

Making it happen



A FAMILY'S GUIDE TO THE APPEAL PROCESS

For Regional Center Clients
Age 3 Years and Older



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Introduction

Harbor Regional Center is committed to building and maintaining strong partnerships with families. Each family is unique, and our goal is to be responsive to your needs. Even so, there may be a time when you disagree with the regional center on a decision they make about your family member's eligibility or about what services he should receive. If this happens, you may ask the regional center to review its decision to make sure that all information was considered. Regional centers and the State of California have created a special process to review these kinds of decisions and make sure that clients are treated fairly. It is called the **appeal process**.

This booklet was written to give you a simple explanation of the appeal process and a step-by-step guide on how to use it. The appeal process can be complicated, and many details about it, such as all the timelines and responsibilities of the regional center and the state, are not included here. If and when you ask to use the appeal process, you will receive a document, written by the State Department of Developmental Services, called "The Fair Hearing Process for Consumers Age 3 Years and Older." It contains more detailed information on the responsibilities of all parties and how the process operates. You will also receive information about how to find an advocate or some other person to help you with the process, if you feel you need additional help to present your appeal.

Section 1

What is

An appeal is a formal request for someone to change a decision. In this booklet, appeal means a request for the regional center to change its decision about a person's eligibility for services or about the services the person receives.

The appeal request can come from a person already receiving regional center services, or from a person who is applying for regional center services. The request can also come from a parent, legal guardian or conservator, or from someone else who is helping that person work with the regional center and other service agencies.

Section 2

WHY USE THE APPEAL PROCESS? The appeal process is used to settle differences between the regional center and a client or family. The differences can be about four kinds of decisions.

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1. When the regional center does an intake and assessment and decides that a person is **not eligible** for services, and the person or his family disagrees with that decision.
 2. When the regional center decides that a person is **no longer eligible** for services and the person or his family disagrees with that decision.
 3. When a client or family asks for a new service or support to be provided and the regional center **denies the request**.
 4. When a service or support is **reduced, changed, or ended** and the client or family disagrees with this change.

If the regional center makes any of these decisions, they will send you a written notice explaining the decision and telling you about your right to appeal.

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WHAT ARE THE THREE WAYS TO APPEAL A

DECISION? There are three different ways that you can appeal a regional center decision. One way is through an **informal meeting** with the regional center's director or someone she appoints. The other two are more formal methods. One is called **mediation** and the other is called a **fair hearing**.

1. The simplest way to have a disagreement settled is to ask for an informal meeting. This meeting will be held with the regional center's executive director or someone she appoints.
2. If you do not want to have an informal meeting, or if you have such a meeting and it does not settle the disagreement to your satisfaction, you may ask for mediation. In mediation, an independent person (mediator) who is an expert in settling disagreements meets with you and a representative from the regional center to help you work out the differences. Mediation takes longer than an informal meeting to organize, but it is faster than a fair hearing.

3. Whether or not you also ask for an informal meeting or mediation, you may request a **fair hearing**. You must do this using a Fair Hearing Request form (see form included with this booklet). A fair hearing is a formal process designed by the State of California and conducted by an expert in the law. This expert is a kind of judge called an “administrative law judge.” He or she listens to evidence from both parties (regional center and client/family) and makes an independent decision about the disagreement.

The fair hearing takes longest to organize of the three kinds of appeals, so you may want to ask for a fair hearing and, while you wait for it to be held, try to settle the differences in an informal meeting or through mediation.

You are not required to try to resolve your differences with an informal meeting or mediation, but if you do, they will occur before the fair hearing. If you go through with an informal meeting or mediation and the outcome of either of these does not satisfy you, you can still go on to the fair hearing. The regional center may decline your request for mediation, but it may not deny your request for an informal meeting or a fair hearing.

Section 2

Time

The state has set limits on how long the appeal process may take. These time limits guide how quickly you and the regional center need to do certain things connected to the appeal process. They are described in detail in the booklet the regional center will send you if you ask for a fair hearing. The important time guidelines for you, however, are the ones that tell how quickly the client and family must do things. It is important to follow the timelines specified to protect your rights.

Clients and families need to especially keep in mind two time limits:

1. You must request a fair hearing within 30 days of receiving notice of the decision that you disagree with.
2. If the client is already receiving services from the regional center, you should submit a request for a fair hearing within 10 days of being notified of the decision. This will guarantee that the client continues to receive services while the appeal process is going on.

Section 3

Your rights

On the back of the Fair Hearing Request form you will find a list of the rights clients and families have in the appeal process. These rights include:

1. You have the right to attend the informal meeting, mediation, and fair hearing with a lawyer or some other person to help you.
2. You have the right to have the area board or the regional center's Client Rights Advocate find someone to be your advocate or help you in the appeal process.
3. You have the right to present evidence, in writing or verbally, and to question any witnesses at any appeal meeting.
4. You and the person helping you have the right to look at any records obtained by the regional center while providing you services.
5. You have the right to have an interpreter at any meeting or hearing. If necessary, the regional center will pay for the interpreter.

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If you receive notice of a decision about eligibility or services that you do not agree with:

STEP 1. Tell your Counselor or other regional center staff member that you disagree with the decision and want to appeal it. He or she will give you a copy of the Fair Hearing Request form.

STEP 2. Complete the Fair Hearing Request form. If you need help filling out the form, ask your counselor or some other regional center staff member for help.

STEP 3. Decide whether or not you want to try to settle the disagreement through an informal meeting or mediation while you wait for a fair hearing to be scheduled. If you do, check the box on the form that says informal hearing or mediation. (Remember, you do not have to use either of these options and the regional center does not have to participate in mediation.)

STEP 4. Mail the completed Fair Hearing Request form to the regional center representative within 30 days or, if the client is currently receiving regional center services, within 10 days.

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- When they get your request for an appeal, the regional center and the Office of Administrative Hearings (the state office that conducts fair hearings) will send you information about the appeal process and your rights.
 - If you have asked for mediation, the regional center will send you a letter telling you whether or not they want to take part in mediation. If they accept mediation, you will also receive information regarding your mediation rights from the Institute for Administrative Justice (the agency that appoints mediators). They will suggest a date, time, and place for the mediation. If you cannot make that time, you may suggest another time.
 - If you ask for an informal meeting, the regional center will suggest a date, time, and place for this meeting. If you cannot make that time, you may suggest another time.

(If you request an informal meeting, go to STEP 5; if you request mediation, go to STEP 6; otherwise, go to STEP 7.)

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STEP 5. You and anyone you choose to bring with you attend the informal meeting, explain why you do not agree with the regional center's decision, and ask questions of any people that you or the regional center have asked to be there. Before the meeting, you have the right to look at any documents containing information about your eligibility or the services you receive. At or after the meeting, the Harbor Regional Center representative will do everything he can to find a mutually agreeable resolution to your concerns.

If the informal meeting results in a decision that you agree with, you will withdraw your request for a fair hearing. You need to do this using a special Fair Hearing Request Withdrawal form that the regional center will give you.

If the meeting results in a decision you disagree with, you may go on to a fair hearing. To do this, you do not need to fill out any more forms.

(If you and the regional center agree to mediation, go to STEP 6; otherwise, go to STEP 7.)

STEP 6: You attend the mediation session where the mediator will try to get you and the regional center to agree on a solution to the problem. Before the meeting, you have the right to look at any documents containing information about your eligibility or services.

If mediation results in a decision that you agree with, you will withdraw your request for a fair hearing. To do this you must use a special Fair Hearing Request Withdrawal form that the regional center will give you.

If the meeting results in a decision you disagree with, you may go on to a fair hearing. To do this, you do not need to fill out any more forms.

(If you wish to have a fair hearing, go to STEP 7.)

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STEP 7. At least five days before the fair hearing, you and the regional center must exchange a list of witnesses and copies of all documents that will be used at the hearing. You must also tell each other what each witness will talk about.

STEP 8. You, anyone you have chosen to help you, and any witnesses you ask to attend the fair hearing will present your case. The regional center will also present its case. At the end of the meeting, you and the regional center representative may make closing arguments. The judge will issue a written decision after considering all the evidence.

If the decision is unfavorable to you and the client has been receiving the services that were the subject of the appeal, the decision will not take effect until 10 days after you receive written notice of the decision.

The decision from the fair hearing marks the end of the appeal process.

HOW LONG DOES THE WHOLE PROCESS TAKE? In

general, informal meetings are held within 10 days of your request, mediations are held within 20 days of the request, and fair hearings are held within 50 days of the request. The entire fair hearing process should be completed within 90 days. This may take longer if, for example, you request and are granted a rescheduling of the mediation meeting, you or the person helping you in the appeal gets ill, or you have some kind of personal emergency.

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final note

At Harbor Regional Center we try to make decisions that are in the best interest of clients and families. At the same time, we need to make sure that what we do is consistent with the laws and regulations related to the Lanterman Act. These judgments are often difficult to make and we know that sometimes a family may disagree with our decision. We believe that the appeal process can be a good way to make sure we have properly interpreted the guidelines and have been fair in the way we applied them.

Families should keep in mind that it is their right to use the appeal process. To ask for a fair hearing would never have any negative effect on the family's relationship with our center. Whatever the outcome of an appeal, a family can always be confident that we will continue to work with them as partners to do what is best for the person with a developmental disability.

Section 6



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