

<p style="text-align: center;"><b>STATE OF ALASKA</b>  <b>DEPARTMENT OF HEALTH &amp; SOCIAL SERVICES</b></p> <p style="text-align: center;"><b>SENIOR AND DISABILITIES SERVICES</b></p> <p style="text-align: center;"><b>POLICY &amp; PROCEDURE MANUAL</b></p>	<b>SECTION:</b> 2 Cross-Program Policies	<b>Number:</b> 2-2	<b>Page:</b> 1
	<b>SUBJECT:</b> Program Rights Information for Recipients		
	<b>APPROVED:</b> /s/ Rebecca Hilgendorf, Director		<b>DATE:</b> 2/4/09

## Purpose

To delineate responsibilities for informing recipients of their program rights.

To define a standardized process for distribution of copies of materials setting out program rights.

## Policy

Senior and Disabilities Services (SDS) requires that recipients of Home and Community Based Waiver Services, and Personal Care Assistance (PCA) Services be advised of their program rights when first selected to receive services and annually thereafter. Care coordinators and PCA agency representatives give copies of the *Senior and Disabilities Services Program Recipient Rights* form and the *Notice of Adverse Actions, Hearings, and Appeals* to all recipients receiving services from their agencies.

## Definitions

**Representative:** a parent, guardian, or other individual with legal authority to act on behalf of a recipient.

## Responsibilities

- A. The **care coordinator** is responsible for:
1. providing copies of the required forms to the recipient/representative;
  2. explaining program rights to the recipient/representative;
  3. signing the form to certify he/she explained program rights;
  4. obtaining the signature of the recipient/representative; and
  5. submitting the signed form to SDS.
- B. The **personal care assistance agency representative** is responsible for:
1. providing copies of the required forms to the recipient/representative;
  2. explaining program rights to the recipient/representative;
  3. signing the form to certify he/she explained program rights;
  4. obtaining the signature of the recipient/representative; and
  5. submitting the signed form to SDS.
- C. The **recipient/representative** is responsible for:
1. reviewing program rights with the care coordinator or PCA agency representative; and
  2. signing the *SDS Program Recipient Rights* form.

## Procedures

- A. Form Distribution. At the time of initial selection for services and annually thereafter, the care coordinator or PCA agency representative gives the recipient/representative a copy of
1. the *Senior and Disabilities Services Program Recipient Rights* form (Attachment A); and
  2. the *Notice of Adverse Actions, Hearings, and Appeals* (Attachment B).

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- B. Required Discussion. The care coordinator or PCA agency representative reviews and discusses with the recipient/representative:
1. each of the rights listed on the *SDS Program Recipient Rights* form;
  2. the fact that the geographic location of the recipient's residence may limit his/her options for services to those made available by the service providers located in that community;
  3. abuse, neglect, self-neglect, and financial exploitation, and how to report these conditions to Adult Protective Services or to the Office of Children's Services;
  4. how to report services which are unsatisfactory or not provided as specified in his/her Plan of Care or PCAT Service Plan to the SDS Quality Assurance Unit;
  5. Medicaid fraud, abuse, and waste, and how to report circumstances which might indicate such problems to the SDS Quality Assurance Unit; and
  6. the rights and processes outlined in the *Notice of Adverse Actions, Hearings, and Appeals*.
- C. Required Signatures. The care coordinator or PCA agency representative:
1. signs the *SDS Program Recipient Rights* form to certify
    - a. he/she explained the program rights, and
    - b. provided copies of the required notice to the recipient/ representative;
  2. obtains the signatures of the recipient/ representative to verify that the care coordinator or PCA agency representative
    - a. explained his/her rights, and
    - b. provided copies of the required notice; and
  3. if the recipient signs with an X, obtains the signature of another individual as witness to the signature. (The care coordinator or PCA agency representative may not serve as a witness.)
- D. Form Submission. The care coordinator or PCA agency representative submits the completed *SDS Program Recipient Rights* form to SDS
1. with the initial packet, and
  2. annually with the renewal packet.

Attachments

1. Attachment A: *Senior and Disabilities Services Program Recipient Rights*
2. Attachment B: *Notice of Adverse Actions, Hearings, and Appeals*

**Senior and Disabilities Services Program Recipient Rights**

Recipient:

CCAN: Medicaid Number:

Care Plan Start Date: End Date:

*Instructions: The recipient/ representative should write initials beside each item as it is discussed.*

- I have the right to make choices regarding my care.
- I have the right to be treated with respect and dignity by my service providers.
- I have the right to confidentiality regarding information about me in state and provider records.
- I have the right to withdraw from the application for services process at any time.
- I have the right to a fair and comprehensive assessment of my health, and of my functional, psychological, and cognitive abilities.
- I have the right to participate in the planning of my care and to a copy of my care plan.
- I have the right to request, as does any member of my comprehensive planning team, a meeting to amend my care plan any time.
- I have the right to know the fees for services before accepting care from a service provider.
- I have the right to refuse any service included in my care plan.
- I have the right to change service providers, including my care coordinator, at any time.
- I have the right to submit a complaint through a grievance procedure established by my service provider.
- I have the right to written notification from my service provider regarding any change in, termination of, or discharge from service.
- I have the right to appeal any decision that affects my care.
- I have been informed that the geographic location of my residence may limit my options for services to those made available by the service providers located in my community.
- I have been informed that I should report abuse, neglect, self-neglect, and financial exploitation to Adult Protective Services, 1-800-478-9996, or to the Office of Children’s Services, 1-800-478-4444.
- I have been informed that I should report services which are not satisfactory or are not provided as outlined in my care plan to the SDS Quality Assurance Unit, 1-800-478-9996.
- I have been informed that I should report circumstances which might indicate Medicaid fraud, abuse or waste by my service provider to the SDS Quality Assurance Unit, 1-800-478-9996.
- I have received a copy of the Notice of Adverse Actions, Hearings, and Appeals.

***I have explained the SDS Program Recipient Rights to the recipient/representative***

\_\_\_\_\_  
Care coordinator/PCA agency representative Date

***My care coordinator/PCA agency representative has explained my rights.***

\_\_\_\_\_  
Recipient Signature Date Representative Date

\_\_\_\_\_  
Witness Signature Printed Name Relationship Date

State of Alaska • Department of Health and Social Services • Senior and Disabilities Services

## Notice of Adverse Actions, Hearings, and Appeals

**Hearing Process Rights.** As an applicant for, or recipient of, Senior and Disabilities Services (SDS) program services (Medicaid), you have a right to use the hearing process provided by Alaska law, 7 AAC 49.10 – 49.900.

Applicants. You may request a hearing when an application form was not given to you when you asked for one, or when a claim to Medicaid services (in an application) is denied or not acted upon within a reasonable amount of time, 7 AAC 49.020 (1), (2).

Recipients. You may request a hearing when SDS notifies you of intent to modify or terminate your benefits, or when a claim for a covered Medicaid service is denied, 7 AAC 49.020 (3), (4).

Right to hearing process assistance. You may ask, orally or in writing, for assistance to help you file a hearing request and to help you obtain the services of someone to represent you during the hearing process, 7 AAC 49.110.

Right to representation. You may represent yourself, or may choose to have a representative act for you. Your representative could be a friend, family member, guardian, care coordinator, or attorney, 7 AAC 49.120.

Right to continuation of assistance. Recipients may continue to receive benefits during the hearing process, 7 AAC 49.190; however, if the hearing decision is not in your favor, you may be required to repay these benefits, 7 AAC 49.200.

**Notice of Adverse Action.** You will receive a written notice at least 10 days before the date of an intended action by SDS and the Division of Public Assistance (DPA) to deny, suspend, reduce or terminate Medicaid services, 7 AAC 49.060. The notice will state the reasons for the proposed adverse action; identify the statute, regulation, or policy on which it is based; and provide information about your right to, and how to request, a hearing, 7 AAC 49.070.

**Request for Hearing.** Either you or your representative may make an oral or written request for a hearing, 7 AAC 49.030. It must be made within 30 days after you received the SDS/DPA Notice of Adverse Action, 7 AAC 49.040. Your request for a hearing will be forwarded to the Department of Health and Social Services, Health Care Services (HCS). Within 10 days of receiving your request, HCS will schedule the hearing and send you a notification of the date, time, and place. 7 AAC 49.080.

Oral hearing request: Affiliated Computer Services, 1-800-780-9972

Written hearing request: Affiliated Computer Services, Recipient Services Department  
1835 S. Bragaw Street, Suite 200, Anchorage, Alaska 99508

**Fair Hearing.** A hearing officer will hold the hearing and make a decision based on the record of testimony, evidence, and material introduced during the hearing, and on applicable laws, regulations, and policies, 7 AAC 49.160. No later than 90 days after your hearing request was received by HCS, a written decision will be sent to you; it will set out the basis for the decision and contain a statement regarding your right to appeal the hearing officer's decision to the SDS Director, 79 AAC 49.180. (The decision made by the hearing officer is public information, 7 AAC 49.240.)

**Appeal to the SDS Director.** An appeal to the SDS Director must be in writing and must be filed within 15 days of receipt of the hearing officer's decision. The SDS Director will review the hearing record; the decision of the hearing officer, and applicable laws, regulations, and policies; and make a decision within 30 days of receipt of the filing of the appeal, 7 AAC 49.220. Written notification will be sent you informing you of the SDS Director's decision; you will be advised that this is a final administrative action which establishes a right to judicial review, 7 AAC 49.230.