



Assistive Technology Appeals: Medical Assistance

What is Medical Assistance (MA)?

The Minnesota Department of Human Services (DHS) runs the Medical Assistance (MA) program. There are different ways you could be getting your coverage:

- You can get MA directly from the DHS. This is called fee-for-service Medical Assistance.
- You also can be on MA but get your health benefits through a private health plan. This is called managed care.
- Some people on MA get extra services through home and community-based waiver programs. Waiver programs are run by the county.

All 3 programs fund assistive technology.

I am on MA and got a denial for assistive technology, what can I do?

If you ask one of these programs to pay for an assistive technology device or service, the program must send you a written notice telling you if the device or service is approved or denied.

- If you are on **fee-for-service MA**, the notice comes from DHS.
- If you are on a **managed care program**, the notice comes from the health plan.
- If you are on a **waiver program**, the notice comes from the county or your case manager.

If you are denied by any of these programs, you can file an appeal. You can also file an appeal if the program approves the device or service but does not okay enough money to pay for it.

Before you appeal, talk with your provider. The provider is where you are going to purchase the equipment or service. In some cases, the provider can submit other information for you and the program approves the request without an appeal.

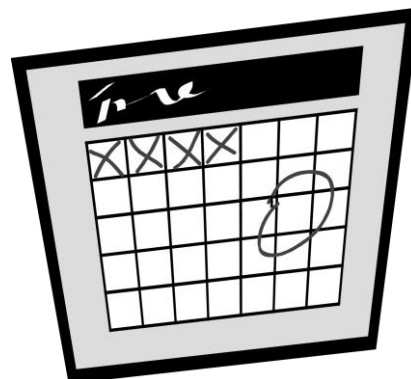


How does an appeal work?

An appeal is a chance for you to ask for a review of the decision. DHS hears appeals for all MA and home and community-based waiver programs. You have a hearing with a human services judge who is employed by DHS. You have a chance to tell the judge why your request should be approved. The judge makes a decision and recommends it to the Commissioner of Human Services.

When can I appeal a decision by MA?

If you are on fee-for-service MA, you have **30 calendar days** from the date you get the notice of denial to file an appeal. You may have 90 days to file the appeal if you have a good reason for not filing within the 30-day time limit. Good reasons are things like being in the hospital or a death in your family. Try to get proof of why you missed the deadline, like a letter from your doctor. Send the proof with your appeal request or give it to the judge at the hearing.



If you are on a managed care plan, you **must** use the plan's internal appeal process before you can appeal to DHS. You have 60 days from the date of the denial to file the internal appeal. The Plan must give you a decision in 30 days or they can ask for an extension and have up to 45 days. If you disagree with the plan's decision, then you can file an appeal with DHS. You have to file within 120 days of the plan's decision. The plan must give you a decision in 30 days or up to 45 days if they ask for an extension. If you don't get a decision within 30 (or 45) days, you can appeal to DHS.

What if MA does not deny or approve the service but asks for more information?

When DHS asks you for more information the notice may say "pending" or "no action." Usually when DHS asks for more information, they are looking for specific things. If DHS does not explain what information is missing, ask what information you need to submit. If the things they need are medical, you may need to ask your doctor or therapist to send in more information.

If you can't get your assistive technology because DHS keeps asking for more information and you feel the delay is unreasonable, you can ask for an appeal hearing instead of sending more information for review. If this happens you may want to contact the Minnesota Disability Law Center at (612) 334-5970 or 1 (800) 292-4150.

What if the amount they okay for the assistive technology is not enough?

Sometimes DHS, or the managed care plan approves you to get the equipment but the amount of money they allow is so low that a provider can't get it for you. This "approval" is really a denial. You should appeal. In this kind of case, help from an experienced advocate is important.

How do I ask for an appeal with DHS?

To ask for an appeal hearing, send DHS a letter. The letter should be very simple. It only needs to say that you disagree with the decision, and you want to appeal the decision. It is helpful to include a copy of the denial notice with your letter.

Send or fax the letter to:

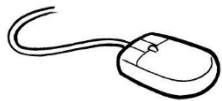
MN Department of Human Services
Appeals Office
P.O. Box 64941
St. Paul, MN 55164-0941

Fax: (651) 431-7523



Keep a copy of both your letter and the notice of denial.

You can also get [an appeal request form to print out OR you can file your appeal online](#).
Go to the DHS website at <https://mn.gov/dhs> then follow the steps below:



- At the top of the screen, click on “A-Z Topics”
- Scroll down and click on “Appeals”
- Scroll down and click on “Instructions for Requesting an Appeal”

Now you can:

- print the form, fill it out by hand and fax or mail it to DHS
- fill out the form on screen and print it and fax or mail to DHS or
- fill it out and submit it online to DHS

Whatever you do, make sure you keep a copy for yourself. If you submit it online, print it before you hit “Submit Appeal” so you have a copy.

What happens before the hearing?

You get a notice about the hearing at least 5 days before the hearing. The notice tells you when and where the hearing is, the name of the judge that will hear your appeal, and how to contact the judge if you need to.

The notice tells you if your hearing is by telephone or in-person. An in-person hearing can be better. An in-person hearing gives you the chance to meet the judge, give the judge your documents and show where the most important information is. It also gives you the chance to review all the documents with the judge.

If the notice says your hearing is by telephone, you can ask for an in-person hearing. Call or write to the judge and ask for an in-person hearing. The judge may okay the hearing by using an interactive video. If the judge uses interactive video, you are in one place (like the county human services building) and the judge is in another place (like the DHS offices in St. Paul). You can see and hear each other through a video monitor.

If you or one of your witnesses has a physical or mental disability that makes it hard to take part in a video hearing, tell the judge before the hearing. If this is the case the hearing has to take place with you, your witnesses, and the judge in the same room. The in-person hearing is usually in a social or human services building in your county.

DHS, the managed care plan, or the county must give you a written appeal summary that has the evidence and the reason your request was denied. The appeal summary should be mailed to you at least 3 working days before the appeal hearing.

If you don't get an appeal summary, call the judge and ask for a copy. If you need more time to get ready for the hearing you can ask the judge to reschedule. Tell the judge you need more time to respond to the appeal summary.

What if I or a witness can't be at the hearing on the day it is set for?

Call the judge and ask for a continuance. This means a new date is set for the hearing. If you can, call at least 3 days before the hearing. The judge should schedule a new date to:

- let a witness come to the hearing
- make sure you have enough time to prepare your evidence and arguments
- make sure you or the other party has enough time to review new evidence
- give you time to try and resolve the issue with the other party
- let the other party reconsider the decision
- give you or the other party time to complete some other actions not done before or
- give more time to be fair to both sides



Can I bring someone to help me at the hearing?

You may speak for yourself, or you may have a representative speak for you. Your representative can be a family member, a friend, an advocate, a lawyer, or anyone else you choose.

You can call the Minnesota Disability Law Center to find an advocate or a lawyer to represent you.

What should I bring to the hearing?

Bring all documents that support your case. This includes:

- letters and reports from your medical providers (like doctors and therapists) that explain why you need the assistive technology
- information about your medical condition and how it limits your activities, and
- information about the assistive technology you are asking for, like brochures and pictures

Bring copies of everything to leave with the judge. For information on getting copying costs paid back, see *Can I get paid back for my costs in preparing for and going to the hearing?* near the end of this fact sheet.

What documents can I get from DHS or the other party?

Ask for a copy of the prior authorization file. This file has all the documents your medical providers submitted in support of your request. It also has the documentation of why the request was denied.

You also can ask for a copy of any policies DHS or the other party used in considering your request.

You don't have to pay to get copies of these documents.



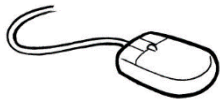
What if DHS or the other party refuses to let me see files or records?

If DHS or the other party won't let you see or get copies of files or other information, call or write to the judge and ask for an order making them give you this information. You need to be able to tell the judge what you are asking for and why you need it for your appeal.

How can I find out if there have been other appeals about the same issue?

The state makes all hearing decisions available to the public (with names and other personally identifying information removed).

You can search for <https://mn.gov/dhs/search/fair-hearings.jsp> Go to the DHS website <https://mn.gov/dhs> and follow the steps below.



- At the top of the screen click on “A-Z Topics”
- Scroll down and click on “Appeals”
- Scroll down and click on “Fair Hearing Appeals Search”

If there are decisions that are helpful to your appeal, give copies of them to the judge at the hearing.

Can I bring witnesses to the hearing?

Yes. Witnesses can come to the hearing to testify. Witness can be you, family members, a PCA, a therapist, a doctor, or anyone with relevant information. If a witness can't come to the hearing with you, the witness can give their testimony over the telephone or in a written statement.

Tell your witnesses that the equipment you asked for was denied and why. Tell them that you need their testimony to help with your appeal. Give them copies of the documents in support of your request and the documents from DHS or the other party explaining the reasons the equipment was denied.

If you or any witness does not speak English, a free translator is provided.

What if a witness doesn't want to testify?

If the witness is employed by DHS or the other party, call or write to the witness' supervisor and ask the supervisor to have the witness come to the hearing. If that doesn't work, ask the judge for a subpoena to make a witness attend the hearing. A subpoena is an order telling the witness they have to go to the hearing.

Who will be at the hearing?

- the judge
- you
- your witnesses or representatives,
- the other party may have a representative or witness at the hearing.



DHS does not always send a representative to the hearing. Instead, DHS staff may give the judge a written statement.

Sometimes DHS brings up something in the written statement that needs to be addressed by your medical provider. The medical provider can talk about it at the hearing, or you can ask for more time to let the provider submit more information. In most cases, written or oral testimony from a doctor or therapist is usually more helpful than testimony from other people.

Managed care plans and counties usually have a representative and other witnesses at the hearing to explain the decision to deny the assistive technology or service. The representative may be on the phone and not at the hearing in person.

What happens at the hearing?

The hearing is recorded. The judge will swear in witnesses. In many of these hearings, the judge allows both sides to state their positions without responding to specific questions.

When both parties have lawyers, it is often more like an informal trial. Either party can go first, but usually the judge wants to hear the other party explain the reason for the denial first. Often DHS does not send a representative to the hearing and will rely on the written statement submitted before the hearing.

If there is a question raised at the hearing you can't answer, you can ask for more time to prepare and submit this information to the judge. This information could be from your doctor or therapist.

How much evidence must I present to win my case?

You need to present as much evidence as possible on each of the 6 authorization criteria. In other words, you need to show how each of the authorization criteria has been met.

The other party will try to show the judge why your request does not meet one or more of the authorization criteria. For example, DHS or the other party may try to show there is another device that would work for you and costs less.

What happens after the hearing?

DHS sends the decision in the mail. You should get it within 90 days of the date you asked for the hearing. The decision will have a recommendation from the judge to the Commissioner of Human Services. The Commissioner may accept or reject the judge's recommendation.

If the Commissioner does not accept the judge's recommendation, the Commissioner has to explain in detail the reasons and must include a modified order.

Each side then has 10 business days to respond to the Commissioner's modified order and provide additional new evidence. The Commissioner then issues a final order.

Can I get paid back for my costs in preparing for and going to the hearing?

In many cases, the county has to pay you back for transportation, childcare, copying, medical assessments, witness fees, and other necessary and reasonable costs you have in getting ready for and going to the hearing. Send a letter to the county with copies of your receipts.



Can I appeal the Commissioner's decision?

If you disagree with the Commissioner's decision, you can ask for reconsideration or you can file an appeal in State District Court.

If you want to ask for reconsideration, send a letter to the Commissioner with the reasons you think the decision is wrong and any new evidence that helps your appeal. You must send a copy of your letter and any new evidence to the other party within 30 days of the date of the decision.

The other party has 10 days to respond to your letter. The Commissioner may deny the request for reconsideration or issue an amended order.

If you don't want to ask for reconsideration or if you get an unfavorable decision on reconsideration, you can appeal to State District Court. You need to appeal within 30 days of the Commissioner's final decision plus an additional 3 days if the decision was mailed to you. A District Court appeal is a formal legal proceeding. It is a good idea to talk to a lawyer before filing the appeal.

How can I contact the Minnesota Disability Law Center?

The Minnesota Disability Law Center provides free legal help to people with disabilities in Minnesota. Contact us at:

Metro: (612) 334-5970
Toll Free: 1-800-292-4150

Minnesota Disability Law Center
111 North 5th Street, Suite 100
Minneapolis, MN 55403

www.mndlc.org



This fact sheet was produced with funds from a System of Technology to Achieve Results (STAR), which is a program of Minnesota's Department of Administration and funded by the Rehabilitation Services Administration in accordance with the Assistive Technology Act of 1998, as amended (P.L. 108-364).

Fact Sheets are legal information NOT legal advice. See a lawyer for advice.

Don't use this fact sheet if it is more than 1 year old. Ask us for updates, a fact sheet list, or alternate formats.

© 2022 Minnesota Legal Services Coalition. This document may be reproduced and used for non-commercial personal and educational purposes only. All other rights reserved. This notice must remain on all copies. Reproduction, distribution, and use for commercial purposes are strictly prohibited.