
STATE OF TENNESSEE



SECRETARY OF STATE

ADMINISTRATIVE PROCEDURES DIVISION

WHAT IF I REPRESENT MYSELF IN A TENNCARE HEARING?

This brochure is issued for informational purposes only. Nothing contained herein shall be construed to bind the presiding Administrative Law Judge, Hearing Officer, or the Administrative Procedures Division as to any practice described herein.

April 2002

The purpose of The Administrative Procedures Division is to provide prompt and fair hearings for persons affected by actions of certain agencies of the State of Tennessee, ensuring due process and respecting the dignity of all.

The Administrative Procedures Division (APD) is providing this pamphlet to help you prepare for your Bureau of TennCare hearing. This pamphlet does not take the place of having an attorney. It is a guide that refers to the most common kinds of cases that come before the APD. However, not all cases are the same, and yours may be different. We hope this pamphlet will help you better understand the process and prepare you for your hearing.

Remember: It is very important for you to read carefully the documents that are sent to you by the APD and Bureau of TennCare. Those documents tell you the issues involved, and what rights you have.

WHO WILL DECIDE MY CASE?

The Judge or Hearing Officer alone will hear your case. In some of these cases the Judge's or Hearing Officer's decision will not be made until sometime after the hearing. This decision will be explained in a written Initial Order that will be mailed to both parties. If you are not satisfied with the Initial Order, you have 15 days to ask the Judge for reconsideration of the initial order or appeal the order to the Commissioner before it becomes the Final Order. The Initial Order will contain directions on exactly how to go about filing an appeal or a petition for reconsideration.

CAN I CALL THE JUDGE AND TALK ABOUT MY CASE?

You may call the Judge or Hearing Officer and ask general questions about how the hearing will

be conducted, but if you wish to discuss specific issues in the case, or your side of the case, it will be necessary to include the Bureau of TennCare attorney in the conversation.

WHAT WILL MY HEARING BE LIKE?

Your hearing will be conducted in person or over the telephone. It will be similar to a trial in court with witnesses and exhibits. A Judge or Hearing Officer will preside. The Administrative Procedures Division, not the Bureau of TennCare, employs the Judge or Hearing Officer. An attorney will represent the Bureau of TennCare. You may hire an attorney or you may represent yourself. It is up to you to decide whether or not to hire an attorney or seek free legal service. The APD cannot appoint or recommend an attorney for you. A friend or family member may also assist you. You may qualify for a free attorney at your local legal-aid office.

When the hearing begins each party will be given an opportunity to make a brief opening statement. This tells the Judge or Hearing Officer what the case is about and what each party intends to prove. After opening statements are made each side will have a chance to present their case. When presenting your case you should include evidence that will persuade the Judge or Hearing Officer to rule in your favor. This evidence can be direct testimony from you or someone who is familiar with your case or medical condition. For example, a family member or a doctor, nurse or other health care provider may testify for you. You can also present medical records or any other documents that support your case. Any documents or records that you plan to present must also be made available to the TennCare attorney. All evidence you wish the Judge or Hearing Officer to consider must be submitted before the hearing closes. You may call the attorney or legal assistant at the toll free number

listed in the letter attached to the Notice of Hearing. He or she will provide information on submitting your documents before your hearing date.

After all testimony has been heard, each side can make a closing argument. Your closing argument is a summary of what your evidence proved, and a statement of how you think the Judge or Hearing Officer should rule in the case.

WHAT KIND OF EVIDENCE WILL I NEED FOR THE HEARING?

In most cases, the issue in the hearing will be your eligibility for enrollment in the TennCare program, or whether TennCare coverage will be provided for a particular service or medication. If your hearing is about your eligibility for the TennCare program you may want to bring documents that would prove that you qualify for TennCare enrollment. In hearings involving medical services or medications, TennCare will most likely present testimony from a medical doctor. You will need to present medical evidence to support your position. Medical evidence can include medical records, your own testimony, or testimony from a doctor or other health care professional. While you are not required to have testimony from a doctor or other health care professional, it may be helpful to your case. It is your responsibility to arrange for **any** witness to testify at your hearing. The Bureau of TennCare will not contact witnesses for you. However, if you contact the Bureau of TennCare prior to the hearing with the names of your witnesses, arrangements can be made for them to participate in the hearing by telephone.

The Notice of Hearing you receive from the Bureau of TennCare will tell you exactly why your request is being denied. If the Notice of Hearing states the service or medicine is being denied because it is not medically necessary, that tells you that

medical testimony is likely to be important. Not all cases will involve medical testimony. If you are not certain as to why your request was denied you can call the TennCare attorney and ask for an explanation. You may also call the TennCare attorney if you feel your case may be settled without a hearing. The TennCare attorney's name and phone number will be on the first page of the Notice of Hearing.

WHAT IF I CAN'T BE AVAILABLE ON THE DAY THE HEARING IS SCHEDULED?

If you cannot attend or be available by telephone on the date and time scheduled, you must contact the Bureau of TennCare as soon as you know of the problem. Make your request for a new hearing date as soon as possible.

WHAT IF I DON'T ATTEND?

You may lose your case if you do not attend your hearing. If an emergency arises on your hearing date and you will be late for the hearing, telephone the APD office or the Bureau of TennCare Office of General Counsel and explain the problem.

CAN I APPEAL THE FINAL ORDER?

You have sixty (60) days to appeal the Final Order to the Chancery Court in Davidson County

WILL THE HEARING LOCATION BE ACCESSIBLE TO PEOPLE WITH DISABILITIES?

Hearing locations are to be accessible to persons with disabilities. However, check in advance with the APD office or the Bureau of TennCare Office of General Counsel.

In addition, if you or someone who will be helping you at the hearing have special needs such as language interpretation or sign language assistance

please contact the APD office or the Bureau of TennCare Office of General Counsel as soon as possible, so arrangements can be made.

GENERAL INFORMATION

The hearings conducted by the APD are covered by the Uniform Administrative Procedures Act, Tennessee Code Annotated Title 4, Chapter 5, as well as the Uniform Rules of Procedures for Hearing Contested Case hearings Before State Administrative Agencies, Rule Chapter 1360-4-1. Copies of these laws and rules may be obtained from the APD.

The Administrative Procedures Division is located at the following address:

**312 Eighth Avenue North
8th Floor, Wm. R. Snodgrass Tower
Nashville, TN 37243
The telephone number is (615) 741-7008
The fax number is (615) 741-4472**

Finally: All contested case hearings are given a docket (identification) number. This number will appear in the upper right-hand corner of all documents you receive from the APD office. You must use this number on all correspondence or filings.

If you are appearing without an attorney, you must keep the APD informed of your current mailing address and telephone number.

Department of State, Authorization No. 305244, 5,000 copies, May 2002. This public document was promulgated at a cost of \$0.03 each.

The Department of State is committed to principles of equal opportunity, equal access, and affirmative action. Contact the Department of State EEO/AA Coordinator or ADA Coordinator at (615) 741-7411, Tennessee Relay Center TDD 1-800-848-0299.

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