>CONTACTS (COUNTY MH/MR OFFICES)</u></p> <p><u>DPW SUMMARY OF INDIVIDUAL APPEAL PROCESS</u></p> <p><u>PA COURTS</u></p>

PROVIDER APPEALS

<i>Funding Stream</i>	<i>Appeal Authority</i>	<i>Appealable Actions</i>	<i>Forms & Resources</i>

<p>BASE</p>	<p><u>Title 55 Pa. Code Chapter 4300</u> <u>County Mental Health and Mental Retardation Fiscal Manual</u></p> <p><u>Local Agency Law under 2 Pa. C.S. §§ 551-555.</u></p>	<p>Contract Disputes - 4300.139(24) (d) requires counties to establish a procedure to provide contract agencies with an opportunity to be heard by the county mental health and mental retardation board or a committee thereof, regarding contract disputes.</p> <p>If the provider is not satisfied with the decision rendered by the county authority, the provider has further appeal rights to county courts based on the Local Agency Law (2 Pa. C.S. §§551-555). Per ODP, the provider has to appeal to the board or committee <u>before</u> pursuing the appeal through the county courts.</p> <p>The Local Agency Law states that any party may be represented before a local agency; that any party shall have reasonable notice of a hearing and an opportunity to be heard; that relevant evidence may be received along with the opportunity for reasonable examination and cross-examination; and that “all adjudications of a local agency shall be in writing, shall contain findings and reasons for the adjudication, and shall be served upon all parties or their counsel personally, or by mail.”</p>	<p><u>Bureau of Hearings and Appeals Regional Offices</u></p> <p><u>PA COURTS</u></p>
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<p>MA – MEDICAL ASSISTANCE</p>	<p><u>Title 55 Pa. Code Chapter 1101</u> <u>Medical Assistance Manual</u> <u>General Provisions</u> (1101.84)</p>	<p>Right to appeal from termination of a provider's enrollment and participation.</p> <p>Right to appeal interim per diem rates, audit disallowances or payment settlements.</p> <p>Right to appeal other action of the Department.</p>	<p><u>Bureau of Hearings and Appeals Regional Offices</u></p>
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<p>WAIVER</p>	<p><u>55 Pa.Code Chapter 41, Medical Assistance Provider Appeal Procedures</u></p> <p>ODP Bulletin # 00-09-01 - <u>Consolidated and Person/Family Directed Support Waivers Provider Appeals Process</u>. This bulletin specifies the procedures that the Consolidated and Person/Family Directed Support (P/FDS) Waiver Service providers must utilize to file an appeal with the Department of Public Welfare Bureau of Hearings and Appeals (BHA) for rates effective July 1, 2009 and thereafter. <i>(NOTE: Appeals relating to services funded through County-based Mental Retardation) Programs are not affected by this bulletin. Appeals relating to services funded through the County-based MR Program would continue to follow 55 Pa.Code Chapter 4300 regulations. In addition, provider challenges to any actions <u>prior to July 1, 2009</u>, should continue to follow the appeal process outlined in the 55 Pa. Code Chapter 4300 regulations)</i></p>	<p>A provider's enrollment in, participation in, claims for payment or damages under or penalties imposed upon the MA Program.</p>	<p><u>Bureau of Hearings and Appeals Regional Offices</u></p> <p><u>PA COURTS</u></p>
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<p>ICF/MR</p>	<p><u>55 Pa.Code Chapter 41, <i>Medical Assistance Provider Appeal Procedures</i></u></p> <p><u>Title 55 Pa. Code Chapter 6210 <i>Participation Requirements for the Intermediate Care Facilities for the Mentally Retarded Program</i></u></p> <p><u>Title 55 Pa. Code Chapter 6211 <i>Allowable Cost Reimbursement for Non-State Operated Intermediate Care Facilities for the Mentally Retarded</i></u></p> <p><u>42 CFR Sections 431.151 - 431.154</u></p>	<p>A provider's enrollment in, participation in, claims for payment or damages under or penalties imposed upon the MA Program.</p> <p>Under §6210.121, appealable actions include: 1. The interim rate established by the Department. 2. The findings of the auditors in the annual audit report. 3. The determination by the comptroller of the difference between the allowable costs certified by the auditor in the annual audit report and the total allowance amount as in the interim billing. 4. The denial or nonrenewal of a provider agreement.</p> <p>Under §6211.33, if a waiver is denied, the provider may appeal the decision which must be received by the Bureau of Hearings and Appeals within 30 calendar days of the mailing date of the Department's notice of the waiver denial.</p> <ol style="list-style-type: none"> 1. Denial or termination of its provider agreement. (ii) Imposition of a civil money penalty or other alternative remedy. 1. (2) Dissatisfaction with a State's finding of noncompliance that has resulted in the denial, termination, or nonrenewal 	<p><u>Bureau of Hearings and Appeals Regional Offices</u></p> <p><u>PA COURTS</u></p>
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PROVIDER LICENSING APPEALS

<i>License</i>	<i>Appeal Authority</i>	<i>Appealable Actions</i>
<u>Title 55 Pa. Code Chapter 20. Licensure or Approval of Facilities and Agencies</u>	<p>This chapter applies to facilities and agencies subject to licensure and approval under Articles IX and X of the Public Welfare Code.</p> <p><u>2 Pa.C.S. §§501—508 and 701—704</u> (relating to Administrative Agency Law) and <u>1 Pa. Code Part II</u> (relating to General Rules of Administrative Practice and Procedure).</p>	<ol style="list-style-type: none"> 1. The denial of a certificate of compliance. 2. The nonrenewal of a certificate of compliance. 3. The revocation of a certificate of compliance. 4. The issuance of a provisional certificate of compliance. 5. The length of time for which a provisional certificate of compliance is issued. 6. The reduction in the maximum capacity of the facility or agency. 7. The denial of an increase in the maximum capacity of the facility or agency.
<u>Title 55 Pa. Code Chapter 2380. Adult Training Facilities</u>	<u>2 Pa.C.S. §§501—508 and 701—704</u> (relating to Administrative Agency Law) and <u>1 Pa. Code Part II</u> (relating to General Rules of Administrative Practice and Procedure).	Consistent with Chapter 20 above
<u>Title 55 Pa. Code Chapter 2390. Vocational Facilities</u>	<u>2 Pa.C.S. §§501—508 and 701—704</u> (relating to Administrative Agency Law) and <u>1 Pa. Code Part II</u> (relating to General Rules of Administrative Practice and Procedure).	Consistent with Chapter 20 above
<u>Title 55 Pa. Code Chapter</u>	<u>1 Pa. Code Part II</u> (relating to General Rules of	Consistent with Chapter 20 above

<u>2600. Personal Care Home Licensing</u> **	Administrative Practice and Procedure).	
<u>Title 55 Pa. Code Chapter 3800 Child Residential and Day Treatment Facilities</u> **	<u>2 Pa.C.S. §§501—508 and 701—704</u> (relating to Administrative Agency Law) and <u>1 Pa. Code Part II</u> (relating to General Rules of Administrative Practice and Procedure).	Consistent with Chapter 20 above
<u>Title 55 Pa. Code Chapter 4226 Early Intervention Services</u>	<u>2 Pa.C.S. §§501—508 and 701—704</u> (relating to the Administrative Agency Law).	Consistent with Chapter 20 above
<u>Title 55 Pa. Code Chapter 6400. Community Homes for Individuals with Mental Retardation</u>	<u>2 Pa.C.S. §§501—508 and 701—704</u> (relating to Administrative Agency Law) and <u>1 Pa. Code Part II</u> (relating to General Rules of Administrative Practice and Procedure).	Consistent with Chapter 20 above
<u>Title 55 Pa. Code Chapter 6600. Intermediate Care Facilities for the Mentally Retarded</u>	<u>2 Pa.C.S. §§501—508 and 701—704</u> (relating to Administrative Agency Law) and <u>1 Pa. Code Part II</u> (relating to General Rules of Administrative Practice and Procedure).	Consistent with Chapter 20 above

**Chapters 2600 and 3800 have a 10-day timeframe period to submit appeals. These regulations were not included in the 30-day timeframe allowed for by [1 Pa. Code Part II](#) (relating to General Rules of Administrative Practice and Procedure).