Delays in Processing of Medicaid Applications - What are Your Rights and Lawsuits Challenging Delays

The Deadlines to Process Medicaid Applications in the Law

Federal and state law set time limits for processing a Medicaid application. The federal Medicaid Act requires eligibility to be determined with "reasonable promptness." A determination of eligibility for Medicaid must generally be made within a **45-day time period**, with two exceptions.

- Determinations of eligibility for pregnant women and children under age 19 must be completed within **30 days.**
- Cases awaiting a disability determination have a **90-day time limit.** If the eligibility determination process for determining disability takes more than 90 days, on or before the 90th day, the applicant should be sent a written statement stating the reasons for the delay. When the applicant is eligible under a different category, Medicaid is authorized for the interim period. This 90-day limit applies to applicants who submit a supplemental needs trust or pooled trust with the application, if the approval of the trust requires a determination that they are "disabled," and either they are age 65+ or are under 65 and have not been determined "disabled" by the Social Security Administration.

42 USC Sec 1396a(a)(8); 42 C.F.R. Sec. 435.911; 18 NYCRR 360-2.4; NYS Medicaid Reference Guide pp. 487-488;

See also 10ADM-04 - Elimination of the Personal Interview Requirement for Medicaid and Family Health Plus Applicants

- Attachment 1
- Attachment 2
- Attachment 3
- Attachment 4

The Reality: Delays Trigger Litigation

Despite the clear time limits in law and regulation, many local districts take much longer time to process Medicaid applications. Various lawsuits have been filed over the years seeking to enforce compliance with the federally mandated time limits. Information about some of the lawsuits in NYS can be found at the links below. The links include contact information for plaintiffs' counsel.

New York City

Garcia v. Banks, Settlement and Order, Mar. 12, 2019 (16-CV-08370)(SDNY). Effective around May 2019, requires HRA to render Medicaid eligibility determinations within 90 days for people applying based on disability. This includes applications submitted with a pooled or individual SNT for an individual age 65+, since the approval of the trust requires a determination that the applicant is "disabled" as defined by law. It also includes individuals under age 65 who claim to be disabled, but for whom the SSA has not yet determined that they are disabled, if the individual is not otherwise eligible through MAGI Medicaid (Affordable Care Act) or another pathway. HRA commits to eliminating systemic blockages in its system by maintaining a new computer tracking system that will assist HRA in identifying and prioritizing older applications. Settlement. at 5-6, Â§ II(B). The Class does not include persons who apply for immediate needs personal care services, for which HRA must make a determination within 7 days.

Reynolds v. Giuliani, 35 F. Supp. 2d 331 (S.D.N.Y.1999), modified on other grounds, 43 F. Supp.2d 492 (S.D.N.Y. 1999) (not specifically addressing application delay processing, but NYC's failure to permit prospective applicants to file their applications for FS, MA, and PA on the first day they visit a NYC Job Center and the failure to do separate MA and FS determinations for those applicants whose PA application is denied or withdrawn).

Suffolk County

Contempt Motion Responds to Suffolk County's Failure to Provide Promised Food and Medical Assistance Promptly (February 2012)(Maryann v. DeMarzo, Doe v. Blass)

Nassau County

NCLEJ and Colleagues Secure Settlement with Nassau County, NY, to Speed Provision of Food Stamps, Medicaid, and Cash Public Assistance (June 2011)(Dowdell v. Imhof)

NCLEJ Sues Nassau County NY For Delaying Food Stamps, Medicaid, and Cash Public Assistance to Hundreds Each Month(April 2010)

Columbia County

NCLEJ and Colleagues Sue Columbia County, NY for Systemic Failure to Process Food Stamp, Medicaid, and Cash Assistance Applications in a Timely Fashion (June 2011)(Travis v. Mossman)

Steuben County

Steuben County, NY Agrees to Speed Up Issuance of Food Stamps, Medicaid Assistance, and Cash Public Assistance to those Hard Hit by Recession (November 2009)(Kari C. v Mullen)

NCLEJ, Western New York Law Center, and Empire Justice Center file class action challenging food stamp, Medicaid, and cash public assistance application delays in Steuben County, NY (July 2009)

Erie County

Martin v. Weiner (W.D.N.Y. 2008 settlement)

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http://health.wnylc.com/health/entry/175/