



DISABILITIES RIGHTS CENTER, Inc.

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WHAT ARE MY RIGHTS WHEN APPLYING FOR AND RECEIVING MEDICAID WAIVER SERVICES?

By: The Disabilities Rights Center, Inc.

Medicaid Waiver programs are designed to provide essential supports and services to individuals with disabilities to allow them to remain in their homes rather than being required to go into an institutional setting. The Disabilities Rights Center (DRC) recently learned that some individuals are not receiving adequate and timely notice when applying for Waiver services or when their existing Waiver services are discontinued, suspended, terminated or reduced. While we all know that New Hampshire is in the midst of a budget crisis in this difficult economic time, it is important for individuals to understand their rights when applying for and receiving these essential supports and services funded through the Medicaid Waiver programs.

What Are Waiver Programs?

Medicaid Home and Community-Based Care Waivers (sometimes called a “Community Care Waiver”) are programs that allow certain Medicaid rules to be waived so that services can be provided in community settings that normally would only be paid for when in institutions or intermediate care facilities. New Hampshire has four separate Waiver programs for specific groups of people: elderly and chronically ill (ECI Waiver or CFI “Choices for Independence” Program), developmentally disabled (DD Waiver), people with acquired brain disorders (ABD Waiver), and certain children from birth to age 21 (IHS Waiver).

What are my rights when applying for Waiver Services?

You have the right to apply for any one, or even all of these Waiver programs. While you are not permitted, under federal law, to be on more than one Waiver at a time, you may be eligible for more than one, and it is your right to determine which Waiver you would like to be served under if you are deemed eligible for more than one. Anyone who seeks to apply for any of the Waivers should have their applications reviewed for eligibility.

Federal law requires that the New Hampshire Department of Health and Human Services (DHHS) make a decision on eligibility and notify you within 90 days of your application for medical assistance on the basis of disability. DHHS must determine eligibility within this 90 day time period except in "unusual circumstances" and must document the reasons for any delay in your case record.

When you apply for the ECI Waiver/CFI Program, you may also request that DHHS make a presumptive eligibility determination. If you qualify for presumptive eligibility, you will receive Waiver services until DHHS makes a final determination regarding your eligibility.

What are my rights when I am denied eligibility for a Waiver Program?

If you are denied eligibility for a Waiver program, DHHS must provide written notice of this decision. The written notice must contain a statement of the intended action, reasons for the denial, specific legal support for the denial, and an explanation of your hearing rights, rights to representation and to continued benefits if applicable. You have the right to appeal an eligibility determination and to have a fair hearing in front of the State.

What are my rights when my Waiver Services are discontinued, terminated, suspended or reduced?

Once you are found eligible for a Waiver program, you have a right to receive those services with “reasonable promptness”. If you are already part of a Waiver program and DHHS decides to deny coverage for a Waiver service or decides to discontinue, terminate, suspend or reduce any Waiver service, DHHS must provide you with written notice of this decision. DHHS must mail a written notice to you at least 10 days before it intends to take the action.

The written notice must contain a statement of the intended action, reasons for the action, specific legal support for the action, and an explanation of your hearing rights, rights to representation and to continued benefits if applicable. You have the right to appeal any decision regarding any Waiver Service and to have a fair hearing in front of the State.

If you are told verbally that you cannot apply for a particular Waiver Program or if you are told verbally that you are not eligible for a Waiver Program you should request written notice of this decision.

If someone asks you to discontinue, terminate, suspend or reduce your Waiver services, you do not need to agree to this decision. You have a right to written notice of the action and have the right to appeal any decision related to your Waiver services.

The Bureau of Elderly and Adult Services (BEAS) within DHHS manages the ECI Waiver/CFI Program. You can apply for this Waiver by contacting DHHS directly or contacting the regional ServiceLink Resource Center in your area. DHHS’s Bureau of Developmental Services (BDS) manages the ABD and DD Waivers. You can apply for these Waivers by contacting the Area Agency in your region. Information on the locations of Area Agency or ServiceLink offices in your area can be found on the DHHS website at www.dhhs.state.nh.us.

If you would like more information regarding your rights to Waiver services or if you have submitted an application for a Waiver and have not received an eligibility determination within 90 days or if you have had your Waiver services discontinued, terminated, suspended or reduced and you did not receive adequate written notice, please feel free to contact Cindy Robertson or Rebecca Whitley at the Disabilities Rights Center, Inc. at 1-800-834-1721 (voice or TTY). For more information you can also visit our website at www.drcnh.org.