

907 KAR 1:075

A special hearing and appeals processes exists when persons who are **lodged in state institutions** are “proposed . . . to be **reclassified and transferred.**”

Notice of Hearing: At the time the cabinet proposes to reclassify the level of care of a recipient or to transfer such recipient, the recipient, his parent, guardian or committee must be given notice of the actions to be taken and of his right to a hearing. The information must also include how he may begin a hearing and must relate that an authorized representative, such as legal counsel, may represent him.

Requesting a Hearing: The recipient or person acting on the recipient’s behalf must request a hearing within 30 days of receiving notice of reclassification or transfer.

The hearing may be requested in writing or orally through the Department of social insurance. If the request is made orally, it must be followed by a written request within 10 days.

Continuation of Services: As long as the request for a hearing is filed within the **30-day** period, Medicaid reimbursement shall continue, and the recipient shall not be transferred, pending the conclusion of the hearing.

Acknowledgement of Hearing Request: In response to a request for a hearing, the Cabinet must send an acknowledgment letter. The acknowledgement letter must contain information regarding the hearing process. Particularly, it must remind the recipient of his right to representation. Additional notification must be sent to notify the recipient of the time and place of the hearing.

Withdrawal or Dismissal: At any time prior to the appeal panel’s decision, the recipient may withdraw his request for a hearing. Similarly, a request for a hearing can be dismissed if the recipient fails to report for the hearing, unless the recipient can prove that he failed to attend for a good cause.

Rights prior to Hearing: 1) Right to legal counsel or other representation. 2) Right to case record review and to submit additional information to support the claim. 3) Right to a medical assessment at the Cabinet’s expense (if the hearing involves medical issues).

A three-member appeal panel will administer the hearing and render a written decision, in writing, within 90days from the date of the request for the hearing.

If the applicant or recipient is dissatisfied with the appeal panel’s decision then he may petition that the board’s decision be **Judicially Reviewed.** Such a request must be made within **30days** from the time the appeal panel’s decision was mailed or delivered. The petition must be filed in the Circuit Court of venue, which should be named in the agency’s enabling statutes, or the Franklin Circuit Court or the Circuit Court where the appealing individual resides or operates a business.

No more Than 90 days between these two events.