



# New Mexico Human Services Department

Bill Richardson, Governor  
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## INTERDEPARTMENTAL MEMORANDUM

**MAD-GI: 10-02**

**DATE: May 15, 2010**

**TO:** ISD AND MAD STAFF

**FROM:** CAROLYN INGRAM, DIRECTOR, MEDICAL ASSISTANCE DIVISION  
HELEN NELSON, ACTING DIRECTOR, INCOME SUPPORT DIVISION

**THROUGH:** ROY BURT, BUREAU CHIEF, MEDICAL ASSISTANCE DIVISION

**BY:** SONYA PIERCE, STAFF MANAGER, MEDICAL ASSISTANCE DIVISION

**SUBJECT: FAIR HEARING PROCEDURES RELATING TO THE DISABILITY DETERMINATION UNIT (DDU)**

The Human Services Department, Medical Assistance Division (MAD), has recently seen an increase in questions related to Fair Hearings as to who is responsible for completing the Summary of Evidence and who is responsible for being present to call in for the hearing. This memorandum provides guidance on actions that should be taken by the Income Support Division (ISD) caseworker.

The Public Education Department, Division of Vocational Rehabilitation (DDU) is contracted with the MAD, in a collaborative effort for the benefit of persons applying for those categories of Medicaid based on a determination of disability. A disability determination is needed, per policy for the following categories: Working Disabled Individuals (43), Institutional Care Medicaid (83 and 84), Emergency Medical Services for Aliens (85) under Supplemental Security Income (SSI) status, and the Home and Community Based Waiver categories (90, 92, 93, 94, 95, and 96). A disability determination is also required when determining retroactive coverage for SSI Medicaid categories (001, 003, and 004).

The DDU will make a decision within 10 days once all medical documentation has been received including the Disability Determination Services Referral, MAD 299. If the ISD caseworker

hasn't received a decision in three weeks, contact should be made with the DDU at 1-505-954-8616 to see who the determination has been assigned to and for a status update.

If a hearing is requested by the claimant based on a denial of disability made by the Medicaid adjudicator through the DDU the following should occur:

1. The ISD caseworker should first check to see if a re-consideration has been offered to the claimant. If a re-consideration has not been offered, the ISD caseworker should contact the claimant to see if there are more medical records that could be submitted to the DDU along with a Disability Determination Services Referral, MAD 299. The medical records should always be submitted by the ISD caseworker and not directly by the provider or client unless requested by the DDU. If there are no more medical records to be obtained, then an Agency Review Conference may be offered at this point.
2. If a re-consideration has been offered and the re-consideration has been denied by the Medicaid adjudicator, then an Agency Review Conference may be offered by the ISD supervisor.
3. The Summary of Evidence should be prepared by the ISD caseworker who provides the background information needed for the hearing. The Summary of Evidence is to be prepared by the caseworker, supervisor or other appropriate HSD staff, within seven days of receipt of the oral or written notice of a hearing request, and forwarded to the HSD Hearings Bureau. Please follow Subsection F, Paragraphs (1-6) of 8.100.970.10 NMAC, *Pre-Hearing Protocol*, for what should be included in the summary of evidence.
4. It is the responsibility of the ISD worker or staff to notify the DDU that a hearing has been requested. The Hearings Bureau may not know that the issue involved requires the attendance of the DDU Medicaid adjudicator.
5. The ISD caseworker should call in for the hearing at the specified time and date and provide testimony.
6. The Medicaid adjudicator is a witness at the hearing and gives testimony based on the decision they rendered using Social Security guidelines.
7. The ISD caseworker will contact the adjudicator if the fair hearing has been postponed or cancelled upon notification by the client or the Fair Hearings Bureau.

If you have questions about the information contained in this GI, please email Sonya Pierce at [sonya.pierce@state.nm.us](mailto:sonya.pierce@state.nm.us) or contact her by phone at (505) 476-6818.