

Developmental Disabilities Resource Center Case Management Agency Dispute Resolution Procedure

Purpose and Definition

The dispute resolution procedure is applicable for individuals, their parents of a minor child, guardians, and/or authorized representatives, applying for and receiving state-funded services or transferring to another community centered board. The purpose is to assure opportunity to question agency decisions and actions. It is to serve as a method to resolve issues and achieve solutions to problems concerning decisions on the items listed below. The use of this procedure shall not prejudice future provision of appropriate services or supports to the individual in need of and/or receiving services. In addition, an individual exercising his or her right to file a complaint or participating in the dispute resolution process shall not be coerced, intimidated, threatened, or retaliated against.

All individuals their parents of a minor, guardian or authorized representative as appropriate, applying for or receiving these services, will be informed orally and in writing of Developmental Disabilities Resource Center's (DDRC's) Case Management Agency Dispute Resolution Procedure at the time an application for services is made, enrollment into services, when changes in the plan are contemplated, and when the following events occur:

- a) State-funded services or supports are to be terminated; and/or
- b) State-funded services set forth in the Individualized Service Plan are to be changed, reduced, or denied
- c) Transfer to another community centered board is anticipated.

Individuals seeking to appeal an eligibility determination decision or who are waiting for or receiving Medicaid Waiver services or supports will be directed to use the Medicaid Administrative Law Judge Hearing process as described in Section 8.057 of Volume 8 of the Medicaid Rules.

Dispute resolution information will be provided orally and in writing, in English and interpretation in native languages other than English, and through other modes of communication as necessary. Assistance will be provided as necessary to make all information understood to the greatest extent possible by the participant and representative upon request at any time.

Names and phone numbers of people to contact for assistance in submitting a dispute will be provided, including, but not limited to:

Individual's Resource Coordinator (303-233-3363)
The Legal Center (303-722-0300)
ArcJC (303-232-1338)

Additional positions to contact within the Developmental Disabilities Resource Center regarding a dispute include the following:

Director of Resource Coordination Services DDRC (303-233-3363)
Associate Director or Assistant Director DDRC (303-233-3363)
Executive Director of the Developmental Disabilities Resource Center (303-233-3363)

Written notice as defined in Colorado Department of Human Services Rule 16.120 shall be provided to the person receiving services/applicant the person's parents of a minor, guardian, and/or authorized representative at least fifteen (15) days prior to the date the action in dispute becomes effective.

Individuals who are applying for or enrolled in **state-funded services for developmental disabilities**, must appeal under the Colorado Department of Human Services process as defined in rule 16.322.

No person receiving these services may be terminated from services or supports during the dispute resolution process unless the Department of Human Services determines it is an emergency situation, affecting the preservation of the health, safety or welfare of the public or of the individual.

Written records of all disputes will be made part of the service participant's records and will also be in the administrative file. The Department of Human Services will be notified by the Developmental Disabilities Resource Center Case Management Agency or the involved Program Approved Service Agency of all formal dispute proceedings and the determinations made.

PROCEDURE

1. Filing the Appeal

The process is initiated when the individual files a written complaint or request to appeal with the person or agency initiating the disputed action. The request to appeal should indicate what is being appealed and the reason(s) why. It is recommended individuals appealing contact their Resource Coordinator who can provide support through the appeal process. Individuals or their representatives have 10 days to file their complaint in writing.

2. Informal Negotiation

Appeals resulting from termination from a state-funded service or transfer to another community centered board are directed to the Resource Coordinator. The Resource Coordinator will schedule a meeting or phone conference with the individual and their representatives as desired, within fifteen (15) days of receipt of the letter of appeal, and document the results. The informal negotiation process is required, but may be waived by mutual consent in rare instances.

State-funded service appeals shall be directed to the Program Director or designee. The Program Director will schedule a meeting or phone conference with the individual and their representatives as desired, within fifteen (15) days of receipt of the letter of appeal, and document the results. The informal negotiation process is required, but may be waived by mutual consent in rare instances. The Resource Coordinator will be kept informed regarding the progress of the appeal.

Mediation may be considered as an alternative means to informal negotiation if both parties voluntarily agree to this process.

3. Formal Negotiation

If the informal process does not lead to resolution, the service agency or the person appealing can request the **formal dispute resolution process**. Involved parties will be given the opportunity to present information and evidence in support of their positions to an impartial decision-maker designated by the Developmental Disabilities Resource Center Director or Program Approved Service agency director as appropriate. The designated decision-maker should not have been directly involved in the matter and should be able to render a decision in a fair and impartial manner. Notification of at least ten (10) days prior to the meeting will be given to all parties, unless waived by the objecting parties.

The formal dispute resolution process is typically audio-taped. The objecting party may have representation by counsel, advocate, authorized representative, or another individual if the party so

desires. Written information may be submitted as evidence to the impartial decision-maker prior to the meeting. Parties may have the opportunity to respond to or question the opposing position.

A written decision including the rationale by the designated decision maker will be submitted to all involved parties within fifteen (15) days after the meeting occurs. The Department of Human Services will be notified by the Developmental Disabilities Resource Center or the involved service agency of the dispute proceedings and determinations made. The program approved service agency will notify the Developmental Disabilities Resource Center of the dispute proceedings and determinations made at the same time they notify the Department of Human Services.

4. DDRC Executive Director Review

If the involved program approved service agency has been coordinating the dispute proceedings and does not resolve the dispute, the parties may request that the Executive Director of the Developmental Disabilities Resource Center or a designee review the decision. The parties involved must submit a request to the Executive Director of the Developmental Disabilities Resource Center to review the outcome of the dispute resolution process within fifteen (15) working days from when the written decision was postmarked.

5. State Review

The parties may request that the Executive Director of the Colorado Department of Human Services or designee review the decision if Developmental Disabilities Resource Center is unable to resolve the dispute. The parties involved must submit a request to the Executive Director of the Department of Human Services to review the outcome of the dispute resolution process within fifteen (15) working days from when the written decision was postmarked.

The request for review shall also contain a statement of the matters in dispute and all information or evidence that is deemed relevant to a thorough review of the matter. The Developmental Disabilities Resource Center or the program approved service agency shall likewise be afforded the opportunity to respond within fifteen (15) working days.

The Executive Director of the Department or designee shall have the right to additional information and may request oral argument or a hearing if deemed necessary to render a decision. A de novo review of the dispute and a decision shall be provided by the Executive Director of the Department or designee within ten (10) working days of the submission of all relevant information. The decision of the Department shall constitute final agency action on the dispute.

Note: Parent(s) or guardian of a minor, age birth to three years, may utilize the dispute resolution process specified under the requirements of the Procedural Safeguards for Early Intervention Services pursuant to P.L. 94-142, Individuals with Disabilities Education Act.