



STATE OF RHODE ISLAND

Department of Behavioral Healthcare, Developmental Disabilities and Hospitals

DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES

6 Harrington Road – Simpson Hall
Cranston, RI 02920

TEL: (401) 462-3421
FAX: (401) 462-2775

Appeals Process Guidance

WHAT YOU NEED TO KNOW BEFORE YOU REQUEST A HEARING:

The State of Rhode Island provides an opportunity for a fair hearing to any person whose claim for agency assistance is denied or not acted upon promptly; or whose services are suspended, terminated, or reduced. The first step in the appeal process is that you will be offered an administrative review at BHDDH, and if the review does not resolve your appeal to your satisfaction, you may request that a formal hearing be scheduled at the state Medicaid agency called EOHHS [Executive Office of Health and Human Services].

Deadline to Request an Administrative Review or a Formal Hearing:

You have **ninety (90) days** from the date of this letter **to request an administrative review at BHDDH and/or a formal hearing at EOHHS.**

Right to an Expedited Administrative Review or Formal Hearing:

Although hearings are usually scheduled within several weeks of the request, you have the right to request an expedited (sooner) hearing if the delay could jeopardize your life, your health, or your safety.

If you believe this to be true, please make sure you inform Cynthia Fusco at her phone number or e-mail address above (there is no email above for Cynthia), and please tell her how you would like to be notified whether an expedited hearing will be granted. Please also provide your reason for the request.

Description of Administrative Review:

An **Administrative Review** is a meeting you may attend to discuss with BHDDH staff the reasons BHDDH made its decision, and your reasons for disagreeing with it.

This Review is not recorded, although BHDDH staff and you may take notes. BHDDH counsel will not be present, but you may bring an attorney or another person to speak on your behalf.

You will not be asked to make any decisions during this administrative review.

After the administrative review, BHDDH will notify you in writing within fifteen (15) business days (unless BHDDH is waiting for any additional information to be submitted) to let you know if:

- BHDDH will reverse its decision without a formal EOHHS hearing, or
- BHDDH will uphold its decision and then tell you how to request the scheduling of a formal hearing before an EOHHS hearing officer.

How to Request an Administrative Review:

If you wish to request an administrative review, you must contact the Division of Developmental Disabilities either by:

- calling (401) **462-3016**,
- e-mailing **Cynthia.Fusco@bhddh.ri.gov**, or
- sending a letter through U.S. mail to:

Ms. Cynthia Fusco
BHDDH Division of Developmental Disabilities
6 Harrington Road (Simpson Hall)
Cranston, RI 02920

Please indicate in your request that you would like to have an Administrative Review before proceeding to a formal hearing. (If you would like to decline the Administrative Review and schedule a formal hearing instead, please see information in the next two sections).

Once we receive information from you requesting an Administrative Review that action will be considered the official filing of your appeal.

All Administrative Reviews are currently held via Zoom unless there is a request for an in-person meeting.

Right to a Formal Hearing:

You may request a ***formal hearing*** with Rhode Island Executive Office of Health and Human Services (EOHHS):

- If you do not wish to have an administrative review, or
- if you have had an administrative review but that did not resolve your appeal.

How to Request a Formal Hearing:

If you wish to request an EOHHS formal hearing ***without having an administrative review***, -- or if you have had an administrative review that did not resolve your appeal to your satisfaction and would like EOHHS to schedule a formal hearing -- you must fill out the enclosed form ["Appeal Form"] and send it to:

- OHHS.AppealsOffice@ohhs.ri.gov (preferred method of submission)
- ATTN: Appeals STATE OF RHODE ISLAND
- P.O. BOX 8709
- CRANSTON, 02920-8787

Sending this form via email or by mail will also be considered the official filing of your appeal.

Description of the Formal Hearing:

At the formal hearing, an EOHHS hearing officer will hear testimony from you and other witnesses, all of which will be recorded.

The hearing can address the same and/or different issues discussed at the administrative review. Other relevant issues and facts may be raised.

The EOHHS hearing officer will review any documents that are submitted by you and/or BHDDH's Division of Developmental Disabilities.

A hearing officer must have access to BHDDH's information to issue a proper hearing decision, including laws, regulations and policies concerning Medicaid, EOHHS, and BHDDH.

You have a right to request the EOHHS hearing officer to direct BHDDH to provide you with a copy of documents that BHDDH plans to submit to the EOHHS hearing officer, and any documents in BHDDH's possession that you believe will help your appeal.

The hearing officer will have 90 days from the date EOHHS receives a request to schedule a formal hearing to make a final decision on your appeal -- although the 90 days may be extended if you request a delay in the hearing or if there is an issue beyond the parties' control.

After the formal hearing is completed, the hearing officer will send a written decision to you and BHDDH.

All formal hearings are currently being held via Zoom.

Timelines:

When you appeal a BHDDH decision that reduced, discontinued or terminated certain services or a certain level of funding, you will be offered a date and time for an administrative review at BHDDH within **thirty (30) days** of your request.

If that review does not resolve the appeal to your satisfaction, you will be given information about how to request of EOHHS to schedule a formal hearing, which will be scheduled within **sixty (60) days** of your scheduling request. If your situation is an emergency, you may request that your appeal be expedited along with your reason for the request. If approved, expedited hearings will be scheduled within **seven (7) days** of the request.

Stay of Services:

If you have been notified that your current tier-level funding and/or supplemental funding will be reduced or discontinued, your current situation or level of funding may remain in place during the appeal process only if you request a "stay" while you are also requesting an administrative review/appeal/hearing. An approved "stay" temporarily stops any reduction of your current tier-level funding and/or supplemental funding that BHDDH has told you about.

However, if BHDDH grants the stay request, funding for your services will not be reduced (or discontinued or terminated) -- unless and until an EOHHS hearing officer issues a ruling that upholds the BHDDH decision to reduce (or discontinue or terminate) funding for services after a complete hearing (or other settlement/resolution).

Importantly, if the EOHHS hearing officer upholds the BHDDH decision to reduce (or terminate) funding for services, BHDDH would have the right by law to institute "recovery procedures" against you to recoup the "disputed" amount of funding for any services for which you were granted a stay. That amount would not be for all funding -- just the amount that BHDDH had told you it would reduce or discontinue or terminate.

You have the right to **not request** a stay when you file your appeal. BHDDH will be glad to discuss this question to help you make this decision in a more informed manner.

You will **not** be granted a stay if BHDDH has denied your request for only **new increased funding** beyond any tier-level or supplemental funding that you have been currently receiving.

Your Rights at the Hearing:

When you request a formal EOHHS hearing, you have the following rights established by law:

- Right to a fair hearing
- Right to request an expedited hearing
- Right to represent yourself
- Right to hire your own legal counsel
- Right to bring a relative, a friend, or other representative to the hearing
- Right to bring witnesses to testify on your behalf
- Right to establish all related facts and circumstances before the EOHHS hearing officer

- Right to present your arguments to the EOHHS hearing officer without undue interference
- Right to question or refute anyone’s testimony or other evidence
- Right to confront and cross-examine witnesses whose positions or arguments are adverse to you or your arguments
- Right to examine before any hearing the content of your case file and electronic account (which contains information about your Medicaid eligibility and enrollment).

Failure to Appear May Result in Dismissal of Your Appeal:

EOHHS is permitted by law to deny/dismiss your appeal if you fail to appear at a scheduled hearing without good cause.

You may send someone to your hearing in your place -- an attorney, representative, advocate, family member or friend -- but if no one appears, BHDDH will dismiss your appeal unless you and your representative sufficiently explain the good cause for not appearing.

Right to Appeal to Superior Court After Formal Hearing:

If you have a formal EOHHS hearing, and you are not satisfied with the EOHHS hearing officer’s decision, you have a right to appeal the decision within **thirty (30) days** (of the mailing date of the decision) to the Rhode Island Superior Court. See Rhode Island General Laws §§ 42-35-9 to -18. If you are not satisfied with any decision by the Superior Court, you may then appeal to the Rhode Island Supreme Court.

Accommodations for Disability:

If you would like an interpreter because English is not your primary language or due to hearing impairment, please inform Cynthia Fusco at:

Ms. Cynthia Fusco
BHDDH Division of Developmental Disabilities
6 Harrington Road (Simpson Hall)
Cranston, RI 02920
E-mail: Cynthia.Fusco@bhddh.ri.gov
Phone: (401) 462-3016

If you need any accommodation for a physical disability at the BHDDH administrative review or the EOHHS formal hearing, please inform Cynthia Fusco.

If requesting an in person Administrative Review or Formal Hearing, please see the information below.

Parking at BHDDH Administrative Review:

At Simpson Hall (6 Harrington Road, Cranston, RI 02920), there is parking in front of the building for those who have a placard for individuals with a disability.

Simpson Hall has a ramped front entrance. The building's elevator is accessible through an inside ramped entrance.

Parking at EOHHS Formal Hearing:

At the Virks Building (3 West Road, Cranston, RI 02920), there is parking in front (east) of the building -- and behind (south and west of) the building -- for those who have a placard for individuals with a disability.

The Virks Building's elevator is accessible through the front/east and rear/west entrances. However, the EOHHS formal hearing generally occurs on the first floor of the Virks Building.

END OF NOTICE -- ATTACHMENTS BEGIN ON NEXT PAGE