

HOW TO REPRESENT YOURSELF IN A MEDICAL DISABILITY HEARING AT THE DEPARTMENT OF SOCIAL SERVICES

If you are age 65 or older **OR** you have minor children living with you (under age 18), you can receive Medicaid without proving that you are disabled. If you are 65 or older **OR** have minor children living with you, you should apply for Medicaid at the Department of Social Services.

are disabled to receive Medicaid. To be disabled, you must show:

- You cannot work regularly due to your disability
- This disability is expected to last for at least 12 months **OR** will result in death,
- Your illness or medical condition must be so severe that you cannot work at your past job or most other jobs for at least one year.
- In addition to being disabled, you must also have limited income and assets.
- ****If you are over age 50 and have limited education and work skills it is easier to meet this disability test.**

“How is Medicaid related to Social Security and SSI?”

- Medicaid uses the same test as Social Security and SSI to determine disability. If you are **approved** for Social Security or SSI disability, you should inform DSS right away and they will approve you for Medicaid.
- If you are **denied** disability by Social Security, you should appeal within 60 days and go speak with a lawyer specializing in Social Security disability cases.
- Most Social Security attorneys do not charge a fee unless they win your case. To find a private attorney to help you with your Social Security case, look in the phone book under “Attorneys-Social Security” or call the Lawyer’s Referral Service at (704) 375-0102.
- *You can get Medicaid before you get approved for Social Security benefits.* This is important because it could take two years or more to get approved for Social Security benefits.

“What should I do if I am denied Medicaid by the Department of Social Services?”

- You should read the letter carefully and make sure that it says you were denied because you did not meet the definition of disability. If you have questions or would like to appeal, contact your Medicaid worker. His or her telephone number is written on the letter you received from the Department of Social Services.
- If you are denied Medicaid benefits, you have the right to appeal to a State Hearing Officer.
- Make sure you appeal as soon as possible. You have only 60 days to appeal a Medicaid denial. You have up to 90 days to appeal if you have a good reason for being late (i.e. you were in the hospital).
- If you have to leave a message for your Medicaid worker, make sure that you tell them you are calling to request an appeal from your denial of Medicaid benefits. Make sure to leave your name, telephone number and social security number so that they can identify you properly.

****This general information from Legal Services of Southern Piedmont is not a substitute for individual legal advice. You may wish to talk to another lawyer about your case.**

- Once you appeal, you should get a notice in the mail called “Request for State Hearing.” You do not have to reply to this notice. If you don’t receive this notice within a week of asking for an appeal, contact your worker.
- If you have all of your medical records you can send them to the hearing officer along with a letter stating the reasons why you are disabled and why you cannot work. *You do not need to write a letter to the hearing officer, but you may choose to.* If you write a letter, ask that the hearing officer make a decision based on the record and that if he cannot do so ask that he schedule the matter for a hearing. You should include your full name, social security number and date of birth.

“What do I do if I receive a notice that a hearing has been scheduled?”

- Read the notice carefully. If you cannot attend the hearing as scheduled, be sure to call **both** the Department of Social Services and the Hearing Officer as soon as possible **BEFORE** the scheduled hearing to explain why you cannot come on that date. The phone numbers are listed at the end of this packet.
- You can request your hearing be rescheduled, but this will delay your case.

“How do I prove to the Hearing Officer that I am disabled?”

1. **Get regular medical treatment.** If you have not been to a doctor recently, make an appointment. If you cannot afford to go, read the attached information on how to get free medical care. If you cannot get an appointment with a doctor and feel that you are really sick, you can go to the emergency room of your local hospital. If you are feeling anxious or depressed, you may need to go to your area mental health department.
2. **Get copies of your medical records.** Get copies of your medical records from the doctors, hospitals and clinics that have treated you in the last two years. Ask that they not charge you a fee for your records because of your low income. Explain you are trying to get their bills paid by Medicaid.
3. **Ask for a letter from your doctor.** If possible, try to get one of the doctors that has treated you recently to write a letter saying what your medical condition is, and how you are being treated. This doctor’s letter also should state that you are disabled from working because of your medical conditions, that this disability has lasted 12 months or is expected to last 12 months, and why the doctor believes you are disabled.
4. **Make notes for your use at the hearing.** The hearing officer will schedule a hearing that will take place at the Department of Social Services. This hearing is your opportunity to explain how you are disabled and why you cannot work at this time. It will be helpful for you to get all your notes together before the hearing, so that you make sure you don’t forget to say something. Following is some of the information that you will want to write down and bring to the hearing:
 - Name, Social Security Number, mailing address and the county in which you live
 - A complete list of all your medical problems.
 - A complete list of all the doctors and hospitals that you have gone to in the last two years.
 - What grade you finished in school and any learning disabilities you have, if any.

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- When you last worked a regular job and what all of your jobs have been over the last 15 years.
 - How much lifting, bending and standing each of your last jobs required, and why you can no longer do those jobs.
 - What medicines you take and how they make you feel. If you are not taking medicines or seeing a doctor regularly because you can't afford to do so, make sure you tell the hearing officer.
 - What symptoms you have that keep you from working. If you have pain, describe it—including where it is, how often and how long it lasts, what it feels like, what it keeps you from doing and what if anything relieves the pain. If you feel tired or weak, explain that. If you feel depressed or anxious, describe how you feel.
 - Describe what you do on an average day. List things you cannot do or have to do slowly or with help. If you have trouble sleeping, eating, sitting, standing, walking, dressing, bathing, cooking, doing laundry, washing dishes, cleaning, driving, shopping or going to church, make sure you tell the hearing officer. List all of the things you used to do that you no longer can do (or have a hard time doing), and explain why you cannot do them as you did before.
 - Say how far you can walk without resting, how much you can carry, how long you can stand at one time, how long you can sit at one time. Explain how you feel if you try to do too much.
 - The hearing officer is trying to make a fair decision. Be respectful of the hearing officer. You should wait your turn to speak and speak calmly. Speak slowly and clearly so that the tape recorder will record your voice.
5. **You may bring a spouse, relative or friend with you to the hearing.** You are allowed to bring somebody with you to the hearing. They can help explain how you are disabled and why you are unable to work at this time.
 6. **“What should I wear to the hearing?”** Wear what you would to go shopping, not your church clothes.
 7. **“What do I do when I get to the Department of Social Services?”** First, try to arrive at least 30 minutes prior to your scheduled hearing. Second, tell the receptionist that you are there to have your hearing for your denial of Medicaid benefits. Once you have signed in, have a seat and wait for your hearing to be called.
 8. **“What do I do at the end of the hearing?”** Before the hearing is over, ask the hearing officer if he or she needs more evidence to decide your case. If so, ask the hearing officer to “hold the record open” while you get any missing medical records or go back to the doctor or to the mental health office. The hearing officer may also schedule you an appointment to see a different doctor at the state's expense.
 9. **“What do I do once the hearing has taken place and the hearing officer says he or she doesn't need any more information?”** The hearing officer will decide your case and send you a certified letter with his or her decision. If you don't receive a letter within one month, call the Hearing Unit at (919) 733-3289. Ask the person on the phone when you can expect to receive your decision.

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“What do I do if I win my Medicaid Hearing?”

- If you win your Medicaid appeal, call your worker at the Department of Social Services.
- Give them any information they request regarding your income and assets.
- Social Services should approve your Medicaid within 30 days if you meet all the requirements. If you are not approved for Medicaid after you get a favorable decision from the hearing officer, call Legal Services at (704) 376-1600.
- If you win your Medicaid hearing, you still must have a Social Security or SSI disability appeal pending in order to get and keep your Medicaid. If you are denied Social Security or SSI disability, appeal that decision at Social Security within 60 days. If you are denied again, appeal within 60 days. ***If you don't appeal your Social Security or SSI denial you will lose your Medicaid benefits.*

“What do I do if I lose my Medicaid hearing?”

- You have ten (10) days from the date of the decision to appeal to the Chief Hearing Officer. The address and phone number will be listed on your denial letter.
- You can appeal to Superior Court, but you need an attorney to do that.
- Call Legal Services right away at (704) 376-1600 for advice about your rights if you lose your hearing.
- If you later win your Social Security case, take that decision to the Department of Social Services and they will reopen your Medicaid case.
- *You can reapply for benefits at any time at the Department of Social Services.*

“Can I get Food Stamps if I don't get Medicaid?”

- Yes. You do not need to be approved for Medicaid to get Food Stamps. You can apply for Food Stamps at the Department of Social Services.
- If you live with someone else, you may still be able to get your own food stamps if you buy and prepare your food by yourself.
- If you get approved for Medicaid, you will no longer need a doctor's statement or to register for work to get Food Stamps.
- You have 90 days to appeal if you are denied Food Stamps.
- If you have problems with Food Stamps, call Legal Services at (704) 376-1600.

HOW TO GET FREE OR LOW COST MEDICAL CARE and PRESCRIPTIONS**CMC-Sliding Scale****Community Health Services**

(704) 375-0172

601 East 5th Street, Suite 150
Charlotte, NC 28202

(704) 446-1668

1350 South Kings Drive
Charlotte, NC**Behavioral Health Center**

(704) 444-2400 or

(800)418-2065

501 Billingsley Road
Charlotte, NC 28211**MED ASSIST**

(704) 536-1790

5516 Central Avenue
Charlotte, NC 28212**Lions Eye Clinic**

704-599-4760

4600-A N. Tryon St
Charlotte, NC 28213

Here is some important contact information:**Department of Social Services**

(704) 336-3150

301 Billingsley Road
Charlotte, NC 28211

NC Department of Health & Human Services**Office of Hearings and Appeals**

(919) 255-3901

3101 Terminal Dr
2418 Mail Service Center
Raleigh, NC 27699-2418

Lawyer's Referral Service

(704) 375-0102

Social Security Administration

(800) 772-1213

TTY: (800) 325-0778

5800 Executive Center Drive
Suite 300
Charlotte, NC 28212

Legal Services

(704) 376-1600

1431 Elizabeth Avenue
Charlotte, NC 28204

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