



Disability Law Center's Self-Advocacy Materials

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DDS Services

This document is designed for people with disabilities. The information is about your legal rights and how to advocate for yourself as a resident in Massachusetts.

Contact us to request this information in an alternative format.

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Funding

DLC receives funding from government grants, private foundations, and individual contributions. For details about our funding and programs, please visit:

<http://www.dlc-ma.org/about/funding/>

Department of Developmental Services (DDS) Appeals

You Will Learn About:

- Filing An Appeal
- Steps After Filing An Appeal

This document includes general information about legal issues and is intended to be used for informational purposes only. These informational materials should not be taken as legal advice, and do not create an attorney-client relationship. The outcome of any particular matter will depend on a variety of factors. For specific legal problems you would need to contact an attorney.

Filing An Appeal

What Issues Can I Appeal?

The Department of Developmental Services (DDS) regulations explain the specific issues that you can appeal. You can use the DDS appeal process to appeal the following:

- **Denial of eligibility** for DDS services. More information about DDS eligibility can be found in the “Eligibility For Adult Services And Supports From DDS” document on DLC’s website.
- DDS assignment of **priority for services**. More information about prioritization can be found in the “Service and Supports for Adults and the Prioritization Process” document on DLC’s website
- Whether the **assessments** DDS performed or arranged to serve as the basis for developing or reviewing the ISP were sufficient. More information about assessments can be found in the “Individual Support Planning” document on DLC’s website
- Whether the **goals** identified in the Individual Support Plan (ISP) are consistent with and promote the required DDS outcomes of rights and dignity; individual control; community membership; relationships; personal growth and accomplishments; and health, safety, and financial security. More information about these outcomes can be found in the “Individual Support Planning” document on DLC’s website.
- Whether the supports identified in the ISP are the **least restrictive**, appropriate and available supports to meet your ISP goals.
- Whether the use of **behavior modification procedures**, medication and limitations of a person’s movement are consistent with DDS rules.
- Whether the ISP team’s recommendations about a person’s **ability to make personal and financial decisions** are appropriate and whether the recommended decision-making supports are appropriate.
- Whether DDS and/or the provider agency **followed DDS rules for the development, review or modification of the ISP**.
- Whether DDS and/or the provider agency are implementing, or **following, the ISP**.

Who Can File An Appeal?

You can file an appeal. If you do not have a guardian, your family can also file an appeal. If you have a “designated representative,” such as an attorney, that person can also file an appeal.

If you have a guardian, only you, your guardian or your designated representative can file an appeal.

How Do I File An Appeal?

You file the appeal **in writing with the Regional Director** for the DDS region in which you live. You must file the appeal **within 30 days** of receiving the written DDS decision or the ISP. When you receive the DDS decision letter or the ISP, you should also receive the appeal paperwork. If you are appealing because your program and staff are not following your ISP, or **failing to implement your ISP**, you can appeal at **any time** by writing to the Regional Director. Make sure you keep a copy of what you sent to the Regional Director for your records.

If your appeal involves your ISP, it is important to remember that just not signing your ISP is insufficient. If you do not sign your ISP and do not submit an appeal, DDS will treat it as though you

accepted your ISP. You must submit the appeal in writing as described above to start the appeal process.

Steps After Filing An Appeal

What Is The Informal Conference?

After you file the appeal, DDS must have an **informal conference**. The DDS Regional Director, or his or her designee, holds the informal conference. DDS must have the informal conference **within 30 days of receiving your appeal**.

The informal conference is a meeting where you and DDS to try to resolve the issue(s) you are appealing. If you and DDS resolve everything, there is no need for further appeal. If you and DDS cannot resolve the issue(s) through the informal conference process, you and DDS should work together to clarify the issue(s) for further appeal. You should also determine if you and DDS can agree to any facts about the case.

If the appealed issues are not resolved at the informal conference, you may continue your appeal to a **fair hearing**.

What Is A DDS Fair Hearing?

If you were not able to resolve your appeal at the informal conference, you can request a **fair hearing**. You have **30 days after the conclusion of the informal conference** to request a fair hearing. You must send your request for a hearing to the DDS Commissioner at 500 Harrison Avenue, Boston, MA 02118. Make sure to keep a copy of your request for your records.

DDS must schedule the fair hearing **within 60 days** from your request for a fair hearing. At the hearing, there is a hearing officer. The hearing officer's role is similar to that of a judge in a court. You, as the person who is appealing, have the burden of proof. This means that you must show the hearing officer that DDS's decision or position is wrong. You do not need to prove your position is correct beyond all reasonable doubt. Instead, you need to show that the preponderance, or majority, of the evidence shows your position is correct.

At the hearing, you have the right to have an attorney represent you. You also have the right to present evidence and question witnesses. After the hearing, you should **receive a written decision within 45 days**. If you disagree with the written decision from the fair hearing, you may appeal to Superior Court.