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POLICY STATEMENT	Applicants and clients have the right to appeal decisions adversely affecting their participation in CCSP. The full appeal process includes the steps: 1. Initial hearing - a hearing conducted by an Administrative Law Judge (ALJ) from the Office of State Administrative Hearings (OSAH) on an adverse action decision made by the care coordinator, DFCS, or utilization review (UR). 2. Final review- an administrative review that a client may request if the ALJ upholds the adverse action. If OSAH's decision appears to be a misapplication of CCSP policy that will have an impact on other cases, the Division of Aging Services may request a final review. The Division may not appeal disagreements on questions of fact or other matters having no impact beyond the specific case involved. To compete the final review, the DHR Legal Services Office (LSO) appeals reviewer reviews the entire initial hearing record and any additional documentary evidence submitted with the request for review. 3. Judicial review - a court action to review adverse decisions on final appeals. The judicial review is conducted by a superior court in accordance with O.C.G.A, 50-13-19 (Georgia Administrative Procedure Act). State agency appeal hearings are open to the public (subject to provisions of confidentiality of information). Hearings must meet the due process standards set forth in the United States Supreme Court decision Goldberg v. Kelly, 397 US 254 (1970) and comply with the Standards set forth in the Georgia Administrative Procedures Act (O.C.G.A) 50-13-1., et.seq.
POLICY BASICS	The Division of Aging Services, DHR, establishes CCSP appeal procedures. The following persons have appeal rights: ▪ Individuals certified or seeking certification for nursing facility care, where payment would be through the Georgia Medical Assistance Act of 1977

POLICY BASICS (contd.)

- Individuals subject to an adverse action (as defined herein) with regard to the Community Care Services Program.

  References: Public Law 97-35, Section 2176, 42 C.F.R. Section 431.200, et.seq., O.C.G.A. Section 49-6-60, et.seq.

An applicant/client may request a hearing to appeal any adverse action with regard to participation in the program. Adverse actions occur during one of the following activities:

- Denial at telephone screening assessment
- Removing an applicant's name from the waiting list

  EXCEPTION: Removing a name due to death of applicant.

- Denial at face-to-face assessment
- Termination of an active case.

Reasons for denying or terminating an applicant/client's eligibility for CCSP include but are not limited to the following:

- Reduction or termination of service
- Denial or termination in level of care (LOC) certification
- DFCS denial or termination of Medicaid benefits
- Denial/termination based on client=s request
- Level of impairment or unmet need criteria not met
- Receiving Hospice services
- Participating in another waiver
- Unable to contact to obtain information needed to determine eligibility.

POLICY BASICS (contd.)	• No longer receiving a waivered service • Entering a nursing home • Moving out of state. **NOTE:** Utilization Review analysts send adverse action notices addressing their terminations and reduction in service(s).
Scope of Hearing	The information presented during the hearing is normally limited to reasons related to the adverse action(s) being appealed.
PROCEDURES	Screening specialists and care coordinators use the following procedures for adverse actions: 1. Use Form 5382, Notice of Denial, Termination, or Reduction in Service, to provide client notice of adverse action other than LOC denial/termination. 2. For LOC denial/termination, use a LOC denial/termination letter. **NOTE:** At initial face-to-face assessment, use Form 5381, Notice of Right to Appeal Decisions Regarding CCSP to provide appeal information to applicants/clients. Follow procedures listed below for appeals: 1. Call client to determine if s/he has questions concerning the adverse action notice. 2. Assist client with hearing request as appropriate. 3. Provide telephone number for Elderly Legal Assistance Program (ELAP) or other legal assistance program. 4. Obtain written authorization from the client before disclosing contents of client case record to a third party. 5. Allow the client to examine his/her case record. **NOTE:** If the client has a legal guardian or lawyer, communicate with the client only through the legal representative.

PROCEDURES (contd.)

Coordinate appeal information that affects service with providers. If a client appeals within 10 days, services may continue as usual until a decision is made on the appeal.

When processing an initial hearing request, whether verbal or in writing, submit the following documents or copies to LSO within three days of receipt of the hearing request:

1. Completed and signed Request for Hearing, Form 5383.

2. DON-R assessment.

3. Notice to client of action(s) being appealed.

4. Completed Hearing Summary Form.

5. Any documents, medical records, and other materials upon which the agency relied for the adverse action.

6. Excerpts from regulations supporting the adverse action.

7. Most recent LOC page, MDS-HC, and CCP when applicable.

Send appeal requests to the LSO at the following address:

DHR Legal Services Office
Appeals Reviewer
Two Peachtree St, NW, 29th Floor
Atlanta, Georgia 30303--3142

NOTE: A client may submit his/her appeal directly to LSO. If so, LSO will notify the appropriate agencies to submit the relevant documents.

LSO reviews the appeal request before sending it to OSAH. The ALJ at OSAH schedules the hearing, notifies all parties, and conducts the initial hearing.

Before the hearing occurs, conduct a telephone or case conference to review the adverse action and the individual's circumstances to determine if an adjustment should be made. Under no circumstances should any effort be made to discourage the client from pursuing the appeal.

PROCEDURES (contd.)

	Use procedures in the following Chart 1000.1 for PMAO/MAO clients requesting appeals:

Chart 1000.1 - PMAO/MAO Clients= Appeal Requests	
IF	**THEN**
Client files an initial hearing request within 10 days but does not wish to continue receiving service OR Client files an initial hearing request after 10 days	Send a Communicator advising DFCS caseworker that the client is no longer in service AND Coordinate the hearing process with DFCS.
Client remains in service but the ALJ=s initial hearing decision upholds the adverse action. AND Client does not want to file a final review request	Send a Communicator advising DFCS caseworker that the client is no longer in service.
Client remains in service but the final review decision upholds the adverse action. **NOTE:** Service stops immediately unless client obtains a court order to continue service.	Call the client to discuss the outcome of the final appeal. Send a Communicator advising DFCS caseworker that the client is no longer in service. **NOTE:** Implement the final decision but do not send a new adverse action notice to client.
Client wishes to appeal adverse action terminating his/her Medicaid eligibility	Client contacts DFCS caseworker to file an appeal.

PROCEDURES (contd.)	Use procedures in the following Chart 1000.2 to handle changes that occur during the hearing process:

Chart 1000.2 - Changes While Hearing is Pending	
IF	**THEN**
Client appeals adverse action other than LOC termination, continues to receive service, and the LOC will expire before the hearing decision or final review becomes final	RN completes a LOC redetermination.
IF (contd.)	**THEN (contd.)**

Client appeals LOC termination, continues to receive service, and the LOC will expire before the hearing decision or final review becomes final	RN does NOT complete a LOC redetermination. **NOTE:** This is the only situation where providers may continue to deliver services without a current LOC.
Client needs an increase in service because of a change in his/her condition or situation	Care coordinator follows procedures for increasing service and notifies the ALJ or Appeals Reviewer.
Client needs a decrease in service because of a change in his/her condition or situation	Care coordinator follows procedures for decreasing service, sends another adverse action notice to client, and follows appeal procedures.
DMA, DFCS, AAA, or care coordinator reverses or amends adverse action decision	Responsible agency contacts the OSAH or LSO immediately to provide the new information.

REFERENCES	Georgia Administrative Procedures Act

1002 - LEGAL ASSISTANCE

POLICY STATEMENT	A CCSP client has the right to represent him/herself or have an attorney, paralegal, or any other person represent him/her.
POLICY BASICS	Legal Assistance services are available at no cost to CCSP clients who are 60 years old or older through: • Title III/Older American=s Act (OAA) funded programs • Georgia Legal Services (GLSP) • Atlanta Legal Aid Society (ALAS). Clients may also choose independent legal counsel.
PROCEDURES	Care coordinators follow these procedures for client legal services: 1. Become acquainted with the legal service providers in their areas. 2. Notify individuals of the availability of these services. 3. Assist applicants/clients in accessing legal assistance services when desired.
REFERENCES	Older Americans Act

1010 - INITIAL ASSESSMENT APPEAL

POLICY STATEMENT	An applicant has the right to appeal a denial at initial assessment.
POLICY BASICS	The care coordinator processes fair hearing requests on denials at initial assessments.
PROCEDURES	Use the following procedures for appeals of denial at assessment: 1. Send Forms 5382 and 5383 to advise applicant that s/he is not appropriate for CCSP at initial assessment. **NOTE:** Do not use Form 5382 for LOC denial/termination. 2. Use the following Chart 1010.1for procedures when an applicant files an appeal of a denial at initial assessment:

Chart 1010.1 - Appealing an Initial Assessment

IF	THEN
Applicant wants to appeal	Applicant/authorized representative files verbal or written request for an initial hearing with the care coordinator within 30 calendar days from the date on Form 5382.
Applicant verbally requests a hearing	Even though not filed on Form 5383, the applicant must request the appeal within 30 calendar days from the notice of adverse action. Within three days, the care coordinator sends the request to LSO and asks the client to submit a written request.

REFERENCES	Appendix 100, Forms and Instructions

1020 - LEVEL OF CARE APPEAL

POLICY STATEMENT	An applicant has the right to appeal a denial of the LOC certification. An active CCSP client has the right to appeal termination of the LOC certification.
POLICY BASICS	A LOC certification denial or termination may occur during initial assessment or during reassessment.
PROCEDURES	When the care coordinator RN denies or terminates a LOC certification, s/he uses the following procedures in Chart 1020.1:

Chart 1020.1 - LOC Denials and Terminations

IF	THEN
RN denies LOC at initial assessment	RN sends a Denial of Level of Care letter explaining the reason for denial and stating that additional information may be submitted for a second review. Applicant may submit additional information for reconsideration of the LOC decision within 10 calendar days of the date of the first denial letter. AND/OR If applicant declines submitting additional information, s/he may request a fair hearing within 30 calendar days from the date on the denial letter.
RN denies LOC after reviewing additional information submitted	RN sends a second letter advising the applicant of the denial and the right to appeal the decision.
RN terminates LOC	RN sends a Termination of LOC letter to the client explaining that s/he may provide additional information for reconsideration of the LOC. Client may submit additional information for reconsideration of the LOC within 10 days

IF (contd.)	THEN (contd.)
	AND/OR Client may request an initial hearing within 10 days from the date of the termination letter and continue to receive current services until the hearing decision is final OR Client may request an initial hearing within 30 days from the date of the termination letter and services will be terminated after 10 days. The RN terminates the LOC certification after the client submits additional information, s/he may request an initial hearing within: C 10 days of the second review letter and continue current services OR C 30 days from the date of second review letter and services will be terminated after 10 days. **NOTE:** Do not use Form 5382 to deny or terminate a LOC.

REFERENCES	Chapter 500, Eligibility Criteria; Chapter 600, Care Coordination; Chapter 900, Ongoing Activities; Appendix 100, Forms and Instructions; Appendix 500, Level of Care Criteria

1030 - OUTCOME OF INITIAL APPEAL HEARINGS

POLICY STATEMENT	The OSAH decides the outcomes of applicants/clients= initial appeal hearings.
POLICY BASICS	The OSAH notifies the client of the outcome of the initial hearing. The ALJ's initial decision becomes final when either of the following situations occur: • If the decision is favorable to the client • If decision is unfavorable, 30 days after the decision unless the client requests a final review.
PROCEDURES	If the ALJ rules in favor of the client, the AAA or care coordination agency reverses the adverse action immediately. If the ALJ upholds the adverse action taken by the AAA or agency, the OSAH sends a notice of the decision to the client. When an adverse action decision is upheld, care coordinators follow procedures shown below in Chart 1030.1:

Chart 1030.1 - Adverse Action Upheld on Initial Appeal

AGENCY	ACTION TO TAKE
OSAH	Send client initial decision with explanation of final review procedures AND Send copies of decision to parties listed on the Hearing Summary Form.
AAA or care coordination	Call individual to determine if s/he has questions concerning the ALJ's decision AND Assist individual in filing final review, if requested, AND Provide information requested by the DHR appeals reviewer.

REFERENCES	Chapter 900, Ongoing Activities

1040 - FINAL APPEALS

POLICY STATEMENT	Applicants/clients have the right to request final review of initial ALJ decisions.
POLICY BASICS	The LSO notifies the applicant/client of the outcome of the final review. The appeals reviewer at LSO conducts the final review. The appeals reviewer may provide for the taking of additional testimony, argument or evidence by the parties or representatives. In addition, the appeals reviewer may request a response from the agency responsible for initiating the adverse action. The usual 90 day standard of promptness is waived for rendering the final decision. The final decision and notice includes findings of fact and conclusions of law, separately stated, and the effective date of the decision.
PROCEDURES	The responsible agency uses procedures in the following Chart 1040.1 to process requests for final reviews:

Chart 1040.1 - Final Appeal Procedures

IF	THEN
Client files a final review request	Applicant/client files a letter with the care coordinator, AAA, or the DHR Legal Services Office within 30 days from date on initial decision requesting a final review. AND Clients receiving services may continue their services until the appeals reviewer makes a final decision. **NOTE:** Applicants filing appeals on denials at initial assessments do not receive any services.
AAA or care coordinator wishes to file a final review request	Within 10 days of the decision, the AAA or care coordinator sends the request to the Division of Aging Services for a review of the ALJ's decision.

IF (contd.)	THEN (contd.)
	The Division of Aging Services forwards the request to LSO or returns it to the care coordinator.
Appeals reviewer rules in favor of the applicant/client at final review	Care coordinator (RN) reverses the adverse action immediately. **NOTE:** The above applies provided client physician certifies that the client may receive services at home without danger to him/herself or others.
Appeals reviewer does not rule in favor of the applicant/client at final review	Legal Services Office notifies applicant/client in writing of the decision of the appeals reviewer and of right to a judicial review. Care coordinator files a copy of the decision in the applicant/client's file. Care coordinator completes the following activities for clients receiving services: 1. Terminates CCSP services immediately, based on the termination notice sent to client which prompted the initial appeal, unless modified by the final decision. 2. Advises the provider that the adverse action decision was upheld in final decision. 3. Coordinates client's discharge planning with the provider(s). **NOTE:** Do not send a new adverse action notice to the applicant/client.

REFERENCES	Chapter 900, Ongoing Activities; Appendix 100, Forms and Instructions

1050 - UTILIZATION REVIEW

POLICY STATEMENT	A client may appeal adverse action decisions made by Utilization Review (UR), DMA.
POLICY BASICS	UR conducts reviews of CCSP providers for the following reasons: • To assure medical necessity of continued care • To determine effectiveness of care being rendered • To assure compliance with DMA policies and procedures. To appeal UR adverse action decisions, clients may file appeals through care coordinators or DFCS. Clients may file appeals directly to LSO. Clients have the same appeal rights for UR adverse actions as they do for AAA and care coordination adverse actions.
PROCEDURES	UR reviews provider client records and conducts in-home or on-site audits to interview clients. UR conducts visits annually to every CCSP provider, and more frequently, if necessary. The following are procedures for UR: • DMA sends the provider a copy of the UR review report. If UR recommends reduction or termination of service, the UR analyst notifies the CCSP provider five calendar days before sending the notice to the client. • DMA notifies the CCSP client in writing of reduction or termination of services. DMA also sends a copy of the client notification letter to the Division of Aging Services. • The UR analyst forwards a copy of the provider notification which lists clients affected by adverse actions to the AAA and to the Division of Aging Services. <u>Care Coordinators:</u> • Contact the client to determine if s/he has questions concerning the UR adverse action notice.
PROCEDURES (contd.)	• Assist the client with the appeals process, but the request

	for the initial hearing must come from the client or an authorized representative. • If the client files a hearing request within 10 days of the date of the UR notice and wants to continue to receive service, advise the provider to continue services during the hearing process. **NOTE:** Providers continue to receive Medicaid reimbursements during the appeal process. • If the client files a request, follow the appeal procedures. • If UR terminates the only service that a client receives, and client does not request an appeal, send Form 5382 to advise the client of the termination of care coordination.
REFERENCES	Section 970, Terminations; Appendix 100, Forms and Instructions

1060 - WITHDRAWAL OF HEARING REQUEST BY CLIENT

POLICY STATEMENT	An applicant/client or authorized representative may at any time withdraw a request for an initial hearing or final review.
POLICY BASICS	If the parties involved in the hearing request reach a mutually satisfactory decision prior to the hearing, an applicant/client may choose to withdraw the request. **NOTE:** Under no circumstances may a care coordinator attempt to convince or coerce the applicant/client to withdraw the request. DMA, county DFCS staff, or care coordinators may amend or reverse adverse actions at any time prior to a decision regardless of the client's decision to withdraw the request.
PROCEDURES	Use the procedures in the Chart 1060.1 below for withdrawing a fair hearing request:

Chart 1060.1 - Withdrawal of Hearing Request

IF	THEN
Client or authorized representative verbally withdraws the initial hearing or review request	AAA or care coordinator calls the LSO or Office of State Administrative Hearings (OSAH) immediately. LSO or OSAH sends a letter to the client confirming the withdrawal and canceling of the hearing. AND Sends copies of the letter to the responsible agency and other agencies involved in the appeal.
Client or authorized representative requests in writing withdrawal of initial hearing or review request	AAA or care coordinator calls the LSO or OSAH immediately. AND Copies letter for client file and forwards original to LSO or OSAH. LSO or OSAH sends a letter to the client confirming the withdrawal and canceling

IF (contd.)	THEN (contd.)
	of the hearing. AND Sends copies of the letter to the responsible agency and other agencies involved with the appeal.
Client withdraws the hearing request before it is forwarded to the LSO	AAA or care coordinator forwards to the LSO the request for a fair hearing and the request to withdraw it. The LSO sends a letter to the client confirming the withdrawal of the request for a fair hearing.

REFERENCES	Georgia Administrative Procedures Act

Section 1070 - TIME LIMITS

POLICY STATEMENT	All requests for an appeal will be processed within established standards.
POLICY BASICS	The care coordinator, DFCS, and the OSAH assure a client the opportunity for a fair hearing.
PROCEDURES	Use the information in the following standard of promptness Chart 1070.1 to determine the time limits for hearing activities:

Chart 1070.1 - Standard of Promptness for Hearings

ACTIVITY	STANDARD OF PROMPTNESS FOR REQUEST
Client files an initial hearing request	30 calendar days from the date on the notice of adverse action.
Client files an initial hearing request to continue current services	10 calendar days from the date on the notice of adverse action. **NOTE:** Care coordinator advises provider to continue current services. Medicaid will reimburse for CCSP services during the fair hearing process.
Client submits additional information for a reconsideration of a LOC denial or termination but does not request an initial hearing	10 calendar days from the date of the denial or termination letter. **NOTE:** Submitting additional information does not preclude client's right to request a fair hearing within 30 calendar days of the date of the adverse action notice.
Client files an oral request for an initial hearing at the local agency	Written request must follow within 15 calendar days after the oral request is filed.
Responsible agency (AAA or DFCS) forwards client request to the DHR Legal Services Office for review	Within 3 working days of receipt of hearing request.
ACTIVITY (contd.)	**STANDARD OF PROMPTNESS FOR**

	CONDUCTING HEARINGS (contd.)
OSAH's Administrative Law Judge (ALJ) conducts hearing and issues initial decision	OSAH has 90 calendar days from date request is filed to render a decision on an initial hearing request. OSAH may waive the time limit for good cause. **NOTE:** Standard of promptness for rendering a decision may be waived on a final review.
ALJ decides in favor of client	Adverse action is reversed immediately.
ALJ's decision appears to be a misapplication of CCSP policy	Within 30 days of the initial decision, the care coordinator or the Division of Aging Services may request a final review.
AAA or care coordination agency request a final review	The AAA and care coordinator file their final appeal requests with the Division within 10 days of the initial hearing decision.
ALJ's decision is <u>not</u> in favor of client	Decision final if client does not request a final review within 30 days.
Client files a final review request	Must be requested within 30 calendar days from the date of the initial hearing decision.
Appeals reviewer rules in favor of client	Adverse action is reversed immediately.
Appeals reviewer decision is <u>not</u> in favor of client	Decision is final immediately. Services stop immediately unless the client obtains a court order to continue service. **NOTE:** The Division of Aging Services does not have the right to appeal a final review decision.
Client files a judicial review with court system	Must be requested within 30 calendar days from the date of the decision of the DHR appeals reviewer. **NOTE:** DHR Legal Services Office must be notified within 7 calendar days of the filing.
Client withdraws request for an initial hearing or final appeal	Adverse action is effective immediately.
ACTIVITY (contd.)	**STANDARD OF PROMPTNESS FOR**

	CONDUCTING HEARINGS (contd.)
Care coordinator reverses adverse action decision	May be done at any time prior to a hearing decision. LSO and OSAH must be notified within 2 days.
OSAH or LSO renders a decision without knowledge that the care coordinator reversed the adverse action decision	Immediately review the OSAH or LSO decision to determine if it is applicable.

REFERENCES	Appendix 100, Forms and Instructions