Medicaid Services & Appeals

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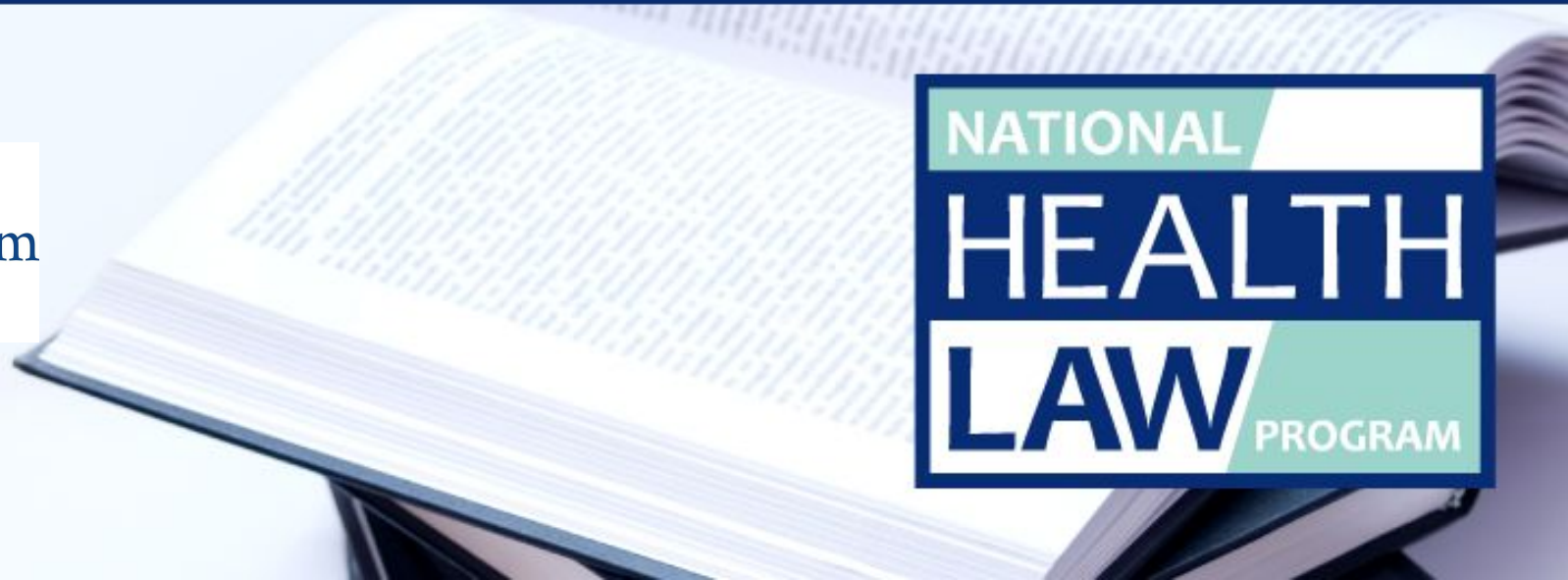
Health & Medicine Law Firm
Advocates for Patients & Physician Directed Healthcare



Panelists

- Sarah Somers

Sarah is the Legal Director for the National Health Law Program, where she has worked for years with advocates across the country, engaging in litigation, research, writing, and training on the Medicaid program, the Americans with Disabilities Act, and the Affordable Care Act, among other issues.

- Maria Santi

Maria is the founder of the Health and Medicine law firm based in Miami, Florida. She assists patients and consumers in a wide variety of health and medicine related disputes, including access to medically necessary services under Florida's Medicaid program.

What We'll Cover

- Authorizations
  - Covered Benefits
  - Evidence of Medical Necessity
  - Timeframes for processing
- Administrative Appeals
- State Court Appeals
  - Procedural Considerations
  - Framing the Issues
  - Resources

Authorizations | federal framework

- Optional vs. Mandatory Services
  - Early Periodic Screening, Diagnostic and Treatment Services
- Amount, Duration & Scope
- Comparability
- Reasonable standards
- Managed care
  - MCOs

By the way…what is managed care?

- Managed Care vs. Fee For Service
- Ten Plans in Florida
  - https://quality.healthfinder.fl.gov/Facility-Provider/Health-Plans?&type=Medicaid-Summary
- Florida Model Contract
  - https://ahca.myflorida.com/medicaid/statewide-medicaid-managed-care/2025-2030-smmc-plans/model-health-plan-contract

Authorizations | Florida

- State guidance
  - Florida statutes
  - AHCA Model Contract
  - AHCA Coverage Policies
- Establishing provider relationships & key concerns
- Letters of medical necessity & declarations
- Assisting the client in navigating the process

Administrative Appeals | federal framework

Individuals have rights to notice of and opportunity for a hearing for disputes over eligibility and services

- 14th Amd., U.S. Const.
- 42 U.S.C. 1396a(a)(3)
- 42 U.S.C. 1396u-2(b)(4)
- 42 C.F.R. pts 431, 438 pt E (MC)
- Contracts (MC)

Administrative Appeals | federal framework

- Procedural rights – Notice
  - A statement of the adverse benefit determination, reasons for it, and right to information relevant to the determination
  - Right to appeal, including expedited appeal
  - Right to continued benefits
- Procedural rights – Hearings
  - Present evidence and arguments
  - Impartial decision maker
  - Written decision

Administrative Appeals | federal framework

- Managed care
  - Appeals
    - "adverse benefit determination"
      - Denial, reduction, suspension, termination, delay of service
      - Denial or limited approval based on medical necessity, setting, effectiveness
      - Disputes involving cost sharing
    - Internal appeal exhaustion required
    - Expedited appeals
  - Grievance
    - Expression of dissatisfaction about anything other than adverse benefit determination

Administrative Appeals | federal framework

- Timeframes for action/resolution
  - Standard service authorization requests: as expeditiously as possible, and within 14 days
  - Expedited service authorization request: as expeditiously as health requires, and within 72 hours
  - Appeals: within 30 days for standard appeals, 72 hours for expedited

Administrative Appeals | Florida

- **Internal appeals**
  - Process to request
  - Content of Appeals
  - Expedited internal appeals
  - Collaboration with physicians and medical team
  - Knowledge of applicable laws and regulations

- **AHCA Fair Hearings**
  - Process to request
  - 59G-1.100, F.A.C.
  - Continuances
  - Preparing for hearing
  - Going to hearing

Internal Appeals | Florida

- **Internal appeals** – Road Map
  - Plan issues a **Notice of Adverse Benefit Determination** (NABD)
  - Appeal must be requested within **sixty (60) days** by phone or in writing
  - Appeal must be sent to the address or phone number listed in the NABD
  - Plan will respond within **thirty (30) days**, if expedited within **48 hours**
  - Plan must agree to accept appeal as expedited – to qualify denial would put the person's life, health, or ability to attain, maintain, or regain maximum function in danger
  - **Contents of appeal**: for best chance to overturn include medical documentation, Doctor's declaration, and rules and regulations relevant to the issue and denied service
  - If denied, Plan issues a **Notice of Plan Appeal Resolution** (NPAR)

Internal Appeals | Florida

Contents of appeal: for best chance to overturn include medical documentation, Doctor's declaration, and rules and regulations relevant to the issue and denied services

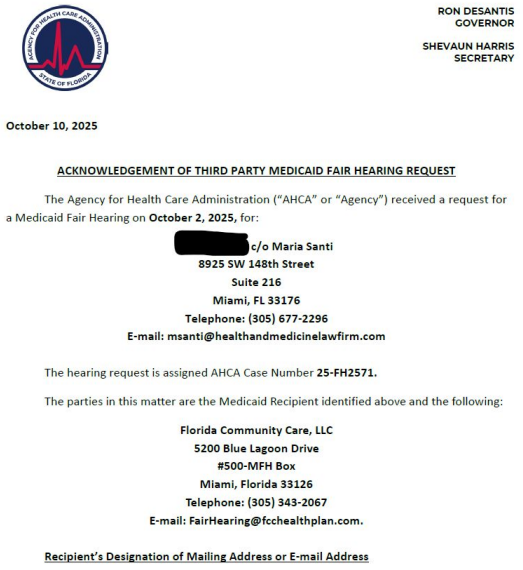
Affidavit v. Declaration

- **AHCA Model Contract**
- **Member Handbook provisions**
- **Applicable Medicaid Coverage Policies**
- **Florida Administrative Rules**

- If denied, Plan issues a **Notice of Plan Appeal Resolution** (NPAR)

AHCA Fair Hearings | Florida

- **AHCA Fair Hearings - 59G-1.100, F.A.C.**
  - Plan has issued a **Notice of Plan Appeal Resolution** (NPAR)
  - Member has **120 days** or **four (4) months** to request a Fair Hearing
  - Hearing can be requested by phone or in writing to the address or phone number listed in the NPAR
  - AHCA will issue a Notice of Acknowledgment of Hearing Request with Case Number



RON DESANTIS
GOVERNOR

SHEVAUN HARRIS
SECRETARY

October 10, 2025

ACKNOWLEDGEMENT OF THIRD PARTY MEDICAID FAIR HEARING REQUEST

The Agency for Health Care Administration ("AHCA" or "Agency") received a request for a Medicaid Fair Hearing on **October 2, 2025,** for:

[redacted] c/o Maria Santi
8925 SW 148th Street
Suite 216
Miami, FL 33176
Telephone: (305) 677-2296
E-mail: msanti@healthandmedicinelawfirm.com

The hearing request is assigned AHCA Case Number **25-FH2571.**

The parties in this matter are the Medicaid Recipient identified above and the following:

Florida Community Care, LLC
5200 Blue Lagoon Drive
#500-MFH Box
Miami, Florida 33126
Telephone: (305) 343-2067
E-mail: FairHearing@fcchealthplan.com.

Recipient's Designation of Mailing Address or E-mail Address

AHCA Fair Hearings | Florida

- **AHCA Fair Hearings - 59G-1.100, F.A.C.**
  - After Notice of Acknowledgment of Hearing Request must file:

1. Notice of Appearance;

2. Must file Designation of Authorized Representative for Medicaid Fair Hearing Participation signed by the Member

- **General Medicaid information**
- **Authorized representative information**
- **Select preferred method of contact**

AHCA Fair Hearings | Florida

NOTE: This sample designates a Medicaid Recipient's Authorized Representative for a Fair Hearing. It also allows the Agency for Health Care Administration to disclose Protected Health Information (PHI) about the Recipient to the Authorized Representative. To designate an Authorized Representative to file or represent a Medicaid Recipient in a Fair Hearing, complete and submit this sample to the Office of Fair Hearings at the address provided in the sample instructions below. Designation of an Authorized Representative does not require use of this sample; any writing that meets the requirements of Rule 59G-1.100, Florida Administrative Code, for designation of an Authorized Representative may be used.

DESIGNATION OF AUTHORIZED REPRESENTATIVE FOR MEDICAID FAIR HEARING PARTICIPATION (SAMPLE)

For instructions for filling out this form, please see reverse side.

Recipient Information

Last: _____ **First:** _____ **Middle Initial:** _____

Recipient Medicaid ID: _____ **Recipient Year of Birth:** _____

I wish to designate the person below as my Authorized Representative. I fully understand that this designation will permit my Authorized Representative to file and participate in the Medicaid Fair Hearing on my behalf until conclusion of the hearing and issuance of the Final Order. Also, I consent to the disclosure of my Protected Health Information (PHI) by the Agency for Health Care Administration to my Authorized Representative designated herein for the purposes of filing and participating in the Medicaid Fair Hearing on my behalf. **The address written below will serve as the address of record in the Fair Hearing, unless otherwise indicated.**

Authorized Representative: _____
(Print Name)

Address: _____

_____

Phone: _____

E-mail: _____

Please select your preferred contact (select only one): E-mail: ☐ OR USPS Mail: ☐
If no box is selected, or if both boxes are selected, your default preferred contact will be USPS mail.

Fair Hearing Case Number: 25-FH2571

Recipient or Legal Representative:

_____
(Print Name)

_____ _____
(Signature) (Date)

Instructions

Recipient Information:

Last: Enter the legal last name of the recipient.

First: Enter the legal first name of the recipient.

Middle Initial: Enter the first letter of the legal middle name of the recipient.

Recipient Medicaid ID: Enter the Medicaid ID of the recipient.

Recipient Year of Birth: Enter the year of birth for the recipient.

Authorized Representative Information:

Authorized Representative: Enter the legal name of the representative.

Address: Enter the mailing address of the representative.

Phone: Enter the phone number of the representative.

E-mail: Enter the e-mail address of the representative.

Preferred Contact: Indicate whether the representative's preferred contact is e-mail or USPS mail. Select only one box. If no box is selected, or if both boxes are selected, your default preferred contact will be mail.

Fair Hearing Case Information:

Fair Hearing Case Number: Enter the case number for the fair hearing.

Final Instructions:

The sample must be signed and dated by the recipient and submitted using one of the methods below.

E-mail	Fax	Mail
OfficeOfFairHearings@ahca.myflorida.com	(850) 487-1423	Agency for Health Care Administration 2727 Mahan Drive Mail Stop #11 Tallahassee, FL 32308

AHCA Fair Hearings | Florida

- **AHCA Fair Hearings – Continuance**
  - AHCA will Issue an Order Setting the Hearing
  - Usually within thirty (30) days of request for hearing
  - Often continuance must be requested to ensure all witnesses are available and to gather evidence and medical documentation
  - **Governed by 59G-1.100 (14), F.A.C.**
    - Granted only with *good cause* shown
      - recipient's inability to attend the hearing through no fault of his or her own, or a party's good faith need for more time to conduct discovery
    - Stipulation of all parties of record
    - Requests must be made **at least (5) five days prior** to the date noticed for the hearing except in case of emergency.

AHCA Fair Hearings | Florida

- **AHCA Fair Hearings – Prepare for Hearing**
  - **Discovery:** allowed as per Florida Rules of Civil Procedure 1.280 through 1.410
  - **Identify all witnesses**: Set preparation calls, outline of testimony and issue Subpoenas
  - **Evidence**: Order requires Petitioner to submit documents **ten (10)** days prior to the hearing date, all evidence must be numbered consecutively
  - **Respondent**: Plan will issue a packet with evidence which is usually limited to denials, appeal and final notice of appeal resolution

AHCA Fair Hearings | Florida

- **AHCA Fair Hearings – Attend Hearing**
  - **Informal:** Rules of evidence are informal and not like typical rules; more evidence will get admitted, even hearsay
  - **Witnesses**: all witnesses need to appear via telephone and be sworn in to testify
  - **Opening Statements**: Each party will present evidence and opening statements and party with burden of proof goes first
  - **Burden of Proof**: Preponderance of the evidence. If denial, Petitioner bears burden. If reduction, plan bears the burden.
  - **Final Order**: Hearing officer will issue an Order 30 days after the hearing

Administrative Appeals | The Role of Grievances

- What are grievances?
  - 42 C.F.R. 438, subpart F (also includes appeals)
    - .402 (required to make available; no deadlines)
    - .406 (notice of availability)
    - .408 (deadlines and process for resolution)
    - .414 (notice of availability to providers & subcontractors)
  - AHCA Medicaid Managed Care Contract: Core Contract Provisions, p.77
- How can they be utilized in appealing service denials?
  - Anything!
  - Fail to continue benefits
  - Fail to process an appeal/fail to process in expedited manner
  - Improper billing

State Court Appeals | federal perspective

- Appeal of adverse hearing decisions to state court
  - Beneficiary
  - State/MCO?

- Increasingly appealing alternatives to federal court
  - Supreme Court case: *Medina v. Planned Parenthood*

State Court Appeals| state framework

- **Deadline to request**: If Final Order is Unfavorable, an Appeal must be filed with the Appellate Court within **thirty (30)** days per Florida Rule of Appellate Procedure 9.190

- **Where to File**: Selecting a district court of appeal depends on location of Petitioner or where AHCA is located. Can always file in the First DCA.

- **Parties:** The MCO plan and the Member will be parties to the appeal. AHCA is only a party if it directly administers the benefits. Other parties may be Children's Medical Services depending on the plan at issue.

- **Briefing schedule:**
  - **Initial Brief**: 70 days after filing Notice of Appeal
  - **Answer Brief**: 20 days after service of the initial brief
  - **Reply Brief**, if any, shall be served within 20 days after service of the answer brief
  - **Cross-reply Brief:** if any, shall be served within 20 days thereafter

- **Common issues to appeal:** Abuse of discretion by AHCA, Procedural issues, Ignoring evidence. *See* § 120.68 (7), Fla. Stat.

State Court Appeals| state framework

§ 120.68 (7), Fla. Stat.

- **(7) The court shall remand a case to the agency for further proceedings consistent with the court's decision or set aside agency action, as appropriate, when it finds that:**
  - **(a) There has been no hearing prior to agency action and the reviewing court finds that the validity of the action depends upon disputed facts;**
  - **(b) The agency's action depends on any finding of fact that is not supported by competent, substantial evidence in the record of a hearing conducted pursuant to ss. 120.569 and 120.57; however, the court shall not substitute its judgment for that of the agency as to the weight of the evidence on any disputed finding of fact;**
  - **(c) The fairness of the proceedings or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure;**
  - **(d) The agency has erroneously interpreted a provision of law and a correct interpretation compels a particular action; or**
  - **(e) The agency's exercise of discretion was:**
    1. **Outside the range of discretion delegated to the agency by law;**
    2. **Inconsistent with agency rule;**
    3. **Inconsistent with officially stated agency policy or a prior agency practice, if deviation therefrom is not explained by the agency; or**
    4. **Otherwise in violation of a constitutional or statutory provision; but the court shall not substitute its judgment for that of the agency on an issue of discretion.**

Resources

- NHeLP Issue Brief: http://healthlaw.org/wp-content/uploads/2016/05/2016_05_2016_Issue_Brief_2_MMC_Regs_Grievance_Appeals.pdf
- NHeLP Due Process Briefing Book (upon request)
  - Version 2: Jan. 2026
  - Medicaid Work Requirements implementation and other OBBBA fallout
- FHJP's Advocates' Guide to Long Term Care (details rules for all managed care appeals)
- FHJP Factsheets: How to File A Grievance; How to File a Managed Care Appeal
- Florida Bar Appellate Section: Pro Se Handbook for District Court Appeals

Resources

- *Q.H. v. Sunshine State Health Plan, Inc.*, 307 So. 3d 1 (Fla. 4thDCA 2020);
- *A.W. v. Humana Med. Plan, Inc.*, 270 So. 3d 400 (Fla. 4th DCA 2019);
- Section 409.973, Florida Statutes;
- Section 409.905(2) of the Florida Statutes;
- Florida Medicaid Provider General Handbook;
- 42 U.S.C.A. § 1396a;
- Sec. 1905 of the Social Security Act. [42 U.S.C. 1396d];
- EPSDT Guide from Medicaid.gov

Questions?