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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 4.5. SERVICES FOR THE DEVELOPMENTALLY DISABLED [4500 - 4885] (*Division 4.5 added by Stats. 1977, Ch. 1252.*)

CHAPTER 7. Appeal Procedure [4700 - 4731] (*Chapter 7 repealed and added by Stats. 1982, Ch. 506, Sec. 2.*)

ARTICLE 3. Fair Hearing Procedure [4710 - 4714] (*Article 3 added by Stats. 1982, Ch. 506, Sec. 2.*)

4710. (a) The regional center or state-operated facility shall send adequate notice, as described in subdivision (a) of Section 4701, to the recipient and, if appropriate, the authorized representative, by standard mail, certified mail, or email at their preference as indicated in their individual program plan. This notice shall be sent at least 30 days prior to either of the following actions and shall specify the effective date of the action:

(1) The regional center or state-operated facility makes a decision to reduce, terminate, or change services set forth in an individual program plan, unless there is mutual consent as defined in subdivision (k) of Section 4701.

(2) A recipient is determined to be no longer eligible for regional center services.

(b) The regional center or state-operated facility shall send adequate notice, as described in Section 4701, no more than five business days after it makes a decision to deny the initiation of a service or support requested for inclusion in the individual program plan unless there is mutual consent as defined in subdivision (k) of Section 4701. The notice shall be sent to the recipient and, if appropriate, the authorized representative, in their preferred language, by standard mail, certified mail, or by email at their preference as indicated in the individual program plan.

(c) If the reason for denial of services or modification of services in a recipient's individual program plan is a lack of funds in the regional center budget, the regional center shall be the service agency responsible for giving adequate notice and participating in the appeals procedure under this chapter.

(d) (1) The regional center shall, within 30 days after written notice is sent to the applicant or client, notify the department in writing of the denial if a lack of funds in the regional center budget is the reason for one of the following:

(A) The denial of services to an applicant.

(B) The denial of services to a current regional center client requesting services not included in the client's individual program plan but determined to be necessary by the interdisciplinary team.

(C) Denial, cutback, or termination of current services to a recipient set forth in the individual program plan.

(2) The notification to the department shall include the nature of the service requested, a request that the department allocate sufficient funds to the regional center within 30 days to provide the service, the projected cost for the service for the balance of the fiscal year, and information substantiating the reason for the lack of funds to purchase the service.

(e) If a person requests regional center services and is found to be ineligible for these services, the regional center shall give adequate notice pursuant to Section 4701. Within five business days of the time limits set forth in Sections 4642 and 4643, notice shall be sent to the applicant and, if appropriate, the authorized representative, by standard mail, certified mail, or email at their preference as indicated at the time of intake.

(f) The advance notice specified in subdivision (a) shall not be required when a reduction, termination, or change in services is determined to be necessary for the health and safety of the recipient. However, adequate notice shall be given within 10 days after the regional center or state-operated facility action.

(g) This section shall become operative on March 1, 2023.

(Repealed (in Sec. 38) and added by Stats. 2022, Ch. 49, Sec. 39. (SB 188) Effective June 30, 2022. Operative March 1, 2023, by its own provisions.)

4710.5. (a) Any applicant for or recipient of services, or authorized representative of the applicant or recipient, who is dissatisfied with a decision or action of the regional center or state-operated facility under this division shall, upon filing a request within 60 days after notification of that decision or action, be afforded an opportunity for an informal meeting, a mediation, and a fair hearing.

(b) The request for an informal meeting, mediation, or a fair hearing, or any combination thereof, shall be stated in writing on the appeal request form prescribed by the department.

(c) If any person makes a request for an informal meeting, mediation, or a fair hearing other than on the appeal request form, the employee of the regional center, department, or the state-operated facility who learns of the request shall provide the person with the appeal request form prescribed by the department and shall assist the person in filling out the form if the person requires or requests assistance. Any employee who willfully fails to comply with this requirement shall be guilty of a misdemeanor.

(d) The appeal request form shall be sent to the department unless the department has designated another agency to receive the form. The department or another agency that has been designated to receive the appeal request form shall send an electronic copy of a hearing request to the hearing office and the regional center or state-operated facility responsible for the action described in subdivision (a) within one business day of the department's or designated agency's receipt of the request. The department shall maintain information regarding all hearing request forms.

(e) This section shall become operative on March 1, 2023.

(Repealed (in Sec. 40) and added by Stats. 2022, Ch. 49, Sec. 41. (SB 188) Effective June 30, 2022. Operative March 1, 2023, by its own provisions.)

4710.6. (a) (1) Upon receipt of an appeal request form requesting an informal meeting, the regional center or state-operated facility and the claimant shall determine a mutually agreed-upon date, time, and place for the meeting to be held, which shall be within 10 days of the date the department, or another agency designated by the department, receives the request, or unless the claimant requests a continuance.

(2) A place pursuant to paragraph (1) may include an agreement of the parties to conduct the informal meeting by telephone, videoconference, or other electronic means.

(b) The regional center or state-operated facility shall notify the claimant and their authorized representative in writing and in their preferred language of the mutually agreed-upon date, time, and place for the informal meeting.

(c) A written notification of rights specified in Section 4701 shall be provided to the claimant unless the regional center or state-operated facility provided the required written notification of those rights with the notice required by Section 4710.

(d) This section shall become operative on March 1, 2023.

(Repealed (in Sec. 42) and added by Stats. 2022, Ch. 49, Sec. 43. (SB 188) Effective June 30, 2022. Operative March 1, 2023, by its own provisions.)

4710.7. (a) The purpose of the informal meeting is to attempt to resolve the issue or issues that are the subject of the appeal request informally prior to a mediation or fair hearing.

(b) The informal meeting shall be conducted by the regional center or state-operated facility director or their designee. The regional center or state-operated facility director or their designee shall notify the applicant or recipient and their authorized representative of the decision from the informal meeting in writing within five days of the meeting.

(c) The written decision of the regional center or state-operated facility director or their designee shall:

(1) Identify the issues presented by the appeal.

(2) Rule on each issue identified.

(3) State the facts supporting each ruling.

(4) Identify the specific laws, regulations, and policies upon which each ruling is based.

(5) Be provided in the preferred language of the applicant or recipient, or their authorized representative.

(d) This section shall become operative on March 1, 2023.

(Repealed (in Sec. 44) and added by Stats. 2022, Ch. 49, Sec. 45. (SB 188) Effective June 30, 2022. Operative March 1, 2023, by its own provisions.)

4710.8. (a) At an informal meeting, the claimant shall have the rights stated pursuant to Section 4701.

(b) An informal meeting shall be held consistent with Section 4710.6.

(c) An informal meeting shall be conducted in the English language. However, if the preferred language of the claimant or the authorized representative is not English, an interpreter shall be provided. Any cost of an interpreter shall be borne by the regional center or state-operated facility.

(d) This section shall become operative on March 1, 2023.

(Repealed (in Sec. 46) and added by Stats. 2022, Ch. 49, Sec. 47. (SB 188) Effective June 30, 2022. Operative March 1, 2023, by its own provisions.)

4710.9. (a) If, after the informal meeting, the claimant or their authorized representative is satisfied with all or part of the decision of the regional center or state-operated facility, they shall withdraw the request for an appeal on the matter or matters that have been decided to their satisfaction. The decision of the regional center or state-operated facility shall go into effect 10 days after the receipt of the full or partial withdrawal of the request for an appeal on those matters. The regional center or state-operated facility shall immediately forward a copy of the full or partial withdrawal, including a copy of the written decision, to the department and to the hearing office.

(b) If the claimant or their authorized representative is dissatisfied with all or part of the decision of the regional center or state-operated facility, the regional center or state-operated facility shall immediately notify the department and the hearing office that the appeal request has not been withdrawn.

(c) (1) If a claimant or their authorized representative has not advised the regional center or state-operated facility whether they want to proceed to a mediation or fair hearing within three days of receiving the informal meeting decision, they may do so at a later date.

(2) A decision to proceed to a mediation or fair hearing that is made more than three days after receiving the informal meeting decision shall be considered a waiver of their Medicaid home and community-based services right to a hearing decision within 90 days of the date the original request was received by the department.

(3) Services provided pursuant to a recipient's individual program plan during the appeal shall end as specified in Section 4715.

(4) Sixty days after receiving the informal meeting decision, the appeal shall be considered withdrawn if the claimant or their authorized representative has not advised the regional center or state-operated facility of their intent to proceed to a mediation or fair hearing.

(d) A recommendation for consolidation pursuant to Section 4712.2 to the hearing office may be made at this time.

(e) This section shall become operative on March 1, 2023.

(Repealed (in Sec. 48) and added by Stats. 2022, Ch. 49, Sec. 49. (SB 188) Effective June 30, 2022. Operative March 1, 2023, by its own provisions.)

4711. (a) Upon receipt of an appeal request form requesting mediation or a fair hearing, the hearing office shall immediately notify the claimant and the claimant's authorized representative, in their preferred language, and the regional center or state-operated facility director in writing of all the following information applicable to mediation and fair hearings:

(1) (A) The time, place, and date of the mediation or fair hearing, as applicable.

(B) A place pursuant to paragraph (1) may include an agreement of the parties, or an order by a hearing officer, following a finding of good cause, to conduct the mediation or hearing by telephone, videoconference, or other electronic means.

(2) The rights of the parties at the mediation or fair hearing pursuant to Section 4701 or 4711.5, as applicable.

(3) The availability of advocacy assistance pursuant to paragraph (5) of subdivision (a) of Section 4701.

(4) As applicable, contact information for persons or offices to conduct mediation or fair hearings, and to receive requests for continuance or consolidation.

(5) The rights and responsibilities of the parties established pursuant to Sections 4711.5 and 4712.

(b) This section shall become operative on March 1, 2023.

(Repealed (in Sec. 50) and added by Stats. 2022, Ch. 49, Sec. 51. (SB 188) Effective June 30, 2022. Operative March 1, 2023, by its own provisions.)

4711.5. (a) Upon receipt of an appeal request form requesting mediation, the hearing office shall promptly notify the claimant and their authorized representative, in their preferred language, and the regional center or state-operated facility, of the information applicable to mediation.

(b) (1) The mediation shall be held within 30 days of the date the appeal request form is received by the department or by another agency designated by the department to receive the appeal request form, or unless a continuance is requested and granted to the claimant at the discretion of the mediator.

(2) A continuance granted pursuant to paragraph (1) shall constitute a waiver of a Medicaid home and community-based services participant's right to a decision within 90 days of the date the appeal request form is received by the department or by another agency designated by the department to receive the appeal request form. The extension of time for the final decision resulting from the continuance shall be only as long as the time period of the continuance.

(c) Mediation shall be conducted in an informal, nonadversarial manner, and shall incorporate the rights of the claimant contained in paragraph (8) of subdivision (a) of Section 4701.

(d) Mediators shall meet both of the following requirements:

(1) Familiarity with the provisions of this division and implementing regulations, and familiarity with the process of reconciling differences in a nonadversarial, informal manner.

(2) The person is not in the business of providing or supervising services provided to regional centers or to regional center applicants or recipients.

(e) During the course of the mediation, the mediator may meet separately with the participants to the mediation, and may speak with any party or parties confidentially in an attempt to assist the parties to reach a resolution that is acceptable to all parties.

(f) The mediator shall voluntarily disqualify themselves and withdraw from any case in which the mediator cannot be fair and impartial. Any party may request the disqualification of the mediator by filing an affidavit, prior to the mediation, stating the specific grounds upon which it is claimed that a fair and impartial mediation cannot be held. The issue shall be decided by the mediator.

(g) Either the regional center or state-operated facility or the claimant or their authorized representative may withdraw from mediation at any time after the conclusion of the first mediation session, as that time is established by the mediator, and proceed to a fair hearing, if a fair hearing has been requested by the claimant.

(h) This section shall become operative on March 1, 2023.

(Repealed (in Sec. 52) and added by Stats. 2022, Ch. 49, Sec. 53. (SB 188) Effective June 30, 2022. Operative March 1, 2023, by its own provisions.)

4711.7. (a) If the issue or issues involved in the mediation are resolved or partially resolved to the satisfaction of both parties, the mediator shall prepare a written resolution. Agreement of the claimant or their authorized representative to the written resolution shall be accompanied by a withdrawal or partial withdrawal, in writing, of any fair hearing request. The written resolution shall go into effect 10 days after receipt of the claimant's agreement to the written resolution. The mediator shall promptly forward a copy of the written resolution and any full or partial withdrawal of a fair hearing request to the hearing office.

(b) If the mediation fails to resolve an issue or issues to the satisfaction of the claimant, or their authorized representative, the matter shall, at the claimant's request, proceed to a fair hearing with respect to the unresolved issue or issues as provided under this chapter.

(c) The mediator, after the conclusion of the mediation, shall promptly notify the hearing office, department, claimant and their authorized representative, and regional center of the outcome of the mediation and whether or not the claimant wants to proceed to a fair hearing. If the claimant or their authorized representative has not indicated whether they want to proceed to a fair hearing, the matter shall be taken off the calendar and continued until the time that the claimant requests a hearing or withdraws the hearing request. The continuance shall be considered a waiver of their Medicaid home- and community-based waiver services right to a hearing decision within 90 days of the date the original request was received by the department.

(d) Services provided pursuant to a recipient's individual program plan during the appeal shall end as specified in Section 4715.

(e) Sixty days after the mediator's notice of the outcome of the mediation, the appeal shall be considered withdrawn if the claimant or their authorized representative has not indicated their intent to proceed to a fair hearing.

(f) This section shall become operative on March 1, 2023.

(Repealed (in Sec. 54) and added by Stats. 2022, Ch. 49, Sec. 55. (SB 188) Effective June 30, 2022. Operative March 1, 2023, by its own provisions.)

4712. (a) (1) The fair hearing shall be held within 50 days of the date the appeal request form is received by the department or other agency designated by the department to receive appeal request forms, unless a continuance is granted to the claimant. A claimant's first request for a continuance made prior to the commencement of the hearing shall be granted without a showing of good cause. A claimant may request additional continuances based on a showing of good cause. A claimant's request for a continuance shall result in a waiver of the claimant's Medicaid home and community-based services right to a decision within 90 days of the date the appeal request form is received.

(2) The regional center or state-operated facility also may request a continuance based upon a showing of good cause, provided that the granting of the continuance does not extend the time period for rendering a final administrative decision beyond the 90-day period provided for in this chapter. For purposes of this section, good cause for either party includes, but is not limited to, the following circumstances:

(A) Death of a spouse, parent, child, brother, sister, or grandparent of the claimant or authorized representative, or of the regional center or state-operated facility representative.

(B) Personal illness or injury of the claimant or authorized representative, or of the regional center or state-operated facility representative.

(C) Sudden and unexpected emergencies, including, but not limited to, court appearances or conflicting schedules if the conflict is beyond the control of the claimant, authorized representative, or regional center or state-operated facility representative.

(D) Unavailability of a witness or evidence, the absence of which would result in serious prejudice to the claimant or the regional center or state-operated facility.

(E) An intervening request for mediation by the claimant or the claimant's authorized representative.

(b) (1) Notwithstanding Sections 19130, 19131, and 19132 of the Government Code, the department shall contract for the provision of independent hearing officers. Hearing officers shall have had at least two years of full-time legal training at a California or American Bar Association accredited law school or the equivalent in training and experience as established by regulations adopted by the department.

(2) Hearing officers shall receive training and information in the law and regulations governing services to people with intellectual and developmental disabilities and administrative hearings. Training shall include, but not be limited to, the Lanterman Developmental Disabilities Services Act and regulations adopted thereunder, relevant written directives and guidance issued by the department, relevant case law, information about services and supports available to persons with developmental disabilities, including innovative services and supports, the standard agreement contract between the department and regional centers, and regional center purchase-of-service policies. The training shall include methods to create an impartial and informal hearing environment that encourages the free and open exchange of information and engages the parties to bring out relevant facts, protecting the rights of claimants at fair hearings, with emphasis on assisting, if appropriate, an unrepresented claimant, family member, authorized representative, or advocate inexperienced in administrative hearings in fully developing the administrative record. The training also shall include information about disabilities and disability-related supports that may enable participation in a hearing, and reasonable accommodations to reduce barriers.

(3) The department and the hearing office shall seek the advice of stakeholders, including recipients and family members representing diverse disabilities and backgrounds, the State Council on Developmental Disabilities, the protection and advocacy agency identified in Division 4.7 (commencing with Section 4900) and designated by the Governor in this state to fulfill the requirements and assurances of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, contained in Chapter 144 (commencing with Section 15001) of Title 42 of the United States Code, the Association of Regional Center Agencies, advocacy organizations, and other state agencies or organizations in the development of standardized hearing procedures for hearing officers and training materials and the implementation of training procedures by the department. The department shall provide formal training for hearing officers on at least an annual basis.

(c) The hearing officer shall not be an employee, agent, board member, or contractor of the regional center or state-operated facility against whose action the appeal has been filed, or a spouse, parent, child, brother, sister, grandparent, legal guardian, or conservator of the claimant, or any person who has a direct financial interest in the outcome of the fair hearing, or any other interest that would preclude a fair and impartial hearing.

(d) (1) The regional center or state-operated facility shall prepare a position statement and send it electronically to the hearing office and the claimant, unless the claimant has communicated an alternative way to receive the document, at least two business days prior to the hearing. The position statement shall summarize the facts of the case and set forth the justification of the regional

center's or state-operated facility's action and shall include a list of witnesses that it intends to call during the hearing, the general subject of the testimony of each witness, and copies of all documentary evidence that it intends to use.

(A) If the preferred language of the claimant or their authorized representative is not English, the regional center also shall provide a copy of the position statement in their preferred language.

(B) If the regional center or state-operated facility cannot provide a copy of the position statement in the preferred language of the claimant or their authorized representative two business days prior to the hearing, the regional center or state-operated facility shall notify the claimant or their authorized representative, provide a copy of the position statement in English, and apply for a continuance of the hearing accompanied by evidence of its efforts to translate the position statement.

(C) The hearing officer shall, unless the claimant or their authorized representative indicates they want to proceed to hearing, continue the hearing for no more than 10 days following a determination that the regional center or state-operated facility has provided satisfactory evidence of its efforts to translate the position statement. The translated position statement shall be provided at least two business days prior to the continued hearing.

(2) At least two business days prior to the hearing, a claimant who is not represented by an attorney licensed to practice law in California shall make available to the regional center or state-operated facility and the hearing office a list of intended witnesses and a brief description of their relationship to the claimant and copies of any professional assessments or reports related to eligibility or services that the claimant intends to use at hearing. At or before the hearing, the claimant also shall make available to the regional center or state-operated facility and the hearing office copies of all other intended documentary evidence.

(3) If the claimant is represented by, or is, an attorney licensed to practice law in California, the claimant's attorney shall prepare a position statement and make it available to the regional center or state-operated facility and the hearing office at least two business days prior to the hearing. The position statement shall summarize the facts of the case and set forth the justification for the claimant's position and shall include a list of intended witnesses, the general subject of the testimony of each witness, and copies of all documentary evidence intended to be used.

(4) (A) The hearing officer may prohibit testimony of a witness or the introduction of documents that have not been disclosed. However, the hearing officer may allow introduction of documents or witness testimony in the interest of justice.

(B) In considering an unrepresented claimant's failure to disclose testimony or documents, the hearing officer also may consider the claimant's understanding of the disclosure requirements, disability factors that made it difficult for the claimant to comply with the rule, and the impact of excluding testimony or documents on the hearing officer's ability to assist the parties in bringing out relevant facts.

(e) (1) The fair hearing shall be held at a time and place reasonably convenient to the claimant and the authorized representative. The claimant or the authorized representative of the claimant and the regional center shall agree on the place of the fair hearing.

(2) A place pursuant to paragraph (1) may include an agreement of the parties, or an order by a hearing officer, following a finding of good cause, to conduct the hearing by telephone, videoconference, or other electronic means.

(f) Merits of a pending fair hearing shall not be discussed between the hearing officer and a party outside the presence of the other party.

(g) The hearing officer shall voluntarily disqualify themselves and withdraw from any case in which the hearing officer cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of the hearing officer by filing an affidavit or making an objection on the record, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be decided by the hearing officer and may be reviewed as part of the reconsideration process specified in Section 4713.

(h) Both parties to the fair hearing shall have the rights specified in subparagraphs (A) to (C), inclusive, of paragraph (9) of subdivision (a) of Section 4701.

(i) (1) The fair hearing shall be conducted in an impartial and informal manner in order to encourage the presentation of information and the free and open discussion by participants. The hearing officer shall make their best effort to fully and fairly develop the record and create an environment in which all relevant facts, both favorable and unfavorable, are brought out and to engage the parties to bring out the facts.

(2) The fair hearing need not be conducted according to the technical rules of evidence and those related to witnesses. Any relevant evidence shall be admitted. Both parties shall be allowed to submit documents into evidence at the beginning of the hearing. A party shall not be required to formally authenticate any document unless the hearing officer determines the necessity to do so in the interest of justice. All testimony shall be under oath or affirmation which the hearing officer is empowered to administer.

(3) The hearing officer may do any of the following during the hearing to assist in bringing out all relevant facts:

(A) Question a witness on the record.

(B) Call a witness to testify at the hearing.

(C) Hold the record open to allow a party to obtain necessary testimony or documentation identified by the hearing officer during the course of the fair hearing.

(j) A regional center or state-operated facility shall present its witnesses and all other evidence before the claimant presents the claimant's case unless the parties agree otherwise or the hearing officer determines that it is appropriate for a witness to be heard out of order. This section does not alter the burden of proof.

(k) A recording shall be made of the proceedings before the hearing officer. Any cost of recording shall be borne by the hearing office.

(l) The fair hearing shall be conducted in the English language. However, if the preferred language of the claimant or authorized representative is not English, an interpreter shall be provided by the hearing office.

(m) The fair hearing shall be open to the public except at the request of the claimant or authorized representative or when personnel matters are being reviewed.

(n) The hearing office awarded the contract for independent hearing officers shall biennially conduct, or cause to be conducted, an evaluation of the hearing officers who conduct hearings under this part. The department shall approve the methodology used to conduct the evaluation. Information and data for this evaluation shall be solicited from recipients or applicants who participated in a fair hearing over the past two years, their family members or authorized representative if involved in the hearing, regional centers, and nonattorney advocates, attorneys who represented either party in a fair hearing over the past two years, and the organizations identified in paragraph (3) of subdivision (b). Regional centers shall forward copies of fair hearing decisions reviewed by the superior court to the department. The areas of evaluation shall include, but not be limited to, the hearing officers' demeanor toward parties and witnesses, conduct of the hearing in accord with fairness and standards of due process, ability to fairly develop the record in cases in which applicants or recipients represent themselves or are represented by an advocate that does not have significant experience in fair hearings, use of legal authority, clarity of written decisions, and adherence to the requirements of subdivision (c) of Section 4712.5. The department shall be provided with a copy of the evaluation and shall use the evaluation in partial fulfillment of its evaluation of the contract for the provision of independent hearing officers. A summary of the data collected shall be made available to the public upon request, provided that the names of individual hearing officers and the names and other identifiable information about applicants and recipients shall not be disclosed.

(o) This section shall become operative on March 1, 2023.

(Repealed (in Sec. 56) and added by Stats. 2022, Ch. 49, Sec. 57. (SB 188) Effective June 30, 2022. Operative March 1, 2023, by its own provisions.)

4712.2. (a) Two or more claimants with a common complaint, or their authorized representatives, or a regional center or state-operated facility may request the consolidation of appeals involving a common question of law or fact. The hearing officer may grant the request for consolidation if the hearing officer finds that consolidation would not result in prejudice or undue inconvenience to any party, undue delay, or a violation of any claimant's right to confidentiality unless the claimant agrees to have otherwise confidential information revealed to other claimants. Requests for consolidation shall be forwarded to the hearing officer and postmarked within five days of the receipt of the notice sent pursuant to Section 4711. The hearing officer shall notify the parties and authorized representatives, if any, of a request for consolidation and shall afford an opportunity for any written objections to be submitted.

(b) In all consolidated hearings, each individual claimant shall have all the rights specified in Section 4701. A separate written decision shall be issued to each claimant and respective authorized representatives.

(c) This section shall become operative on March 1, 2023.

(Repealed (in Sec. 58) and added by Stats. 2022, Ch. 49, Sec. 59. (SB 188) Effective June 30, 2022. Operative March 1, 2023, by its own provisions.)

4712.5. (a) (1) Within 10 business days of the concluding day of the fair hearing, but not later than 80 days following the date the appeal request form was received by the department or by another agency designated by the department to receive the appeal request form, the hearing officer shall render any final written decision delegated by subdivisions (d) and (e) and shall transmit the decision to each party, to the director of the hearing office, and the department, along with notification that this is the final administrative decision, that each party shall be bound thereby, and that either party may request a reconsideration pursuant to subdivision (b) of Section 4713 within 15 days of receiving the decision or appeal the decision to a court of competent jurisdiction within 180 days of receiving the final decision.

(2) Within 10 days of the concluding day of the fair hearing, but not later than 60 days following the date the appeal request form was received by the department or by another agency designated by the department to receive the appeal request form, the

hearing officer shall render any proposed written decision as allowed by subdivisions (d) and (e) and shall electronically transmit the decision to the applicable departments identified in subdivisions (d) and (e).

(b) A continuance granted to a claimant shall constitute a waiver of their Medicaid home- and community-based services right to a decision within 90 days of the date the appeal request form is received by the department or by another agency designated by the department to receive the appeal request form. The extension of time for the final decision resulting from the continuance shall be only as long as the time period of the continuance.

(c) (1) The hearing officer's decision shall be in ordinary and concise language and shall contain a summary of the facts, a statement of the evidence from the proceedings that was relied upon, a decision on each of the issues presented, and an identification of the statutes, regulations, and policies supporting the decision.

(2) If the claimant's or their authorized representative's preferred language is not English, the hearing office shall provide the proposed or final written decision in English and in their preferred language.

(d) (1) In addition to any other delegation of authority granted to the Director of Health Care Services, the director may delegate their authority to adopt final decisions under this chapter to the hearing officers described in subdivision (b) of Section 4712 to the extent deemed appropriate by the director. Any delegation shall be stated in writing.

(2) If the decision involves an issue arising from the federal Medicaid home- and community-based services waiver program, the hearing officer's decision shall be a proposed decision submitted to the Director of Health Care Services as the single state agency for the Medicaid program. Within 90 days following the date the appeal request form is received, the director may adopt the decision as written or decide the matter on the record. If the Director of Health Care Services does not act on the proposed decision within 90 days, the decision shall be deemed to be adopted by the Director of Health Care Services. The final decision shall be immediately transmitted to each party, along with the notice described in paragraph (1) of subdivision (a). If the decision of the Director of Health Care Services differs from the proposed decision of the hearing officer, a copy of that proposed decision shall also be served upon each party.

(3) If the claimant's or their authorized representative's preferred language is not English, the final administrative hearing decision of the director and the proposed decision of the hearing officer shall be provided to that person in English and in their preferred language.

(e) (1) The Director of Developmental Services shall have the authority to review a hearing officer's proposed decision or to delegate their authority to adopt final decisions to the hearing officers described in subdivision (b) of Section 4712. The authority for hearing officers to adopt final decisions may be made within specified issues or types of cases to the extent deemed appropriate by the director. Any delegation shall be stated in writing.

(2) Within 30 days following receipt of the proposed decision, the Director of Developmental Services may adopt the proposed decision as written or decide the matter on the record, including the recording, with or without taking additional evidence. If the director does not act on the proposed decision within the 30 days, the proposed decision shall be deemed to be adopted by the director. The State Department of Developmental Services shall promptly transmit a final decision to each party, along with the notice described in paragraph (1) of subdivision (a). If the final decision of the director differs from the proposed decision of the hearing officer, a copy of the proposed decision also shall be served upon each party.

(3) If the claimant's or their authorized representative's preferred language is not English, the final hearing decision of the director and the proposed decision of the hearing officer shall be provided to that person in English and in their preferred language.

(f) The hearing office shall collect and maintain, or cause to be collected and maintained, redacted copies, that do not include any identifiable information concerning the claimant, of all final administrative hearing decisions issued under this chapter. Hearing decisions shall be searchable by the type of service or support that was the subject of the hearing, by the month and year of issuance, and any other categories identified by the State Department of Developmental Services. The hearing office shall make available to the public on the hearing office's internet website searchable and downloadable redacted copies of all final administrative hearing decisions. These decisions shall be available no later than 30 days after the date of the final hearing decision. The State Department of Developmental Services shall use this information in partial fulfillment of its obligation to monitor regional centers and in its evaluation of the contract for the provision of independent hearing officers.

(g) This section shall become operative on March 1, 2023.

(Repealed (in Sec. 60) and added by Stats. 2022, Ch. 49, Sec. 61. (SB 188) Effective June 30, 2022. Operative March 1, 2023, by its own provisions.)

4713. (a) If the final decision is unfavorable to the claimant, and the claimant has been receiving the services that have been the subject of the appeal, the decision shall not be implemented until 15 days after receipt of the final hearing decision by the claimant and the authorized representative, unless a reconsideration is requested within 15 days from the date of the final hearing decision. If a reconsideration is requested, any services shall continue as specified in Section 4715.

(b) Within 15 days of the date of the final hearing decision, a party may apply to the hearing office or to the director responsible for issuing the final decision for a correction of a mistake of fact or law, or a clerical error in the decision or in the decision of the hearing officer not to recuse themselves following a request pursuant to subdivision (g) of Section 4712. The party shall state the specific grounds on which the application is made. Notice of the application shall be given to the other parties to the proceeding and to the department. The application is not a prerequisite for seeking judicial review. The other party may file a written statement supporting or opposing the application.

(c) The hearing office shall refer the application to a hearing officer who did not write the decision for which reconsideration is requested.

(d) Within 15 days of receiving the request, the hearing office or the director responsible for issuing the decision may deny the application, grant the application and modify the decision, or grant the application and set the matter for further proceedings. If further proceedings are authorized, they shall be conducted in the same manner and subject to the same time limits as the original hearing. Within one day of its decision on the application, the hearing office shall notify the parties and the department of its decision on the application.

(e) The hearing office or the director responsible for issuing the decision shall, within five business days after correction of a mistake of fact or law or clerical error in the decision, serve a copy of the corrected decision on each party and provide a copy to the State Department of Developmental Services.

(f) This section shall become operative on March 1, 2023.

(Repealed (in Sec. 63) and added by Stats. 2022, Ch. 49, Sec. 64. (SB 188) Effective June 30, 2022. Operative March 1, 2023, by its own provisions.)

4713.5. (a) The regional center shall implement the final hearing decision as soon as practical and not later than 30 days following the date of the final hearing decision, or, if a reconsideration was granted, the regional center shall implement the final corrected decision 30 days following the reconsideration, unless the regional center notifies the claimant and their authorized representative in writing, with a copy to the department, of the specific exceptional circumstances that make it impossible to implement the decision within that timeframe and provides the date when the decision will be implemented.

(b) The claimant or authorized representative may contact the department if they are dissatisfied with the regional center's or the state-operated facility's compliance with the decision. Upon notification, the department shall take appropriate actions to obtain compliance with the decision.

(Added by Stats. 2022, Ch. 49, Sec. 65. (SB 188) Effective June 30, 2022.)

4714. (a) For each appeal request form submitted pursuant to Section 4710.5, the department shall collect information related to the appeal from regional centers or state-operated facilities in a manner and at times determined by the department. The information collected shall include, but is not limited to, all of the following:

- (1) Whether the case was resolved before an informal meeting or through an informal meeting.
- (2) Whether the case was withdrawn and the reason for the withdrawal.
- (3) Whether an informal meeting was declined.
- (4) The issue or issues involved in the case by issue type, as specified by the department.
- (5) If the case was resolved, the resolution outcome.
- (6) Demographic information, as identified by the department, about the claimants.
- (7) A copy of the written decision of the regional center director or designee or state-operated facility director or designee.

(b) For each appeal request submitted to the hearing office to conduct a mediation or a fair hearing, the department shall collect information relating to the request from the hearing office. The information provided shall include, but is not limited to, all of the following:

- (1) Whether the request was resolved before mediation, through mediation, through a fair hearing, through a reconsideration, or through a different means.
- (2) Whether the request was withdrawn and the reason for the withdrawal.
- (3) The issue or issues involved in the request by issue type, as specified by the department.

(4) If the request was resolved, the outcome.

(5) A copy of the written mediation agreement, the final administrative hearing decision, and the final reconsideration decision, as applicable.

(6) The average length of time between filing and resolution of the request.

(7) Demographic information, as identified by the department, about claimants.

(c) The information collected pursuant to this section shall be compiled by the department. The department shall post aggregate information on its internet website at least annually and shall notify the Legislature when the information has been posted. The names of recipients and applicants and other personally identifiable information shall not be disclosed.

(d) This section shall become operative on March 1, 2023.

(Repealed (in Sec. 66) and added by Stats. 2022, Ch. 49, Sec. 67. (SB 188) Effective June 30, 2022. Operative March 1, 2023, by its own provisions.)