Guide to Edits for Health Homes and Home and Community Based Services (HCBS) Notices and Fair Hearings Policy – HH0004

Summary: As of July 1, 2026, the Health Homes & Home and Community Based Services (HCBS) Notices and Fair Hearings Policy HH0004 now reflects revised language (indicated by text in red) alongside prior language (indicated by text crossed out text ------ in black). The revised policy supersedes all previous policies and reflects an implementation date of August 1, 2026. If there are discrepancies between the policy and this guide to edits, please adhere to the language in policy, and notify the Department at via the Health Home BML- subject policy.

Please note: Corrections have been made to this Guide to Edits as of September 2026. The revisions made can be identified by an Asterix * in the update made column.

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Page and Section	Update Made	Update Specifications Language may be completely new or partially reused from earlier policies. Reference "Former Location of Information" column.	Former Location of Information
Throughout this document	Added QIIS as a new entity	The addition of *Qualified Individuals Identified by the State (QIIS)* can be found on various pages.	New Language added to prior policy
1 Applicable to:	Expanded the requirement for HHs, C-YES, QIIS, CMAs and HHCMs to adhere to NYS OTDA Fair Hearing process and decisions	This policy supersedes other versions, guidance and webinar presentations issued prior to this policy. ~~However,~~ This policy does not supersede any laws, regulations, or policies of the NYS Office of Temporary and Disability Assistance (OTDA) which govern the Fair Hearing process. Health Homes (HH), Qualified Individuals Identified by the State (QIIS), and Children and Youth Evaluation Services (C-Yes) are required to adhere to the NYS Office of Temporary and Disability Assistance (OTDA) decisions regarding Fair Hearings, Aid Continuing (AC) Challenges, Pre-Hearing Determination (PHD), and Decision After Fair Hearings.	New language added to prior policy

Pages 3 Definitions	Clarified current definitions and added new Definitions	**Clarified**: • **Children and Youth Evaluation Service (C-YES)** - ~~The State-designated Independent Entity that conducts the Home and Community Based Services (HCBS) Eligibility Determination for~~ Serves children~~/~~ and youth who ~~need or want HCBS and are not enrolled in~~ do not have Medicaid~~. The Children and Youth Evaluation Service (C-YES) develops and manages the Home and Community Based Services (HCBS) plan of care for children/youth enrolled in the 1915(c)~~ and need Children's Waiver Home and Community Based Services to avoid institutional care. ~~who also elect to opt out of comprehensive Health Home (HH)~~	Revised prior policy language
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		~~care management and will only receive Home and Community Based Services (HCBS) care management services.~~ Children and Youth Evaluation Service (C-YES) screen individuals and conduct Children's Waiver eligibility determinations to ascertain if children/youth meet Children's Waiver enrollment criteria and includes employees of the Department of Health, the Office of Mental Health, and County Mental Health Departments (Children Single Point of Access (C-SPOA)). • **Member/Participant –** The individual (adult or children/youths) enrolled in the Health Home program or ~~with the Children and Youth Evaluation Service (C-YES) for enrollment in the~~ Children's Waiver. The term includes the parent, guardian, legal authorized representative of the member, as applicable. These terms can be used interchangeably. • **Quality Management Program (QMP)** - A proactive approach that evaluates the ability of Health Homes (HH), Children and Youth Evaluation Services (C-YES), Qualified Individual Identified by the State (QIIS), and Care Management Agencies (CMA) to provide services to members and ~~it's~~ the impact of those services to drive~~s~~ improvement in quality and effectiveness of these services. **Added (please see these new definitions in the policy document):** • Aid Continuing Challenge (AC Challenge) • Pre-Hearing Determination (PHD) • Qualified Individuals Identified by the State (QIIS) • Request for Reconsideration After Fair Hearing (this subject was already included in the body of the prior policy; however, a Definition had not been included. A Definition has now been added)	New language added to prior policy

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7 III. Health Homes (HH), Qualified Individuals Identified by the State (QIIS), and Children and Youth Evaluation Services (C-YES) Responsibilities	Added new or revised current responsibilities of Health Homes, QIIS, and C-YES and, Updated footnote (1) regarding the provision of HHCM services for enrolled members under a Fair	A Health Home (HH), Qualified Individuals Identified by the State (QIIS), and Children and Youth Evaluation Services (C-YES): • ensures the Care Management Agency (CMA), Qualified Individuals Identified by the State (QIIS), and Children and Youth Evaluation Service (C-YES) reviews in its entirety and educates the member or potential member and/or their parent/caretaker/guardian/legally authorized representative of the Notices and their Fair Hearing rights. • makes all reasonable efforts to obtain an active address for the member where the notice is to be sent, as follows: • verifies the mailing address with the member or potential member. o In the event the member or potential member cannot provide an active address or is unreachable (e.g. homeless), the notice is mailed to the last known address in the member's or potential member's electronic health	Revised and added new language to prior policy
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	Hearing with Aid Continuing	record, member's Medicaid file or, obtained from the member's Managed Care Plan (if applicable). o If the notice is returned and includes a forwarding address, the notice must be resent to the forwarding address. • timely and adequate notice of a disenrollment within ~~five (5)~~ 10 (ten) calendar days of determination; • notifies the member's multidisciplinary team and other service providers of the member's disenrollment and why, and follows the Member Disenrollment From the Health Home Program Policy #HH0007 • holds an informal Agency Conference with the member, or potential member, ~~and their representative upon request of the member~~ and/or their parent/caretaker/guardian/legally authorized representative upon their request and documents all aspects of the conference and outcome; • provides a copy of the Evidence Packet and other documents for the Fair Hearing the OAH and mails a copy to the member, potential member, or their legally authorized representative ~~upon their request,~~ at no cost (refer to Section XI. below for more information related to Examination of Case Record – Evidence Packet and Timelines); • continues to provide Health Home and/or Children's Waiver HCBS person-centered plan of care services and oversight if the member has applied for and obtained Aid to Continue; • conducts timely annual Health Home (HH) and Children's Waiver HCBS eligibility determinations and appropriateness, including Yearly Appropriateness (HHSC) and CES Tool (HHSA) if the member has applied for and obtained Aid to Continue.[1] 1 ~~18 CRR-NY 358-5.7 Defines who may be present at the Fair Hearing~~. 1 Health Homes and Care Management Agencies must provide services to members in accordance with all policies and procedures that apply when any member is enrolled in a standard enrolled segment, even when the member is enrolled in the Health Home program due to a requested and granted Fair Hearing with Aid Continuing.	Prior footnote was replaced with new footnote

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8 IV. The Fair Hearing Process	Added language clarifying that the decision of the Fair Hearing is directly related to the specific action of the NOD	When a Fair Hearing is filed, it references a specific action that was taken to change or limit services to a member. The decision on a Fair Hearing only impacts that specific action and not a subsequent action taken, unless an additional fair hearing is filed.	New section added to prior policy
8 IV. The Fair Hearing Process	Clarified appropriate representation at Fair Hearings and their role to act on behalf of the HH/C-YES/QIIS	~~The Health Home (HH)/Children and Youth Evaluation Service (C-YES) ensures that if needed, an appropriate representative of their agency to serve on their behalf, is present at the Fair Hearing1 and attends the Fair Hearing on the scheduled date, time, and location directed on the Notice of Fair Hearing form (OAH-457).~~ ~~https://regs.health.ny.gov/content/section-358-57-who-may-be-present-fair-hearing If the Health Home (HH)/Children and Youth Evaluation Service (C-YES) has a valid reason, they may request an adjournment by contacting Office of Temporary and Disability Assistance (OTDA), as listed within the Notice via phone, online or, in person at one of the two walk-in locations.~~ Health Home (HH)/Children and Youth Evaluation Service (C-YES)/Qualified Individual Identified by the State (QIIS) policies describe the process by which they ensure appropriate representation at all Fair Hearings. Health Home (HH)/Children and Youth Evaluation Service (C-YES)/Qualified Individual Identified by the State (QIIS) are to assure that representatives meet the criteria to attend/participate in the Fair Hearing on behalf of the Health Home (HH)/Children and Youth Evaluation Service (C-YES)/Qualified Individual Identified by the State (QIIS) as defined in 18 CRR-NY 358-5.7 – Who may be present at the fair hearing. In addition, Health Home (HH)/Children and Youth Evaluation Service (C-YES)/Qualified Individual Identified by the State (QIIS) must ensure that the representative designated to attend the Fair Hearing on behalf of the Health Home (HH) or the Children's Waiver Program (whether a Health Home (HH) or Care Management Agency (CMA) employee, Children and Youth Evaluation Service (C-YES)/Qualified Individual Identified by the State (QIIS) employee) understands that their role is to act as a representative of the Health Home (HH) /Children's Waiver programs, and is capable of executing that role. They are participating neither as a representative of nor as a witness for the member.	Replaced prior language with new language

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8 IV. The Fair Hearing Process	Added responsibility of the Health Home to report any designee that did not perform their role as representative during the Fair Hearing process	Attending on behalf of or in support of/witness/es for the member constitutes a conflict of interest for the provider representing the Health Home (HH)/Children and Youth Evaluation Services (C-YES)/Qualified Individual Identified by the State (QIIS). If a Health Home (HH)/Children and Youth Evaluation Services (C-YES)/Qualified Individual Identified by the State (QIIS) finds that their designee is not performing their role as representative, the Health Home (HH)/Department of Health/Office of Mental Health reserves the right to directly assume all activities related to the Fair Hearing process. Health Homes (HH) are to report to the Department through the Fair Hearing mail log cc: DOH liaison, any provider's (CMA) conduct that deliberately or otherwise undermines the appropriate fulfillment of the role of Health Home representative regarding the decision of the Notice of Determination/Notice of Decision.	
10 V. Notices of Determination and Notices of Decision - Notice of Determination for Disenrollment from the Health Home Program (DOH 5235)	Clarified timeline for this example related to the disenrollment date	Notice is mailed June 25th. The ten (10) calendar day period ends July 5th. The disenrollment date is July 31st due to the program being a per member per month (PMPM). Health Home Care Management (HHCM) core services conducted and meeting requirements in June and July are billable.	New language added to prior policy

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11 V. Notices of Determination and Notices of Decision - Notice of Decision for Enrollment or Denial of Enrollment from Children's Waiver Home and Community Based Services (HCBS) (DOH 5287)	Defined Children's Waiver HCBS eligibility requirements	Upon receiving a Children's Waiver HCBS service request/application, the Health Home (HH)/Children and Youth Evaluation Service (C-YES) care manager needs to determine if the child/youth meet the Children's Waiver HCBS eligibility requirements~~.~~ to include: imminent risk of hospitalization or institutionalization, or need for supports to return safely home and to their community after discharge from an institutional level of care AND, if the child/youth does not meet any of the HCBS eligibility exclusion reasons (i.e., over the age of twenty-one (21), expected to reside in an inpatient setting for ninety (90) days or more, enrolled in another HCBS waiver, etc.). Then the Children's Waiver HCBS Eligibility Determination assessment is conducted to determine if the child/youth meet the Level of Care (LOC) criteria. Upon signing and finalizing the Children's Waiver HCBS Eligibility Determination within the Uniform Assessment System for New York (UAS-NY), the Health Home Care Manager (HHCM)/Children and Youth Evaluation Service (C-YES)/Qualified Individual Identified by the State (QIIS) is presented with an outcome confirming if the child/youth is HCBS eligible or ineligible for the identified Target Population.	New language added to prior policy
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12 E. Notice of Decision for Discontinuance from the Children's Waiver HCBS (DOH 5288)	Clarified issuance of DOH 5288 as timely and adequate, and timeline for mailing notice	The Children's Waiver HCBS Eligibility Determination is valid for one (1) year (three-hundred and sixty-five (365) days). If the child/youth no longer meets the Home and Community Based Services (HCBS) Eligibility Criteria or is found ineligible during the annual Children's Waiver HCBS Eligibility Determination, then the Health Home (HH)/Children and Youth Evaluation Service (C-YES)/Qualified Individual Identified by the State (QIIS) sends a timely and adequate Notice of Decision (NOD) for Discontinuance in the New York State Children's Waiver (DOH 5288) ~~five (5) calendar days from the ineligibility determination to the child/family and~~ within (10) calendar days (based on date mailed) prior to the action of disenrollment from the Children's Waiver within (10) calendar days (based on date mailed) prior to the action of disenrollment from the Children's Waiver.	New language added and language removed from prior policy

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12 E. Notice of Decision for Discontinuance from the Children's Waiver HCBS (DOH 5288)	Clarified the schedule for conducting a timely Children's HCBS Waiver Eligibility assessment and the UAS documentation requirements	**NOTE**: ~~If an annual Children's Waiver HCBS Eligibility Determination cannot be completed due to lack of documentation, a DOH 5288 is sent at least ten (10) calendar days prior to the annual reassessment due date.~~ Care Managers are directed to begin the assessment process sixty (60) days before the expiration of the previous assessment because there is no flexibility as to the expiration date. If the previous assessment expires, the member is no longer eligible for HCBS services. If an annual (within 365 days) Children's Waiver HCBS Eligibility Determination cannot be conducted timely due to the inability to obtain the supporting eligibility documentation as required in the *Children's Home and Community Based Services (HCBS) Waiver Eligibility and Enrollment Policy #CW0005*, then a DOH 5288 is sent at least ten (10) calendar days prior to the annual reassessment due date. The DOH 5288 with the appropriate option on the form chosen, must be sent even if the care manager is attempting to gather the required documents and believes the annual assessment will be conducted late. Within the Uniform Assessment System (UAS-NY), the care manager must enter the reason why the annual HCBS Eligibility Determination cannot be conducted and the outcomes can be printed to place in the Fair Hearing packet.	Revised prior policy language
13 VI. Aid Continuing- A. Requesting Aid Continuing	Clarified provision of HHCM services	When a Notice of Determination/Decision is issued to the member, the member has the right to determine whether they want to request a Fair Hearing and whether requesting Aid Continuing is right for them. If the Office of Temporary and Disability Assistance (OTDA) orders Aid Continuing before the effective date stated in the notice, the member continues to receive Health Home Care Management services and/or Children's Waiver HCBS until the final outcome of the Fair Hearing is determined or other determination occurs. Aid Continuing allows the member's services to be provided at the same amount (frequency/scope/duration) provided prior to the ineligible determination. Additional services are not required to be provided unless it impacts the member's health and safety (i.e. Children's Waiver modification).	New language added to prior policy

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13 VI. Aid Continuing- A. Requesting Aid Continuing	Clarified **Note:** when Aid Continuing is available to a member	~~NOTE: Children/youth enrolled in the Children's Waiver HCBS who request a Fair Hearing with Aid Continuing continue to have Care Management as part of the waiver requirements~~ **Note:** Aid Continuing is only available when a service will be reduced or stopped as a result of a determination. Aid Continuing is not available for initial program eligibility (first time) for Health Homes or Children's Waiver HCBS.	Revised prior policy language

13 VI. Aid Continuing- B. Children's Waiver HCBS Continued Care Coordination Services	Added description for the provision of Care Coordination for children/youth in the Children's Waiver HCBS requesting Fair Hearing with Aid Continuing	It is a requirement within the Children's Waiver HCBS, that all eligible and enrolled members must be offered care coordination services to receive HCBS. The member cannot be enrolled and receiving HCBS without a care manager from Health Home/Qualified Individual Identified by the State (QIIS). When a child/youth enrolled in the Children's Waiver HCBS requests and is granted a Fair Hearing with Aid Continuing, the Health Home/Qualified Individual Identified by the State (QIIS) must continue to provide Care Coordination regardless of the Health Home eligibility status, as part of the waiver requirements.	New language added to prior policy
13 VI. Aid Continuing- C. Continued Eligibility Requirements	Added description for HHs and Children's Waiver HCBS to complete the eligibility and appropriatness assessment/determin-ation for members that reach this time period while awaiting their Fair Hearing with Aid Continuing	Health Homes, Care Management Agencies, and Qualified Individual Identified by the State (QIIS) ensure that care management services are provided to members who have requested and have been granted a Fair Hearing with Aid Continuing. When a Health Home or Children's Waiver HCBS member is awaiting their Fair Hearing with Aid Continuing and reaches the period for their next eligibility and appropriateness assessment/determination to be completed, the program ensures the assessment/determination is conducted on time. Health Home and Children's Waiver HCBS continued eligibility and appropriateness assessments/determinations are required, as follows: • For Health Homes Serving Adult members, complete Continued Eligibility for Services (CNS) Tool at twelve (12) months based on the consent date or the segment start date (whichever is later), and every six (6) months thereafter. • For Health Homes Serving Children, the Yearly Appropriateness review is completed no later than one year (365 days) of the previous completion date (IA or YA). • For the Children's Waiver, the HCBS Eligiblity Level of Care assessment is completed annually (365 days). If the member is being served while awaiting a Fair Hearing with Aid Continuing, services of this same type are provided at the same frequency/scope/duration provided prior to the ineligible determination.	New language added to prior policy
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14 VI. Aid Continuing- D. Re-Assessment/Re-Determination While there is a pending Fair Hearing with Aid Continuing	Section D. is newly added to outline the process when reassessments/ redeterminations are required to be completed prior to the Fair Hearing with Aid Continuing being held, based on the outcome (found Eligible/found Ineligible) ***Due to the length of information in Section D, full content can be read in the revised policy document***	In most circumstances the Fair Hearing is not delayed and heard prior to an annual re-assessment/re-determination. Each Notice of Determination/Decision (NOD) is specific to the action it represents. Each annual re-assessment/re-determination requires its own Notice of Determination/Decision (NOD) and does not replace or supplant the previous or other Notice of Determination/Decision (NOD) with Aid Continuing. The following are the processes to follow if a Fair Hearing with Aid Continuing has not been heard (finalized) prior to the date of the annual re-assessment/re-determination. • **If the member is found *ELIGIBLE* upon re-assessment/re-determination while there is a pending Fair Hearing with Aid Continuing:** (see bulleted language and Note:) • **If the member is found *INELIGIBLE* upon this re-assessment/re-determination while there is a pending Fair Hearing with Aid Continuing** **Current Re-Assessment/Re-Determination:** (see bulleted language) **Previous Pending Fair Hearing with Aid Continuing:** (see bulleted language) If the NYS Office of Temporary and Disability Assistance (OTDA) Hearing Officer's decision confirms the previous pending Fair Hearing ineligible determination, then the care manager disenrolls the member within 30 days. If the OTDA Hearing Officer's decision finds that the previous pending Fair Hearing ineligible determination is incorrect, then the care manager would disenroll the member within 30 days, as the member has already received a full year of service due to the pending Fair Hearing with Aid Continuing. However, if the member has also filed a Fair Hearing with Aid Continuing for the recent reassessment/re-determination NOD, the member would remain enrolled pending determination for this current re-assessment/re-determination Fair Hearing unless an AC Challenge was filed and determined in favor of the challenge.	New language added to prior policy
15 VI. Aid Continuing- E. Member Requests to Change Health	Section E. is newly added to address requests by members to change their Health Home while awaiting their Fair Hearing with	If during the time a member is awaiting a Fair Hearing with Aid Continuing in one Health Home (HH) they request enrollment in another Health Home (HH), the Health Home (HH) to which the member has requested transfer may decide to assess whether the member is eligible and appropriate for Health Home (HH) enrollment. If they choose to proceed, and deem the member eligible and appropriate, they may offer the member enrollment in their Health Home (HH). If	New language added to prior policy

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Homes While Awaiting Their Fair Hearing With Aid Continuing	Aid Continuing In addition, a new section is added to include member requests to change CMA while awaiting their Fair Hearing with Aid Continuing	the member remains enrolled in their current Health Home (HH) awaiting the Fair Hearing with Aid Continuing, they cannot be disenrolled. If the member requests a change in their Care Management Agency (CMA), the Care Management Agency to which the member requests transfer may decide whether to assess the member’s eligibility and appropriatness. If they choose to proceed and deem the member eligible and appropriate, the Care Management Agency (CMA) works with the Health Home to facilitate the member’s transfer. The current Health Home (HH) can submit a Pre Hearing Determination (PHD) request to the NYS Office of Temporary and Disability Assistance (OTDA). Once a request is received and accepted by the NYS Office of Temporary and Disability Assistance (OTDA), the NYS Office of Temporary and Disability Assistance (OTDA) notifies the Department who in turn informs the current and receiving Health Homes (HH). The current Health Home (HH) notifies MAPP CCC of the transfer (cc: Health Home liaison). The Department works with the new Health Home (HH) and the current Health Home (HH) to determine next steps to complete the transfer process. For the Children’s Waiver, if a member files a Fair Hearing with Aid Continuing and Aid Continuing (AC) Challenge was not filed or was filed and denied, services to the member must remain in place and the member cannot be discharged. Additionally, the member needs to remain with their current level of care coordination (Health Home (HH) vs. Qualified Individuals Identified by the State (QIIS).	

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16 VII. Maintaining Members' Status in the Tracking System for Health Homes and Home and Community Based Services	Removed Special Note: that no longer applies	~~**Special Note at the time of this policy revision (December 2024):** This policy may be amended once New York State is no longer required to provide enhanced access to Fair Hearing processes following the COVID-19 Public Health Emergency. For more information, please refer to Fair Hearing e14 Approval.~~	Removed prior policy language
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16 **VII. Maintaining Members' Status in the Tracking System for Health Homes and Home and Community Based Services**	* As of September 2026, the policy was corrected to reflect this language being removed from policy. Health Homes, Care Management Agencies, and Qualified Individual Identified by the State are to ensure all continued eligibility assessments are to be completed once the member reaches the period for which their assessment/ determination is due. For more information, please refer to section *VI. Aid Continuing* on page 13 of the policy.	~~Annual Appropriateness (for children) and Continued Eligibility for Services (CES) Tool (for adults) do not need to be completed for segments the Department pends with 'Pended for HH Fair Hearing Aid Continuing.~~	
19 IX. Pre-hearing Determination (PHD)	Added Section IX. describing when, why and how a PHD is requested by a HH/C-YES/QIIS	I. Pre-hearing Determination (PHD) If prior to the Fair Hearing being scheduled or held, the Health Home (HH)/Children and Youth Evaluation Service (C-YES)/Qualified Individual Identified by the State (QIIS) determines the reason for issuing the NOD to the member is no longer appropriate or the timeframe for the eligibility determination is expired, the Health Home (HH)/Children and Youth Evaluation Service (C-YES)/Qualified Individual Identified by the State (QIIS) submits written explanation, including the Fair Hearing number, to OTDA requesting a Pre-Hearing Determination (PHD) to withdraw the action. Refer to General Information System (GIS) Message – March 12, 2026	New language added to prior policy

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		Office of Temporary and Disability Assistance's (OTDA) notifies the member (appellant) and the Health Home (agency) advising both parties of the outcome of the Pre-Hearing Disposition request. The Health Home sends a copy of the notification to the Department's Fair Hearing BML at: NOD.FH.healthhome@health.ny.gov.	
19 X. Waiver of Appearance	Clarified purpose and under which circumstances Health Homes, C-YES or QIIS can request a Personal Appearance Waiver	Under certain circumstances and no later than five (5) calendar days before the hearing date, the Health Home (HH)/Children and Youth Evaluation Service (C-YES) /Qualified Individual Identified by the State (QIIS) may request a waiver of appearance from Office of Temporary and Disability Assistance's (OTDA). For example, if the Fair Hearing is called in person and the appearance of the agency (Health Home representative) is neither feasible (location is too distant to attend) nor necessary, they may request a Personal Appearance Waiver. If the Office of Temporary and Disability Assistance (OTDA) grants this request, the Health Home (HH)/ Children and Youth Evaluation Service (C-YES) /Qualified Individual Identified by the State (QIIS) submits a written Evidence Packet instead of appearing at the hearing location. Waiver requests will be reviewed and granted on a case-by-case basis. Blanket waivers of appearance ~~will~~ are not ~~be~~ granted; however, if the agency contact ~~does not receive a telephone call from the Office of Administrative Hearings~~ (OAH) prior to the hearing date indicating otherwise, it ~~will be~~ is presumed that a waiver has been granted. Even in situations where a waiver of appearance has been granted, the Hearing Officer may require an agency representative to appear or testify during the hearing to protect the due process rights of the Appellant.	New language added to prior policy
20 X. Waiver of Appearance	Addition of documentation requirements	The reason for and all steps taken related to the submission of the Personal Waiver Appearance are documented in the member's record.	New language added to prior policy
20 IX. Waiver of Appearance	Added links to Personal Appearance Waiver information issued by OTDA	Instructions on requesting a personal appearance waiver by any agency required to participate in a Fair Hearing can be found here. Reference to the Personal Appearance Waiver can be found in the General Information System (GIS) Message – March 12, 2026	New language added to prior policy

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20 X. Examination of Case Record – Evidence Packet and Timelines *This section was previously titled: 'Examination of Case Record - Providing Documentation Prior to Fair Hearing'. It has been retitled and revised to provide clarification about the provision of the Evidence Packet to the ALJ and member*	Added timeframe for providing the Evidence Packet to the ALJ and resource links	Health Homes (HH)/Children and Youth Evaluation Service (C-YES)/Qualified Individual Identified by the State (QIIS) provide complete copies of its documentary evidence (Evidence Packet) to the Administrative Law Judge (ALJ) at least two (2) business days in advance of the Fair Hearing. The Evidence Packet includes substantiation to support enrollment/disenrollment determinations made by the Health Home/Children and Youth Evaluation Service (C-YES)/Qualified Individual Identified by the State (QIIS) for success in defending its actions (refer to Definition section for the Evidence Packet). Evidence Packets are sent via the Office of Temporary Disability Assistance's (OTDA) secure portal, Upload.NY.gov. For more information regarding use of Upload.NY.gov portal, refer to Office of Administrative Hearings (OAH) Transmittal 22-02 (September 1, 2022). Additional information related to submitting the Evidence Packet to the Office of Administrative Hearings (OAH) can be found via the General Information System (GIS) Message 26-01 which can be accessed on the Office of Temporary and Disability Assistance GIS webpage.	New language added to prior policy

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20 X. Examination of Case Record – Evidence Packet and Timelines *This section was previously titled: 'Examination of Case Record - Providing Documentation Prior to Fair Hearing'. It has been retitled and revised to provide clarification about the provision of the Evidence Packet to the ALJ and member*	Revised language regarding the provision and timeline of the Evidence Packet to the member (Members no longer need to request receipt of Evidence Packets) and, any additional documentation requested	~~At any reasonable time prior to the Fair Hearing, the member and/or the member's authorized representative has the right to examine the contents of the member's case record. The Health Home (HH)/Children and Youth Evaluation Service (C-YES) provides copies of this Evidence Packet to the member and/or their authorized representative, upon request.~~ The member and the member's authorized representative have the right to examine the Evidence Packet provided to the Administrative Law Judge (ALJ) by the Health Home (HH)/Children and Youth Evaluation Service (C-YES)/Qualified Individual Identified by the State (QIIS), as follows: • Regardless of whether hearings are scheduled to be conducted in person, by telephone, video, or other means, the Evidence Packet must be received by the member and their authorized representative/s at least two (2) business days in advance of the Fair Hearing. *Please take delivery time into account for US Mail to ensure evidence is received by the member within the required timeframe.* • If the member and their authorized representative requests additional documentation to prepare for the Fair Hearing, the Health Home (HH)/Children and Youth Evaluation Service (C-YES)/Qualified Individual Identified by the State	Revised prior policy language

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		(QIIS) will make every attempt to mail the requested documentation within a reasonable time prior to the fair hearing, as the timing of the request allows. Such requests and the Health Home (HH)/Children and Youth Evaluation Service (C-YES)/Qualified Individual Identified by the State (QIIS) response is documented in the member's record.	
21 XII. Diligent Search	Added Section X. to address when a member, awaiting their Fair Hearing with Aid Continuing, cannot be located and is placed into DSE	If a member awaiting Fair Hearing with Aid Continuing is confirmed as disengaged from care management services, the Health Home Care Manager (HHCM) initiates Diligent Search Efforts (DSE) as outlined in the *Continuity of Care and Re-engagement for Enrolled Health Home Members Policy #HH0006*, following the timeline, search activities, and billing requirements. **NOTE**: the segment pended for Fair Hearing with Aid Continuing within the MAPP HHTS is not changed to reflect Diligent Search Efforts (DSE).	New language added to prior policy

		If at the end of the Diligent Search Efforts (DSE) period the member cannot be located, all diligent search efforts can cease, noting that as per Continuity of Care and Re-engagement for Enrolled Health Home Members policy HH0006 (page 2), only up to three (3) months is allowed for billing. A new Notice of Determination is not issued. The member's segment remains pended for Fair Hearing with Aid Continuing based on the reason of the original Notice of Determination until the Fair Hearing is held. The reason for initiating Diligent Search Efforts (DSE), all activities conducted and the outcome are documented in the member's record. **NOTE:** the Qualified Individual Identified by the State (QIIS) must document continuous efforts to locate the member/family for up to three (3) months. The Health Home (HH)/Qualified Individual Identified by the State (QIIS) has the option to submit an Aid Continuing (AC) Challenge request to the NYS Office of Temporary and Disability Assistance (OTDA) (*refer to* Definitions for *Aid Continuing (AC) Challenge and Pre-Hearing Determination (PHD)* above) to: • IntakeUpstate.Hearings@otda.ny.gov cc: Dominique Simoneaux, Fair Hearing Specialist at: dominique.simoneaux@otda.ny.gov and cc: Department's Fair Hearing BML and the DOH liaison	

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Page and Section	Update Made	Update Specifications Language may be completely new or partially reused from earlier policies. Reference "Former Location of Information" column.	Former Location of Information
22 XIII. Decision After Fair Hearing	Added clarifying information under: **Decision in Favor of the Member: With Aid Continuing**	Continued services occur for the eligibility period being reviewed. If the Fair Hearing was heard after the eligibility period, and a new eligibility was conducted with the determination of ineligible, AND the member did not also file a new Fair Hearing with Aid Continuing regarding the new eligibility determination, the member's case is closed.	New language added to prior policy
22 XIII. Decision After Fair Hearing	Added clarifying information under: **Decision in Favor of the Member: Without Aid Continuing**	The Fair Hearing determination is specific to the member being disenrolled. If the Fair Hearing was heard after the eligibility period, the disenrolled member does not need to be re-enrolled. If the member is interested in re-enrollment, a new eligibility determination for the Health Home program and or the Children's Waiver would need to be conducted with an issued Notice of Decision.	New language added to prior policy

22 XIII. Decision After Fair Hearing	Added clarifying Note: under: **Decision is not in Favor of the Member:** **With Aid Continuing:**	**Note:** If a subsequent eligibility determination for the Health Home program or the Children's Waiver was conducted pending this Fair Hearing, and the member was found ineligible, however filed a Fair hearing with Aid Continuing, the member would not be disenrolled due to the Aid Continuing on the subsequent Notice of Decision. **Note**: since the final decision was made by the Administrative Law Judge (ALJ), a new Notice of Determination/Decision is not issued.	New language added to prior policy
23 XIII. Decision After Fair Hearing	Added subsection titled: *Request for Reconsideration of the Decision After Fair Hearing*	Health Homes (HH)/Children and Youth Evaluation Service (C-YES)/Qualified Individual Identified by the State (QIIS) are required to review each Decision After Fair Hearing notification. If the Health Home (HH)/Children and Youth Evaluation Service (C-YES)/Qualified Individual Identified by the State (QIIS) identifies an error in law or fact, they file a formal request for reconsideration to OTDA, with the following: • Identifying Information: o Submitter's Name, Health Home, contact information • Fair Hearing case number • Fair Hearing decision date • Clearly state that the submission is for reconsideration of the Decision After Fair Hearing • Specify the point(s) of law or fact believed to be in error. • Provide and explain all evidence e.g. HH policy, etc. supporting this contention. The Health Home/C-YES/QIIS submits their prepared request for reconsideration to the Office of Temporary and Disability Assistance's (OTDA) Litigation Mailbox at: litigationmail.hearings@OTDA.NY.GOV or, fax it to: (518) 473-6735. A copy of the	

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		request for reconsideration is also provided the Department via the Department's Fair Hearing Bureau Mail Log (BML). While the reconsideration is under review, the Decision After Fair Hearing remains in effect. The Office of Temporary and Disability Assistance (OTDA) will notify the party of the result of its review, and if applicable, that it is correcting an error of law or fact in the decision, and/or reopening the hearing.	

24 XIII. Training	Added trainings	• Notice procedures and management of the Fair Hearing process • Adjournment • Reconsideration of Decision After Fair Hearing • Pre-hearing Determination (PHD) • Aid Continuing (AC) Challenge	New language added to prior policy
24 XIV. Quality Management Program	Added Quality Indicators	• The Health Home requested Aid Continuing (AC) Challenge, the reason, and result. • The Health Home requested adjournment/s, the reason, and result. • The Health Home requested Pre-Hearing Disposition, the reason, and result (e.g. did member request FH anyway?) • The Health Home requested Reconsideration After Fair Hearing, the reason, and result. • Health Homes and CYES track and monitor that all annual reassessments and HCBS Level of Care determinations (365 days) are completed timely.	New language added to prior policy
26 Appendix A Member 'Pended for Approved Fair Hearing' Requests Service from a New CMA/HH	Revised title of this *Life Event* Revised the *Health Home's Role* to include CMA and to mirror revised policy language	**Life Event:** Member 'Pended for Approved Fair Hearing' Requests Service from a New CMA/HH **Health Home/CMA's Role:** ~~Works with the member to find an appropriate Care Management Agency.~~ Health Home (HH)/Care Management Agency (CMA) determines whether they want to consider the member for enrollment. If so, and member is deemed eligible and appropriate, may offer enrollment to the member. If not, current Health Home (HH)/Care Management Agency (CMA) must continue to serve the member until Fair Hearing occurs.	New language added to prior policy
28 Appendix A Diligent Search Efforts (More than three (3) months)	Clarify *Department's Role*	Upon notification by the Health Home, m~~M~~odifies the member's pended segment as needed and instructs the Health Home on how to proceed.	Revised prior policy language

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