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GAVIN NEWSOM
GOVERNOR

June 7, 2024

TO: REGIONAL CENTER EXECUTIVE DIRECTORS

SUBJECT: LANTERMAN ACT APPEAL PROCESS UPDATES AND GUIDANCE

This correspondence provides updates to forms and processes related to the Lanterman Developmental Disabilities Services Act (Lanterman Act) eligibility and services appeals.

FORM UPDATES

1. Update to the Online Appeal Request Form

Claimants now have the option to print and/or save the appeal request for their records at the time it is submitted to the Department of Developmental Services (Department or DDS). Claimants also can attach supporting documentation to their appeal request. Any attached documents will be provided to the regional center with the notification of the appeal request. Please note that these documents do not replace the need to provide other records necessary for mediations and hearings through the Office of Administrative Hearings (OAH).

2. DS 1821 – Appeal Request Form

An update to the PDF and Word versions of the Appeal Request Form has been released. The update includes checkboxes instead of drop-down menus, clarifies wording based on community feedback, and contains an updated Representative Authorization section. Although online appeal requests continue to be preferred, please provide individuals and families with the latest version of the form, dated September 2023, when sending Notices of Action or other similar information. The form contains a link to the online option.

3. DS 1819 – Representative Authorization Form

The DS 1821 Appeal Request Form and the DS 1819 Representative Authorization Form are intended to be provided simultaneously with a Notice of Action (NOA), Denial Letter, or Good Faith Belief Letter (GFBL). The DS 1819 Representative Authorization Form also can be used on its own at any point during the appeal process, or to provide Representative Authorization in other situations such as Welfare and Institutions (W&I) Code section 4731 Complaints and Early Start Complaints.

To assist with meeting the statutory timeline for informal meetings, the Department will provide this form and notify claimants who may need Representative Authorization to proceed with the appeal request, at the time the Department receives an appeal request.

4. DS 1823 – Appeal Request Change Form

As a reminder, the DS 1823 Appeal Request Change Form must be submitted to the Department if the Claimant, Requestor, or Authorized Representative would like to add, cancel, or change an appeal process step (e.g., a mediation or a hearing) to their existing appeal.

A new version of this form will be released soon that includes updated instructions; checkboxes to add, remove, or cancel a part of the appeal process; and a free-text field to explain a change, if needed. The Department will notify regional centers when the updated version of this form is available.

Please offer this form to claimants as they move through the appeal process.

5. DS 1824 – Final Reconsideration Request Form

The form instructions now include how and where to submit a Reconsideration Request. Available space has increased in the free-text fields.

6. Dari Translations

Dari translations of all appeal process forms are available.

Please replace the previous versions of the DS 1821 (Appeal Request Form) and the DS 1824 (Final Reconsideration Request Form) with the updated versions available on the Department's webpage for [Lanterman Act Eligibility & Service Appeals](#). Form versions for the public are found within the "Appeal Forms" drop-down section. Microsoft Word versions of these forms are available in the "For Regional Center Employees" drop-down section.

OAH PROCESSES

1. When to Submit a Request to Set (RTS)

Requests for mediation and hearings must be processed timely. Please note the following:

- An RTS should be submitted at the time of an appeal request if a mediation and/or hearing is requested.

- Add the DDS Appeal Case number to the RTS in parentheses after the name of the person the appeal is for.
 - Example: Jane Smith (CS0012345)
- An RTS should include:
 - DS 1821 Appeal Request form (if available)
 - DDS Appeal Record
 - Notice of Action, Denial Letter or Good Faith Belief Letter (if available)
 - Any documentation provided by the claimant

2. When and Where to Submit a Notification of Resolution (NOR)

- If a claimant requests mediation and/or hearing, and the appeal is resolved before the mediation or hearing, a NOR should be submitted to OAH immediately. This allows timelier cancellation of mediations and hearings, and enables timely scheduling of unrelated appeal requests for other individuals.
- If a claimant only requests an informal meeting at the time of filing, and the appeal is resolved at or before the informal meeting, the NOR should be submitted only to DDS.

3. Informal Meetings and Mediations

- Informal meetings and mediations should not be held on the same day. This affects the dynamics of resolution efforts, and risks wasting the preparation time of the parties and the time of the mediator. A continuance should be requested for mediation if an informal meeting is scheduled to occur on the same day as a mediation.

4. Identifying Proposed Decisions on an RTS

- For appeals that involve the Self-Determination Program (SDP), Coordinated Family Support, or Out-of-State Services, DDS issues the final hearing decision. If any part of the appeal includes one of these issues, the entire final decision will be issued by DDS. To help identify these appeals for OAH, please add a note in the additional comments section of the RTS saying “Proposed Decision” and identifying which issue(s) above apply.

Example: “Proposed Decision – Self Determination Program (SDP)”

APPEALS PROCESS REMINDERS

When a Regional Center is Notified of a New Appeal

When the regional center receives notification of a new appeal from DDS, please reply to confirm receipt and attach the NOA, Denial Letter, or GFBL, so the subject of the appeal can be accurately categorized.

How to Complete a Notification of Resolution

To continue to collect meaningful data, DDS is requesting to standardize how information on the NOR is collected, what information should be in the summary of the resolution, and an explanation of why the appeal was withdrawn without a resolution:

1. When completing the “Summarize the resolution, or why the appeal was withdrawn without resolution” section, please provide a detailed description of the resolution, or reason for withdrawal. Please consider the following when providing a detailed description.
 - a. For service-related appeals, please address all that apply:
 - Did the regional center fully fund the requested service(s)?
 - Did the regional center partially fund the requested service(s)?
 - Did the regional center not fund the requested service(s)?
 - Did the regional center agree to fund the assessment regarding requested service(s), but did not fund the requested service(s)?
 - Did the regional center refer the person to generic or other resources?
 - Did the regional center fund a different service to address the need?
 - b. For eligibility-related appeals, please specify whether the regional center agreed to perform an intake/eligibility assessment. If so, specify one of the following:
 - Was determined eligible
 - Was determined ineligible
 - Was granted provisional eligibility
 - c. For appeals that are withdrawn without a resolution, try to find out why the claimant is withdrawing and provide that information, such as:
 - Individual moved out of the catchment area
 - Individual passed away
 - Withdrawn due to personal circumstances
 - Withdrawn due to lack of time
 - Lack of representation/support

- Overwhelmed by the process
- Unable to secure an assessment
- Unable to secure a witness(es)
- No reason given
- Another reason. Please be as detailed as possible.
Example: “[Claimant/Requestor/Authorized Representative] has decided to withdraw their appeal and cancel their [Informal meeting/Mediation/Hearing] due to personal circumstances.”

d. For appeals that are administratively closed: Administratively Closed appeals are appeals for which the Claimant/Requestor/Authorized Representative does not respond to the formal notification of the outcome of the informal meeting or mediation within 60 days after being provided the formal outcome notification.

- To process an Administratively Closed appeal, the NOR needs to be signed and dated by the regional center representative. Check the box “Administratively Closed (Must Explain)” and include details for why the appeal was administratively closed in the box provided.

Example of proposed wording for Administratively Closed appeals:
“The Appeal Request Form contained a request for an informal meeting, which was held on XX/XX/XXX. The informal meeting decision letter was emailed on XX/XX/XXXX, and received by the [Claimant/Requestor/Authorized Representative] on XX/XX/XXXX. As of [date], [Claimant/Requestor/Authorized Representative] has not indicated an intent to proceed to a mediation or a hearing. Therefore, this case is closed pursuant to WIC Section 4710.9(c)(4).”

e. If none of the above reasons are applicable, please explain the outcome of the appeal in as much detail as possible.

2. When applicable, please check the box that indicates “The appeal request has been withdrawn through the following process”:

Resolved Before Informal Meeting

Resolved through informal communications with regional center staff before a meeting occurred.

Resolved at Informal Meeting

Resolved through informal communications with regional center staff.
This could be at the informal meeting, before mediation, or after mediation.

Resolved at Mediation

An agreement was reached at mediation.

Withdrawn Without Resolution

Claimant, Requestor, or Authorized Representative chooses to leave the appeal process without a resolution to the appeal.

APPEAL CLOSURES

Requests to Close Appeals Based on Initial Claimant No-show

Good cause is not statutorily required when requesting an initial continuance for mediation (W&I Code section 4711.5) or a state hearing (W&I Code section 4712). Requests for default summary judgments when a claimant does not appear, while legally permissible, do not align with the intent of the changes to the fair hearing process enacted in 2023.

Closure Emails After Resolution

DDS has begun sending a closure email after resolution. When a regional center submits a NOR and DDS closes an appeal, the claimant now will receive an email notifying them that their appeal has been closed. This email also asks for feedback on the appeal process using an electronic survey.

In response to stakeholder feedback, this closure email also provides information on implementation timelines. Enclosed is an example of the closure email.

An electronic form ([Agreement & Decision Implementation Delay - Individuals & Families](#)) is available for claimants to ask DDS for help with the implementation of agreements or final hearing decisions.

DATA UPDATES

On the Department's webpage for [Lanterman Act Eligibility & Service Appeals](#), a new drop-down section has been added below the "For Regional Center Employees" section.

This new drop-down section is titled "Lanterman Act Eligibility and Service Appeals Data" and takes the user to three tabs of historical data, including a dashboard for post-March 2023 data. Implementation of the appeal process changes in March 2023 eliminated the need for quarterly regional center surveys to collect data.

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COMING LATER IN 2024

Regional Center Access to DDS Appeals Database

DDS is making changes that will enable regional centers to directly access the DDS appeals database. Once completed, Regional Center Appeal Process Coordinators (also known as Hearing Coordinators) will be able to track and manage appeals directly within the DDS appeals database. More information and training will be provided when this functionality is available. We appreciate the willingness of some regional centers to help test this feature before statewide implementation.

Position Statement Templates

Based on feedback from the community, DDS is working on optional Position Statement templates for regional centers and claimants. The templates will be available to use but are not required. The Department will notify regional centers when these templates are available.

Thank you again for your ongoing partnership in the improvement of this process. If you have questions or feedback, please contact us at (833) 538-3723, or by email at appealsinput@dds.ca.gov.

Sincerely,

Original Signed by:

PETE CERVINKA
Chief, Data Analytics and Strategy

Enclosure

cc: Regional Center Administrators
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Association of Regional Center Agencies
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