

Fair Hearing Preparation

1. Choose a face to face meeting with a hearing officer at the local DHHR office
2. Invite witnesses to testify on the needs and eligibility. Meet with the witnesses before the hearing to strategize. Some of the witnesses may be a doctor, teachers, friends, aides, direct care staff, psychologists, family members, case managers, advocates.
 - a. A witness is anyone who can provide evidence concerning the need and eligibility for the program. Letters can be submitted, but must be on letterhead stationary.
 - b. The legal representative can pay for the time spent by witness.
3. Acquire legal representation – WVA, Legal Aid, EMS, private attorney
4. Collect and organize a complete set of records before the hearing.
5. Determine what eligibility is based on and prepare your rebuttal around this area. I.e. MR/DD eligibility is based on The Adaptive Behavior Scale (ABS). Be sure you can demonstrate a need in three of these five areas mobility, self care, learning, social and financial.
6. The current system is based on deficits, therefore you must highlight what cannot be done rather than what the person can do.
7. Be sure to have a good complete social history by a social worker who knows the person well.

Potential Community Services and Supports

To be considered for Transitions and Diversions.....

Medicaid A/D Waiver
Medicaid MR/DD Waiver
Medicaid Personal Care
Community Care
Food Stamps
AFDC
Medicare
Division of Rehabilitation Services (DRS)
Veterans' Benefits
SSI (Supplemental Security Income)
SSDI (Supplemental Security Disability Income)
Mental Health Programs
Peer Support Programs
Home Health Services
Center for Independent Living Programs
Unmet Needs Money - DHHR
Residential Service Providers
Private Insurance
Person-Centered Planning
Assistive Technology
HUD/Subsidized Housing
Advocacy Organizations
Legal Representation Organizations - WVA, Legal Aid, EMS, etc
Long-Term Care Ombudsmen
Adult Education
Home of Your Own Program
PAIRS
Family Support
Friends
Neighbors
Donated Furniture
Shared Housin
Faith-based Organizations
Civic Organizations
Social Clubs
Volunteers
Public Transportation
Car Pools
Libraries
Many more.....

Medicaid State Plan Services - West Virginia

Covered services:

Mandatory:

- **Laboratory and X-Ray Services**
- **Inpatient Hospitalization**
- **Outpatient Hospital Services**
- **Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT)**
- **Family Planning Services**
- **Rural Health Clinic Services**
- **Certified Nurse Practitioner Services**
- **Nursing Facility Services –requiring 24 hour level of care**
- **Home Health Services**
- **Federally Qualified Health Center Services**
- **Nurse Midwife Services**

Optional:

- **Chiropractic Services**
- **Hospice Care**
- **Durable Medical Equipment and Supplies**
- **Freestanding Ambulatory Surgery Services**
- **Intermediate Care Facility Services for the Mentally Retarded - ICF/MR**
- **Inpatient Psychiatric Services for Individuals Under Age 22**
- **Medicare Premiums**
- **Behavioral Health Outpatient Services**
- **Occupational Therapy**
- **Optometry Services**
- **Personal Care Services**
- **Prescribed Drugs (Pharmacy Services)**
- **Physical Therapy**
- **Physician and Dental Services**
- **Podiatrist Services**
- **Psychological Services**
- **Transportation to Obtain Necessary Medical Care**
- **Physician Assistant Services**
- **Implementation and Integration of Managed Care**
- **Home and community-base services for people who are mentally retarded/developmentally disabled and aged/disabled**

Medicaid Waivers - West Virginia

Aged and Disabled Waiver - Bureau of Senior Services

Services:

- Case management
- Homemaker
- Homemaker RN
- Adult Day Health
- 2006 – Personal Options – Self-Directed Option

MR/DD Waiver - Department of Health and Human Services Office of Behavioral Health

Services:

- Service Coordination
- Respite Care
- Agency Residential Habilitation
- Community Residential Habilitation
- Adult Companion Services
- Environmental Accessibility Adaptations
- Nursing Services
- Psychological – Comprehensive and Annual Updates
- Social History – Initial and Annual Updates
- QMRP Services (Qualified Mental Retardation Professional Services)
- Day Habilitation
- Prevocational Services
- Supported Employment Services
- Transportation
- Extended Physician Services
- Residential Habilitation Special Projects

Medicaid State Plan, Contd.

Expanded School Based Services

- Audiological
- Physical Therapy
- Occupational Therapy
- Speech Language Pathology
- Nursing
- Psychology
- Initial IEP Development/triennial Re-evaluation
- Annual IEP Update
- Personal Care
- Specialized Transportation – Vehicle Component
- Specialized Transportation – Bus Aide
- Care Coordination

Web sites

Centers for Medicare and Medicaid Services	www.cms.gov
Freedom Clearinghouse	www.freedomclearinghouse.org
WV Waiver Families	Http://groups.yahoo.com/group.WVCSDF
WV Olmstead Office	www.wvdhhr.org/bhhf/olmstead/HOME.htm
PDF Conversion	http://access.adobe.com/access_email.html
Dept. of Health and Human Resources	www.wvdhhr.org
Home and Community Based Services (Best Practice/Tools/Assessments)	www.hcbs.org
Consortium for Citizens with Disabilities	www.c-c-d.org
MRDD Waiver Program	http://www.wvdhhr.org/bhhf/mrddwaiver/default.asp
AD Waiver Program	http://www.state.wv.us/seniorservices
Advocacy	
ADAPT WV	www.adaptwv.org
OCR complaints	www.freedomclearinghouse.org/do.usingfeds.htm
Steve Gold	www.stevegoldada.com
Information Clearinghouse	www.familiesusa.org/html

SOCIAL SECURITY FACTS

What Benefits Do People With Disabilities & Their Families Get from Social Security?

"Social Security" is the short name for the Title II Old Age, Survivors and Disability Insurance [OASDI] programs. It insures individuals and family members when a worker retires, dies or becomes disabled. It is not a well-known fact that people with disabilities and their families get Social Security benefits from all three programs:

- Disability Insurance - Disabled workers, their children and spouses
- Retirement Insurance - Retirees with disabilities, disabled adult children, and retired spouses, including those with disabilities
- Survivors Insurance - Disabled adult children, minor children, including those with disabilities, and disabled widow(er)s

Disabled Adult Children Get Benefits From All Three Programs

One group of individuals is especially at risk if there are major changes in the program. They are called "disabled adult children" and many receive one or more types of Social Security benefits for many years. Individuals qualify for "disabled adult children" benefits if they:

- Have a severe disability that began before age 22; and
- Are not married; and
- Are unable to earn more than a certain amount each month. [In 2005, this amount is \$1,380 for individuals who are blind and \$830 for people with other disabilities. This earnings limit is part of the eligibility rules. When people earn above that limit, then they cannot qualify for disability benefits. Social Security calls the ability to earn above that limit "substantial gainful activity" or SGA. The SGA limits go up every year.]

Individuals who meet the disabled adult children eligibility rules can get Social Security based on their parent's earnings. They only get benefits when that parent becomes disabled, retires or dies. Most disabled adult children get retirement or survivor insurance, but some also get disability insurance. They also can earn benefits from their own wage earnings.

People with Disabilities & Their Families Need Benefits From All Three Programs

Retirement Insurance: When workers with disabilities reach "normal" retirement age, their benefits convert automatically from disability to retirement insurance. Spouses and disabled adult children also qualify. Other people with disabilities also get retirement insurance. Although they did not meet the strict rules for disability insurance, their health may have prevented them from working regular hours. As a result, they earned less and had fewer chances to save money. Parents who must stop working to care for their children with disabilities face the same situation of having less income now and a greater need for Social Security retirement benefits in the future.

Survivors Insurance: Individuals who qualify include minor children and spouses of workers and retirees who have died; disabled widow (er) s; and disabled adult children. For a young family, Social Security provides benefits that are equivalent to life insurance worth \$400,000.

Disability Insurance: Individuals who qualify include disabled workers, their children and spouses, and disabled adult children. About 3 in 10 men and 1 in 4 women become disabled

before retiring. For a young family, Social Security provides benefits that are equivalent to disability insurance worth \$350,000. Spouses and disabled adult children also get this insurance.

Why the Current Program Design is Best for People with Disabilities & Their Families

The current Social Security program has a number of features that best meet the needs of people with disabilities and their families. These features are described below along with a warning about why changing any of them is not good for people with disabilities and their families.

Guaranteed monthly payment: Once eligible, workers and their families can expect a set payment each month. A common idea is to change the "Primary Insurance Amount" which is the formula that sets the monthly benefit. A proposal to lower the PIA will cut both retirement and disability benefits because they are set by the same formula. Reducing the PIA will force more people with disabilities further into poverty.

Adjusted each year for inflation: This is called a "cost-of-living adjustment" or COLA. It protects the value of the benefits. Reducing the COLA by even a small amount makes a big difference over time: reducing the COLA by 1 percent will cause a 20 percent benefit reduction after 20 years. Also, the current benefit formula is tied to the "wage index." Switching to a formula based on the "price index" would seriously reduce benefits and the standard-of-living for everyone who is eligible in the future, especially over time.

Move among all programs: Many people move among Social Security's three programs based on their work history, age or eligibility category. Two groups are good examples: workers with disabilities and disabled adult children may get different types of Social Security insurance at various points in their lives. Separating the three programs would complicate or eliminate the ability to get different benefits at different times during life.

Same benefit formula: Workers qualify for disability and retirement benefits by paying Social Security taxes. The portion of income replaced depends on each worker's average earnings. Benefits favor workers with lower earnings who get a larger share of income replaced. In other words, the benefit formula is designed to provide a higher replacement rate for lower wage earners so that they can receive an adequate income. This is especially helpful for workers with disabilities because many are only able to work part time. According to a 2004 Harris Survey, only 35 percent of people with disabilities reported working full or part time, compared to 78 percent of those who do not have disabilities.

The disability community urges Congress to request a beneficiary impact statement on every major component of any serious proposal. In a program that affects millions of individuals of all ages, it is essential for policymakers to look beyond the budgetary changes to understand the actual impact on people's daily lives.

Produced by the **Consortium for Citizens with Disabilities**, 1660 L Street NW, Suite 701, Washington, DC 20036. See www.c-c-d.org. CCD, a coalition of over 100 national consumer, provider & advocacy organizations, advocates for national public policy to ensure the self determination, independence, empowerment, integration & inclusion of the 54 million children and adults with disabilities living in the United States.

Definition Sheet

AFDC-Aid to Families with Dependent Children

BMS – Bureau for Medical Services (Medicaid)

BOSS – Bureau of Senior Services (AD Waiver)

CWEP- Community Work Experience Program (provides work experience with little or no work history, no more than 12 months)

DRS- Department of Rehabilitation Services

EA- Emergency Assistance (Short term assistance with rent, food, utilities, household supplies, clothing , transportation, medical services)

EBT- electronic benefits transfer (a plastic card that is credits with food stamps/cash assistance)

EIP -Employers Incentive Program

JOIN-Joint Opportunity for Independence

LIEAP-Low Income Energy Assistance Program

NEMT- Non Emergency Medical Transportation

SCA- School Clothing Assistance

TRIP- Transportation Remuneration Incentive Program

WV Works-cash assistance/TANF(temporary assistance to needy families)

Authorization for Release of Information

I, _____, authorize _____, to release the following information to _____, at _____.

Information to be disclosed:

Information may include any psychological/psychiatric records including communication made to social services agencies. I further understand that a disclosure statement in accordance with State and Federal law will accompany any information disclosed I understand that I may revoke this consent at any time, except to the extent that action based on this consent has been taken.

I authorize that a photocopy or fax copy of this authorization be accepted in lieu of the original.

Participant or Authorized
Representative _____ Date _____

Reason Consumer Cannot Sign Release: _____ Phone Consent Yes No _____

Participant's Social Security # _____ Birthdate _____

Representative: _____ Date _____

Authorization Expiration Date: _____

Authorization for Release of Information from

I _____
(print name of individual/parent/guardian)

authorize the _____ to release or share the following information:

to the following individuals/facilities/agencies:

Individual/Facility/Agency

Address

for _____
(print name of individual or child)

Signed _____

Date _____

Relationship _____

Address _____

Phone _____

This authorization form is valid for _____ days.

SUMMARY OF DUE PROCESS OF INFORMATION

Name: _____

Date: _____

What Services Do You Currently Receive?

What Company Provides The Services?

What Services Were Terminated?

Do You Have A Contact Person?

Did You Receive A Termination Letter?

Were You Given A Copy Of Your Appeal Right?

What Are The Timelines For The Appeal?

Do Your Services Continue During the Process?

Who Can Provide You With Legal Representation/Advocacy?

- If you are unsure how to answer any of these questions or who provides oversight for any of these programs look in the Waiver at a Glance Documents or contact NWVCIL at 304-296-609.