



Highlights: What Makes Medicaid, Medicaid? Consumer Protections and Due Process

Medicaid protects enrollees rights

- The Medicaid Act requires states to establish reasonable standards to determine the extent of medical assistance, and these standards must be consistent with the objectives of the Act.
- Medicaid provides important consumer protections and due process rights, many of which are enforceable through legal action.

General Medicaid protections help ensure coverage and access to services

- **Amount, duration and scope.** Services be “sufficient in amount, duration and scope to reasonably achieve their purpose.” All medically necessary treatment within a covered service area must be covered and the service must be covered in an amount sufficient to achieve its intended purpose (meets most people’s need for that service), and particular illnesses cannot be singled out for restricted coverage.
- **Comparability.** States are generally required to provide services equal in amount, duration and scope for all beneficiaries within the categorically needy and medically needy groups respectively. Comparability does not require states to provide any particular service, but requires the state to provide the services it offers in a manner that does not deny it to individuals who have the same types of needs.
- **Reasonable Promptness.** State agencies must determine an applicant’s eligibility for Medicaid within forty-five days of the date of application (ninety days for people with disabilities) and ensure prompt provision of needed services. States cannot generally impose waiting lists due to a lack of providers, cap services, or impose an arbitrary waiting period.
- **Statewideness.** States are required to make their Medicaid benefits available to all eligible individuals, regardless of the location of their residence within the state.

- **Free choice of provider.** Enrollees may obtain Medicaid services from any institution, agency, pharmacy, person or organization that is qualified to furnish the services and willing to furnish them. An exception exists for certain managed care plans (to permit such plans to restrict beneficiaries to providers in the managed care plan's network).
- **Single state agency.** The authority of the Medicaid agency must not be impaired. Other state entities cannot change or disapprove any administrative decision of the Medicaid agency, or otherwise substitute their judgment for that of the Medicaid agency with respect to the applications of policies, rules, and regulations issued by the Medicaid agency.

Consumer protections in Medicaid managed care

- Nearly 77% of Medicaid beneficiaries receive services through some type of managed care arrangement. Most Medicaid beneficiaries are enrolled in capitated managed care plans, including Managed Care Organizations (MCOs), which receive a fixed per-member, per-month "capitated" fee.
- Federal law establishes standards and rights to protect enrollees in Medicaid managed care plans.
- When a plan refuses to cover a counseling or referral service due to a moral or religious objection, the plan must inform enrollees how and where to obtain information from the state about how to access the service.

Medicaid due process rights

- Applicants and beneficiaries have the right to receive a notice and obtain a hearing when benefits are denied, terminated or reduced.
- If a state Medicaid agency intends to terminate, suspend or reduce an individual's Medicaid eligibility or covered services, the agency must provide a notice that describes:
 - the adverse action the state Medicaid agency intends to take;
 - the reasons for the intended action (including both the legal support and the factual basis);
 - the specific regulations or law that support or require the action;
 - the individual's right to request a hearing; and
 - the circumstances under which the person can receive continued benefits (sometimes called "aid paid pending") pending the outcome of the appeal if a hearing is requested.
- States must provide the opportunity for a state fair hearing to any individual whose claim for benefits is denied or not acted upon with reasonable promptness.

- Prior to a fair hearing, individuals must have an opportunity to examine their case files, as well as all policies and documents that form the basis for the decision. The hearing must be fair, meaning that it must occur at a reasonable time, date and place and be conducted by an impartial hearing officer.
- The hearing must provide the individual with an opportunity to bring witnesses, establish all pertinent facts and circumstances, present an argument without interference, and confront and question any adverse witnesses. State Medicaid agencies must also secure an interpreter for beneficiaries with limited English proficiency and auxiliary aids and services for beneficiaries with disabilities.

Conclusion

- Medicaid consumer protections and due process requirements ensure that Medicaid enrollees can access the services they need.
- If Medicaid cuts are enacted, states will lose billions of dollars in federal Medicaid funding, shifting financial responsibility for Medicaid to the states and to enrollees.

Additional Resources

- For more detailed information on the consumer protections and due process requirements available in Medicaid, see [What Makes Medicaid, Medicaid? Consumer Protections and Due Process](#).
- For information on other aspects of Medicaid, see our entire series on [What Makes Medicaid, Medicaid](#).