

## Appendix F: Participant Rights

### Appendix F-1: Opportunity to Request a Fair Hearing

*The State provides an opportunity to request a Fair Hearing under 42 CFR Part 431, Subpart E to individuals: (a) who are not given the choice of home and community-based services as an alternative to the institutional care specified in Item 1-F of the request; (b) are denied the service(s) of their choice or the provider(s) of their choice; or, (c) whose services are denied, suspended, reduced or terminated. The State provides notice of action as required in 42 CFR §431.210.*

**Procedures for Offering Opportunity to Request a Fair Hearing.** Describe how the individual (or his/her legal representative) is informed of the opportunity to request a fair hearing under 42 CFR Part 431, Subpart E. Specify the notice(s) that are used to offer individuals the opportunity to request a Fair Hearing. State laws, regulations, policies and notices referenced in the description are available to CMS upon request through the operating or Medicaid agency.

Pursuant to the California Welfare and Institutions Code, §§ 4700-4730, and except for the appeal of an error in the calculation of an IB as described in Appendix F-2, each individual shall be informed of the right to an appeal or to request a fair hearing. A fair hearing is used to resolve disputes with a regional center if:

- the choice of HCBS versus institutional care is not offered;
- the individual is denied his or her choice of services, type of service, type of provider, or amount of service.

The regional center case manager shall ensure that the affected individual is notified of the opportunity to request a fair hearing with the DDS Notice of Proposed Action (Form DS-1803).

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## Appendix F-2: Additional Dispute Resolution Process

- a. Availability of Additional Dispute Resolution Process.** Indicate whether the State operates another dispute resolution process that offers participants the opportunity to appeal decisions that adversely affect their services while preserving their right to a Fair Hearing. *Select one:*

<input checked="" type="checkbox"/>	<b>Yes.</b> The State operates an additional dispute resolution process ( <i>complete Item b</i> )
<input type="checkbox"/>	<b>No.</b> This Appendix does not apply ( <i>do not complete Item b</i> )

- b. Description of Additional Dispute Resolution Process.** Describe the additional dispute resolution process, including: (a) the State agency that operates the process; (b) the nature of the process (i.e., procedures and time frames), including the types of disputes addressed through the process; and, (c) how the right to a Medicaid Fair Hearing is preserved when a participant elects to make use of the process: State laws, regulations, and policies referenced in the description are available to CMS upon request through the operating or Medicaid agency.

**1. Calculation of the IB**  
Pursuant to the California Welfare and Institutions Code, § 4685.7(e)(6), and separate from the fair hearing rights described in Appendix F-1, a participant may appeal an error in the calculation of the maximum IB. The appeal of the calculation may be made to the executive director of the regional center, or his or her designee, within 30 days after receipt of information regarding the participant’s IB amount, and a written decision on the appeal shall be rendered by the executive director of the regional center within 10 working days.

Within 15 days of receipt of the written decision by the regional center’s executive director, and if the participant is not satisfied with the executive director’s decision, an appeal of the decision may be made to the Director of the DDS, or his or her designee. The Director of DDS will, within 45 days of receiving the appeal, issue a written decision that shall be final.

**2. Voluntary Mediation**  
Upon notice of fair hearing rights described in Appendix F-1, a participant is also offered the opportunity to request an informal meeting and mutually agreed upon voluntary mediation.

- In the event the participant declines an informal meeting, or is dissatisfied with the regional center’s decision at the informal meeting and does not request mediation, the matter proceeds to a fair hearing.
- If a participant requests mediation, the regional center or the participant may withdraw at any time from the mediation and proceed to a fair hearing.

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## Appendix F-3: State Grievance/Complaint System

**a. Operation of Grievance/Complaint System.** *Select one:*

<input checked="" type="checkbox"/>	<b>Yes.</b> The State operates a grievance/complaint system that affords participants the opportunity to register grievances or complaints concerning the provision of services under this waiver <i>(complete the remaining items)</i> .
<input type="checkbox"/>	<b>No.</b> This Appendix does not apply <i>(do not complete the remaining items)</i>

**b. Operational Responsibility.** Specify the State agency that is responsible for the operation of the grievance/complaint system:

<p>Pursuant to the California Welfare and Institutions Code, § 4731, a participant may pursue a Consumer Rights Complaint against a regional center or service provider.</p> <ul style="list-style-type: none"> <li>The initial complaint is filed with the executive director of the regional center.</li> <li>An appeal of a decision of the executive director may be made to the Director of DDS.</li> </ul>
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**c. Description of System.** Describe the grievance/complaint system, including: (a) the types of grievances/complaints that participants may register; (b) the process and timelines for addressing grievances/complaints; and, (c) the mechanisms that are used to resolve grievances/complaints. State laws, regulations, and policies referenced in the description are available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

<p>The Consumer Rights Complaint process is the procedure a participant may use if the participant believes the regional center or a service provider has violated or improperly withheld a right to which the participant is entitled under the law. The initial referral of the complaint is to the executive director of the regional center. There is no timeframe specified for this action. The executive director has 20 working days of receiving the complaint to investigate the matter and send a written proposed resolution to the participant or representative. If the participant or representative is not satisfied with the proposed resolution, the matter is referred in writing to the Director of the DDS within 15 working days of receipt of the proposed resolution. The Director shall, within 45 days of receiving the complaint, issue a written administrative decision.</p>
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