

3701-43-23 Appeal procedures for decisions concerning the program for medically handicapped children.

- (A) This rule prescribes the procedures for appealing proposed decisions of the director concerning the program for medically handicapped children that are subject to division (H) of section 3701.023 of the Revised Code. These proposed decisions include:
- (1) A proposed determination under rules 3701-43-15 and 3701-43-11 of the Administrative Code that an applicant or recipient, as defined in paragraphs (C) and (R) of rule 3701-43-01 of the Administrative Code, does not meet the requirements for financial or medical eligibility for payment for treatment or diagnostic services prescribed by rules 3701-43-11, 3701-43-16, and 3701-43-17 of the Administrative Code;
 - (2) A proposed determination under rule 3701-43-15 of the Administrative Code that an adult cystic fibrosis applicant or recipient, as defined in paragraphs (A), (C), and (R) of rule 3701-43-01 of the Administrative Code, does not meet the financial eligibility requirements under rule 3701-43-16 of the Administrative Code or the medical eligibility requirements for payment for treatment services under rule 3701-43-17 of the Administrative Code;
 - (3) A proposed determination under rule 3701-43-13 of the Administrative Code that an applicant for or recipient of service coordination, as defined in paragraph (S) of rule 3701-43-01 of the Administrative Code, does not meet the requirements for eligibility for service coordination;
 - (4) A proposed denial of a request for authorization of provision of treatment services or goods under rule 3701-43-18 of the Administrative Code or provision of diagnostic services under rule 3701-43-12 of the Administrative Code;
 - (5) A proposed termination of approval under rule 3701-43-10 of the Administrative Code of a provider, as defined in paragraph (P) of rule 3701-43-01 of the Administrative Code; and
 - (6) A proposed decision to pay an amount less than the charges for authorized goods or services under rule 3701-43-09 of the Administrative Code.
- (B) An affected party may request reconsideration of a proposal by the director to make one of the decisions listed in paragraph (A) of this rule by filing a written request for reconsideration with the director no later than forty-five days after the date on the notice of the proposed action issued under the applicable provision of this chapter of the Administrative Code. The request for reconsideration shall contain a statement of the reasons that the affected party believes that the proposed decision is incorrect or inappropriate, a copy of the denial letter, and may also include any written documentation, arguments, or other materials that the affected party wishes to submit for the purposes of this rule:
- (1) An item is filed with the director when it is received by the Ohio department of health.
 - (2) "Affected party" means:
 - (a) The applicant or recipient, recipient's parent, guardian or other legal

representative, in the case of the proposed decisions listed in paragraphs (A)(1) to (A)(4) of this rule. The applicant, recipient, parent, guardian or other legal representative may be represented in proceedings under this rule by any person whom the applicant, recipient, parent, guardian or other legal representative has authorized in writing to represent the interests of the applicant, recipient, parent, guardian or other legal representative relative to the director's proposed decision.

- (b) The provider, in the case of a proposed decision listed in paragraph (A)(5) of this rule.
 - (c) The provider who submitted the request for payment, in the case of a proposed decision listed in paragraph (A)(6) of this rule.
- (C) For the purposes of reconsideration, the director may request from the affected party additional, relevant records or documentation within forty-five days of receipt of the request for reconsideration or additional information previously submitted under this paragraph. The affected party shall file any requested information with the director no later than forty-five days after the date on the request for additional information.
- (D) Within forty-five days after receipt of a request for reconsideration from an affected party that complies with paragraph (B) of this rule and of all necessary additional information filed in accordance with paragraph (C) of this rule, the director shall issue written notification to the affected party who requested the reconsideration:
- (1) That a decision has been rendered in favor of the affected party; or
 - (2) That the proposal to issue a decision adverse to the affected party remains in effect and that the affected party may request an adjudicatory hearing concerning the proposed decision. The notice of the opportunity for a hearing shall include a statement of the reasons for the proposed decision, citations of the statutes or rules directly involved and a description of the method for requesting a hearing, in accordance with paragraph (E) of this rule.
- (E) Following receipt of the notice required under paragraph (D) of this rule, an affected party may request an adjudication hearing concerning a proposed decision listed in paragraph (A) of this rule by filing a written hearing request with the director no later than thirty days after the date of mailing of the notice provided for by paragraph (D) of this rule. If the hearing is requested timely, it shall be conducted and an adjudication order shall be issued. Upon receipt of a timely filed request for a hearing, the hearing shall be scheduled for a date not later than seventy-five days from the date the written request is received by the director. The director shall notify the affected party of the date, time, and location of the hearing no less than seven days before the date set for the hearing. The hearing may be continued at the request of any party with the approval of the director or upon his own motion.
- (F) The director shall appoint a hearing officer to preside over the hearing. At the hearing, the rules of evidence shall be liberally construed. A stenographic record may be made upon the request of any party at the expense of the party requesting the record.
- (G) The affected party may appear in person at the hearing and may have in attendance legal counsel or such other representative of the affected party's choice and at the

affected party's expense. The affected party may present testimony and/or evidence and may question witnesses present at the hearing. In lieu of appearing at the hearing, the affected party may submit written materials to be examined by the hearing officer.

- (H) The hearing officer shall submit to the director within thirty days of the date of the conclusion of the hearing a written report setting forth his findings of fact and conclusions of law and a recommendation of the action to be taken. The director shall send by certified mail a copy of the hearing officer's report and recommendation to the affected party within seven days of receipt of the written report. The affected party or the department may file within ten days of receipt of the written report objections to the report, which shall be considered by the director before approving, modifying, or disapproving the recommendation.
- (I) The director shall issue an order to approve, modify, or disapprove the report and recommendation of the hearing officer and shall send notice of his action by certified mail to the affected party. The decision of the director under this paragraph shall be final.

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Certification

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Date

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