**Section 120.110 Appeals and fair hearings**

a) The Individual, parents, guardian, or the Individual's representative may appeal the following actions:

1) Refusal of the Division or ISC agency to accept a request for Waiver program enrollment.

2) Failure of the Division or ISC agency to act on a request for services within the mandated time period.

3) Denial of a requested Waiver service by the Division or ISC agency (i.e., Individual in Home-Based Supports and is now requesting Assistive Technology).

4) Denial of clinical eligibility by the Division or an ISC agency.

5) Suspension, termination, or reduction of services by the Division or a provider agency.

b) The desire to appeal any action listed under subsection (a) shall be communicated to the ISC within 10 working days after the date the Individual or guardian receives the notice of action from the provider. The communication shall be followed by a written request to appeal signed by the Individual, parent, guardian, or Individual's representative.

c) Within 45 days after receiving notification to appeal, the ISC must:

1) Gather the following:

A) The written request to appeal signed by the Individual, parent, guardian, or Individual's representative.

B) A complete appeal checklist.

C) A complete Documentation for Medicaid Waiver Appeals form (IL444-0171) and supporting documents as indicated in the form.

D) Documents from the provider agency to support its decision to suspend, terminate, or reduce services.

E) Any additional documentation relevant to the appeal.

2) Submit the documents pursuant to subsections (c)(1)(A) through (E) to DDD's Appeals Unit by:

A) Secure email. Emails should be directed to DHS.DDDAppeals@illinois.gov;

B) Fax to 217-558-2799 Attn: Appeals Unit supervisor; or

C) Mail to:

DHS/DDD – Program Development

Attn: Appeals Unit Supervisor

600 East Ash Street Building 400, 3rd Floor South

Springfield, IL 62703

d) Within 30 working days after the appeal and supporting documents indicated in subsection (c)(1) are received, DDD shall conduct an informal review of the appealed action listed in subsection (a) and either uphold or not uphold the appealed action. The Individual, parent, guardian, or Individual's representative (if any), and the service providers shall be notified in writing of DDD's decision within 10 working days after the informal review is complete. The written notification shall include:

1) A clear statement of the action to be taken;

2) A clear statement of the reason for the action;

3) A specific policy reference which supports such action; and

4) A complete statement of the Individual's right to continue the appeal and have an Administrative Hearing with HFS. When DDD's Informal Review decision does not support the Individual's appeal, the Individual, parent, guardian, the Individual's representative, and provider, if applicable, will be notified that the appeal will continue to HFS for an Administrative Hearing.

e) When DDD's informal review decision does not support the Individual's appeal, within 10 working days after the decision, DDD shall forward the appeal and all documents reviewed to HFS for an administrative hearing to be scheduled by HFS.

f) The hearing shall be conducted by an impartial hearing officer appointed by HFS.

g) The hearing may be held by telephone.

h) HFS' hearing rules for assistance appeals, as set forth at 89 Ill. Adm. Code 104, shall apply, except that subsection (d) shall apply rather than any similar HFS rule.

i) Following the hearing, the Director of HFS shall issue a final administrative decision in accordance with 89 Ill. Adm. Code 104.70. Copies of the decision shall be mailed to the Individual, guardian, parent, the Individual’s representative (if any), the provider, and the Supervisor of DDD's Appeals Unit.

j) The receipt of the appeal shall stay the decision pending the final administrative decision or the withdrawal of the appeal. If the decision being appealed is regarding suspension, termination, or reduction of services, services shall not be suspended, terminated, or reduced until the appeal is resolved, except as described below.

1) Services may be suspended, terminated, or reduced before the final administrative decision when:

A) The physical safety or health of the Individual or others is in extreme risk of harm; or

B) Appropriate medical services are not available at the provider agency thereby jeopardizing the health of the Individual; and

C) The ISC agency has:

i) Reviewed the Individual's record and clinical information;

ii) Reviewed the actions, including the supports implemented, of the provider;

iii) Discussed the current situation and alternatives available with the Individual and guardian;

iv) Determined that a delay in termination, suspension, or reduction in services would put the safety of the Individual or others in extreme risk of harm and has documented that fact in the Individual's record; and

v) Consulted with the Division of Developmental Disabilities.

2) If the conditions of subsection (j)(1) are met, services to the Individual may be terminated, suspended, or reduced and the notice of action shall be given in accordance with Section 120.70(h) as soon as possible, but in no case later than 48 hours before the termination, suspension, or reduction in services.

3) The provider shall continue to provide services until the appeal is resolved except as described in subsection (j)(l).

4) If the conditions of subsections (j)(l)(A) or (B) exist, the Individual (if possible), the guardian, the ISC agency, and a Department representative will work together to secure alternative services. The provider agency (including the QIDP) shall work cooperatively with the Individual, the guardian, the ISC agency and the Department in effort to secure and transition Individuals to alternative services. This includes, but is not limited to, supplying records and other documents, supplying the Individual's personal items, and conferencing with prospective agencies regarding the Individual's care.

(Source: Amended at 48 Ill. Reg. 5279, effective March 21, 2024)