



Department of Human Resources  
311 West Saratoga Street  
Baltimore MD 21201

## Family Investment Administration **INFORMATION MEMO**

**Control Number: 06-18 Revised**

**Effective Date: UPON RECEIPT**

**Issuance Date: December 21, 2005**

**TO: DIRECTORS, LOCAL DEPARTMENTS OF SOCIAL SERVICES  
DEPUTY/ASSISTANT DIRECTORS FOR FAMILY INVESTMENT  
FAMILY INVESTMENT SUPERVISORS AND CASE MANAGERS**

**FROM: KEVIN M. MCGUIRE, EXECUTIVE DIRECTOR, FIA  
JOSEPH DAVIS, EXECUTIVE DIRECTOR, DHMH OOE**

**RE: STATE REVIEW TEAM APPEALS AND MEDICAL ASSISTANCE AND  
TDAP REDETERMINATIONS**

**PROGRAMS AFFECTED: MEDICAL ASSISTANCE (MA) AND TEMPORARY  
DISABILITY ASSISTANCE (TDAP) PROGRAMS**

**ORIGINATING OFFICES: OFFICE OF PROGRAMS AND OFFICE OF OPERATIONS**

### **SUMMARY:**

This information memo clarifies the role of the State Review Team (SRT) in assisting the local departments of social services in the appeals process and serves as a reminder of the MA and TDAP policy for redetermining eligibility. This revised information memo adds information about requesting a postponement of the hearing when the customer who is appealing provides new medical evidence.

### **SRT APPEALS CLARIFICATION**

The Medical, Vocational, and Educational Assessment document (DHR/FIA 736) explains the criteria used to make the disability determination, what the claimant's impairments are, and why a "not disabled" decision was rendered. The SRT forwards two copies of this document to the local department. The LDSS adds text to the CARES generated Notice of Ineligibility, informing the customer that details of the "not disabled" decision are forthcoming. The LDSS then mails one copy of the DHR/FIA 736 document to the customer and retains the other copy in the case record.

The LDSS representative uses the information contained in the DHR/FIA 736 document as a tool to defend the SRT decisions that are being appealed. SRT will act in a **consultative capacity** if the LDSS representative needs further clarification and/or assistance during the preparation phase of the appeal process. The LDSS

representative may contact the SRT by telephone at 410-767-7752 two weeks prior to the appeal date to schedule a consultation. The LDSS is not to subpoena the SRT.

When a case has been remanded to the LDSS by an Administrative Law Judge for a redetermination of disability by the SRT the LDSS representative forwards the following to:

Manager, State Review Team  
Medical Assistance Operations  
311 W. Saratoga Street, 7<sup>th</sup> Floor  
Baltimore, Maryland 21201

- A new DHR/FIA 707 to the SRT indicating that the “Appeal is remanded to the SRT”.
- The SRT’s determination of disability that the appeal was based on, including the DHR/FIA 707, DHR/FIA 736, 402B, 4204 and other supporting documentation.
- A copy of The Maryland Office of Administrative Hearings Decision.

**Note:** The LDSS also forwards a copy of The Maryland Office of Administrative Hearings Decision on all affirmed and reversed SRT decisions to the manager of the SRT.

**Remand policy.** When an MA case is appealed to the OAH, the ALJ is required by law to make the final eligibility decision. In the case of disability determinations, many cases have been remanded to the SRT, particularly when the appellant provides new medical evidence at the hearing. New evidence may require consultation with the SRT if the appeals representative does not know how the evidence would affect the decision. If the new evidence is presented just before or at the hearing, the local department may need to ask for a postponement. If a postponement is granted, OAH should still retain jurisdiction.

If the ALJ does remand the case, follow the procedures set out above on the role of the State Review Team (SRT) in assisting the local departments of social services in the appeals process. From now on, if you have an appeal of an MA or TDAP determination of disability and the customer who is appealing provides new medical evidence, do not ask the Administrative Law Judge (ALJ) to remand the case back to the local department and SRT. Instead, when necessary ask the ALJ to postpone the hearing so that the SRT has the opportunity to consider the new medical evidence.

### **TDAP/MA REDETERMINATIONS**

After the SRT’s initial determination of disability, MA policy requires no medical re-examination and no new 402B as long as the customer is continuing the application process for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI). The MA case remains open until a final SSI/SSDI decision is made. There is no additional medical re-examination required as long as the customer is appealing a Social Security Administration decision of not disabled (including when the DHR/FIA 707 form indicates “Re-examination Required”) or is determined permanently disabled

by SRT. In those circumstances, the customer is not required at redetermination to submit DHR/FIA 402B and should not be referred to SRT. An eligibility determination for all factors of eligibility other than disability is all that is required in these situations. Action Transmittal 05-45 changed TDAP policy to match the MA policy stated above.

## **MA REDETERMINATION**

- (a) Verify whether the customer is appealing a Social Security Administration decision of not disabled on the customers request for benefits.
- **Ask** the customer the status of his or her Social Security benefit application.
  - Verify the status of the Social Security benefit application using one of the following systems - SDX, SVES, or SOLQ.
  - When status can not be determined from information on these systems, require the customer to submit documentation from their representative, or the Social Security Administration.
- (b) When there is no supporting verification from the above sources that the customer is appealing a Social Security Administration decision of not disabled and the allowable 60 days for the customer to appeal the Social Security decision has expired, a medical re-examination is required. A medical re-examination is also required of the customer determined permanently disabled by SRT, who is not appealing the not disabled decision by the Social Security Administration.
- (c) **Ask** the customer whether the MA application for redetermination is based on the same, different or additional impairment(s) than alleged in the Social Security benefit application.
- (d) If the customer alleges that the MA application is based on the same impairments as in the Social Security benefit application:
- **Ask** the customer whether the impairment has changed since the last Social Security Administration determination.
    - a) If the customer states **no**, the LDSS determines if the customer is eligible under another MA category before issuing a notice of adverse action.
    - b) If the customer states **yes**, or is **unsure** whether their impairment has changed, worsened, or they have developed an additional impairment:
      1. Require the customer to submit a copy of the Social Security Administration denial letter to the LDSS.
      2. Complete a DHR/FIA 4204 form with the customer
      3. The customer must have completed and submit a new DHR/FIA 402B
      4. Complete and have the customer sign a DHR/FIA 161 form for each of their health care providers
      5. Submit verification of reapplying for Social Security benefits
      6. Refer to SRT. Include in the SRT referral packet:

- a) New completed DHR/FIA 402B
- b) New completed DHR/FIA 4204
- c) A completed DHR/FIA 161 form for each of the customers treating health care providers
- d) Denial letter the customer received from the Social Security Administration

**The Social Security Administration denial letter will list the impairment the customer alleged when applying and on which the denial for SSI/SSDI benefits was made.**

**REMINDER:**

Applicants and recipients applying for both MA and TDAP must apply and take all necessary steps to obtain and accept all income benefits to which they may be entitled.

**Sources of potential income for MA applicants and recipients may include, but are not limited to:**

- (a) Social Security Old Age, Survivors, or Disability Insurance
- (b) Unemployment Compensation
- (c) Railroad Retirement
- (d) Veterans' Administration benefits
- (e) Civil Service annuities
- (f) Federal, State, or local government and private pensions
- (g) Workers' Compensation

**Note:** Individuals applying for **MA cannot be required to apply for SSI or Public Assistance.** However, the local department should advise MA applicants and recipients of the existence of the SSI and Public Assistance programs and where to apply. The local department cannot impose a requirement to apply or take any adverse action based on the applicant's failure to apply.

**Sources of potential income for TDAP applicants and recipients may include, but are not limited to:**

- (a) Supplemental Security Income (SSI)
- (b) Railroad Retirement
- (c) Veterans' Administration benefits
- (d) Civil Service annuities
- (e) Federal, State, or local government and private pension

**INQUIRIES:**

Please direct policy inquiries to Cynthia Carpenter at 410-767-7495, SRT questions to Rose Fragua at 410-767-8910.

cc: FIA Management Staff  
Constituent Services  
DHR Help Desk  
DEAP