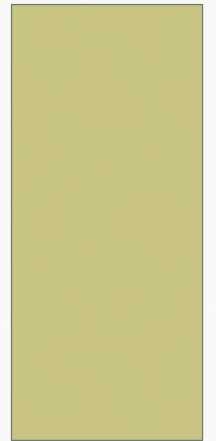


# DUE PROCESS TOOLKIT

ADVOCACY OPTIONS FOR NEGATIVE DECISIONS



# CONTACT INFO

Lydia Dawson, Esq.

Executive Director

Maine Association for Community Service Providers

PO Box 149, Hallowell, ME

(207) 623-5005

[Lydia.Dawson@meacsp.org](mailto:Lydia.Dawson@meacsp.org)

[www.meacsp.org](http://www.meacsp.org)

# GENERAL TOOLS

- Member Appeals
- Reasonable Accommodations
- Grievances

# ADMINISTRATIVE HEARING

- Third party neutral
- Set up like an informal hearing
- Can present witnesses and evidence
- Opportunities to cross examine
- Written decisions generally within 60 days
- Due process rights
- Sometimes opportunity to appeal to Commissioner
- Always opportunity to appeal to Superior Court

# MEMBER APPEAL

The Department must give an administrative hearing to:

- Any member who requests it because his or her claim for services is denied or not acted upon with reasonable promptness; and
- Any member who requests it because he or she believes the agency has erroneously terminated, reduced, or suspended MaineCare medical eligibility or covered services.

# MEMBER APPEAL – DUE PROCESS

Prior to a denial, termination, or suspension:

- Member must receive a notice, explanation, statement of right to hearing, how to get a hearing
- Notice must be sent at least 10 days before action
- If appealed within 10 days, services continue as they have been
- Regardless has 60 days to appeal

# GRIEVANCE

- Belongs to the member
- “Grievance” means a complaint about either an action or inaction of
  - (1) the Department
  - (2) a service provider
  - (3) violation of rights
  - (4) dissatisfaction with present services or supports
  - (5) alleging denial of services or supports in the PCP
  - (6) alleging violations of law, license, breaches of contracts
  - (7) violations of Rules that the Department is legally obligated to follow

# GRIEVANCE

- Belongs to the member
- “Grievance” means a complaint about either an action or inaction of
  - (1) the Department
  - (2) a service provider
  - (3) violation of rights
  - (4) dissatisfaction with present services or supports
  - (5) alleging denial of services or supports in the PCP
  - (6) alleging violations of law, license, breaches of contracts
  - (7) violations of Rules that the Department is legally obligated to follow



# GRIEVANCE

- When a provider is made aware that a person has a grievance, the provider must document the grievance. Providers must make reasonable efforts to resolve grievances and disputes as they arise, and shall have up to 8 business days to resolve any grievance or dispute.
- If not resolved in 8 days, the provider shall notify the case manager in writing, who shall commence Level I.

# GRIEVANCE

- Level 1 – Case manager
- Level 2 – Program Administrator
- Level 3 – Administrative hearing

Very messy. Unless explicitly a MaineCare denial with a missed timeline, services stay in place as they were prior to the aggrieved action.

# REASONABLE ACCOMMODATION

- The Americans with Disabilities Act: “No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.”
- Reasonable accommodations/modifications
- Request goes to DHHS ADA Coordinator – Lynn Caswell
- DHHS should have a Policy/Procedure statement

# SMALL GROUP EXERCISE

John is a person with an intellectual disability who receives in-home supports. He decides with his PCP team that he needs 10 hours of in-home support a week. His case manager asks for those hours on his behalf. The Department (or agent) sends him a letter saying he is awarded 5 hours citing that his provider is not capable of staffing more than that.

How can it be addressed?

# SMALL GROUP EXERCISE

John is a person with autism who wants to attend a community support program. He calls his Broker to arrange for a ride (Non-Emergency Transportation). The ride doesn't show up.

How can it be addressed?

What if the ride shows up late and there are a lot of people in the car which makes John uncomfortable?

QUESTIONS?

Thank you!