

Appeals for Communication Device Carrying Cases under Medical Assistance

A Fact Sheet from the Minnesota Disability Law Center

This fact sheet is an introduction to the rights of people with disabilities to appeal denials for communication device carrying cases under the Minnesota Medical Assistance program. The information in this fact sheet is not legal advice. Every case is different and the laws change all the time. This fact sheet concerns only Minnesota and federal law and may not be valid in other states.

Minnesota's Medical Assistance program covers carrying cases for communication devices. If the Medical Assistance program denies funding for a carrying case for a communication device, you have the right to appeal that decision at a hearing before a Human Services Judge with the Department of Human Services. This fact sheet describes how to appeal the denial.

1. How do I appeal?

Write a simple letter stating that you appeal the decision of the Department of Human Services to deny a carrying case for your communication device. Sign and date the letter. You should attach a copy of the denial notice you received from the Department of Human Services. **Keep a copy of what you send in.** If you want a sample appeal letter, contact the Minnesota Disability Law Center.

2. When do I appeal?

Your appeal must be received by the state within thirty days of the date *you received* the denial notice or, if you

have good cause for delay, within 90 days of that date.

3. Where should I send the appeal?

Send your letter, along with a copy of the denial notice to:

MN Department of Human Services
Appeals Office
PO Box 64941
St. Paul, MN 55164-0941

Metro: 651-431-3600
Outstate: 800-657-3510
TTY/TDD: 800-627-3529
FAX: 651-431-7523

4. Where will the appeal be?

Ordinarily appeal hearings are held at the county social service office in the county where you live. The human services judge may want to schedule a telephone appeal where the hearing is done over the telephone. You do **not** have to agree to have a telephone appeal. You have the right to have the hearing held in person.

Our advice is that you should **not** agree to a telephone appeal unless there are special circumstances which require it for **your** convenience. If you need a very prompt decision, the judge's schedule may require a telephone appeal. If you have difficulty getting out of your home or apartment for an appeal, you may want to have a telephone appeal from your own place.

5. Who can help me with the appeal?

You may have a lawyer, an advocate, or anyone you want come to help you with the appeal. The Disability Law Center will not be able to represent everyone for whom the Department of Human Services denies carrying cases. You should seek the help of your speech therapist who recommended the carrying case. Ask your speech therapist to go to the hearing with you or to testify by telephone. If your speech therapist is not willing to help you, you should

consider getting another speech therapist.

6. What information do I need for the appeal?

The Human Services Judge will look at six criteria to decide if Medical Assistance should pay for the carrying case. At the hearing, you have to prove that the carry case is:

- medically necessary;
- appropriate and effective to your medical needs;
- timely, meaning it is right for your medical condition at this time;
- furnished by a provider with appropriate credentials;
- the least expensive appropriate alternative health service available; and
- an effective and appropriate use of program funds.

You can show that the carrying case meets these criteria by using letters and testimony from you, your doctor, speech therapist, and the device manufacturer.

7. When is a carrying case medically necessary?

A carrying case for a communication device is not always medically necessary. However, a carrying case is medically necessary if your doctor or therapist thinks anyone with the same condition would need it. Some examples of when a carrying case may be medically necessary include:

- If you cannot use your communication device because you are not able to carry the device or get it in and out of another bag easily, like a backpack, due to your disability; or
- If you use the device outdoors a lot when it is raining or snowing;
- If, because of your disability, it is hard for you to determine when the device needs to be protected from the weather; or
- If you have difficulty with your vision or ability to walk and you bump into walls or furniture easily; or
- If you have difficulty carrying things or drop them easily because of your disability; or
- If you have excessive oral secretions that may come into contact with the device or if it

is difficult for you to keep the device clean; or

- If you have a compromised immune system and need added protection from the transmission of bacteria; or
- If your communication device is showing excessive signs of wear and tear, especially on the screen; or
- If parts of the communication device have been replaced due to damage.

There may be other reasons that you need a carrying case for your communication device that are not mentioned in this fact sheet. You should discuss these reasons with your speech therapist or doctor who can help you determine if the reasons meet the “medically necessary” standard.

8. Have other appeals for carrying cases been successful?

Yes. Other people have appealed denials for carrying cases and won. You can request copies of decisions from the Chief Human Services Judge to use at your hearing. One specific decision you can request is the Department of Human Services Decision #90774. If that case is similar to the reasons you need a

carrying case, the Department must treat you in the same way and pay for a carrying case. You should give the Human Services Judge a copy of any helpful decision at the hearing.

9. What is the appeal hearing like?

The appeal is held by a Human Services Judge of the Department of Human Services. Ordinarily the appeal is held in a conference room with the participants sitting around a table. The judge records the hearing on a tape recorder. Sometimes appeals follow the question and answer process similar to a trial; often the judge asks each person to talk in turn. You have a right to ask questions of witnesses, including anybody present from the state. However, in most cases the Department sends a letter explaining its denial to the judge for its "evidence" and typically no one from the Department comes to the hearing.

You may present your own testimony and the testimony of anyone else with knowledge about your disability or need for a carrying case. Your witnesses can testify by telephone. Let the Human Services Judge know and schedule a specific time to call the witness. You can also require people to come to the hearing by asking for a subpoena. If you have questions about requiring someone to

testify, call the Minnesota Disability Law Center.

10. When will the appeal be decided?

The Human Services Judge makes a recommended decision after the hearing, usually in about 30 – 60 days. This recommended decision is reviewed by the Chief Human Services Judge, who may approve or change it. If the decision is going to be changed, you will be given time to respond.

11. What if I lose?

You have 30 days from the date of the decision in which to request reconsideration from the Chief Human Services Judge or to appeal the decision to the state district court for the county in which you live. A request for reconsideration is simply a letter to the Chief Human Services Judge saying why you believe the Decision should be changed. If you ask for reconsideration, the time in which you may appeal to state district court is extended. If reconsideration is denied, you will get another 30 days to appeal to court. There is no filing fee for an appeal to state district court. The Minnesota Disability Law Center will consider representation on appeals to the state district court on a case-by-case basis.

How do I contact the Minnesota Disability Law Center?

You may write to us at the address below or call our Client Intake line. We cannot represent everybody who is denied a carrying case. In those cases in which we do not represent a person, we will try to provide advice over the telephone to help in the appeal. We may also have additional resources on the appeal process that we can send to you.

New Client Intake Numbers:

612-334-5970 (Twin Cities metro area)

1-800-292-4150 (Greater Minnesota)

612-332-4668 (TDD)

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430 First Avenue N., Suite 300
Minneapolis, MN 55401-1780

Email: mndlc@midmnlegal.org

Website: www.mndlc.org

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