

## § 431.202

*Service authorization request* means a managed care enrollee's request for the provision of a service.

[44 FR 17932, Mar. 29, 1979, as amended at 57 FR 56505, Nov. 30, 1992; 67 FR 41095, June 14, 2002; 78 FR 42301, July 15, 2013]

### § 431.202 State plan requirements.

A State plan must provide that the requirements of §§ 431.205 through 431.246 of this subpart are met.

### § 431.205 Provision of hearing system.

(a) The Medicaid agency must be responsible for maintaining a hearing system that meets the requirements of this subpart.

(b) The State's hearing system must provide for—

(1) A hearing before—

(i) The Medicaid agency; or

(ii) For the denial of eligibility for individuals whose income eligibility is determined based on the applicable modified adjusted gross income standard described in § 435.911(c) of this chapter, the Exchange or Exchange appeals entity to which authority to conduct fair hearings has been delegated under § 431.10(c)(1)(ii), provided that individuals who have requested a fair hearing are given the choice to have their fair hearing conducted instead by the Medicaid agency; at state option the Exchange or Exchange appeals entity decision may be subject to review by the Medicaid agency in accordance with § 431.10(c)(3)(iii); or

(2) An evidentiary hearing at the local level, with a right of appeal to the Medicaid agency.

(c) The agency may offer local hearings in some political subdivisions and not in others.

(d) The hearing system must meet the due process standards set forth in *Goldberg v. Kelly*, 397 U.S. 254 (1970), and any additional standards specified in this subpart.

[44 FR 17932, Mar. 29, 1979, as amended at 78 FR 42301, July 15, 2013]

### § 431.206 Informing applicants and beneficiaries.

(a) The agency must issue and publicize its hearing procedures.

(b) The agency must, at the time specified in paragraph (c) of this sec-

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tion, inform every applicant or beneficiary in writing—

(1) Of his right to a hearing;

(2) Of the method by which he may obtain a hearing; and

(3) That he may represent himself or use legal counsel, a relative, a friend, or other spokesman.

(c) The agency must provide the information required in paragraph (b) of this section—(1) At the time that the individual applies for Medicaid;

(2) At the time of any action affecting his or her claim;

(3) At the time a skilled nursing facility or a nursing facility notifies a resident in accordance with § 483.12 of this chapter that he or she is to be transferred or discharged; and

(4) At the time an individual receives an adverse determination by the State with regard to the preadmission screening and annual resident review requirements of section 1919(e)(7) of the Act.

(d) If, in accordance with § 431.10(c)(1)(ii), the agency has delegated authority to the Exchange or Exchange appeals entity to conduct the fair hearing, the agency must inform the individual in writing that—

(1) He or she has the right to have his or her hearing before the agency, instead of the Exchange or the Exchange appeals entity; and

(2) The method by which the individual may make such election;

(e) The information required under this section may be provided in electronic format in accordance with § 435.918 of this chapter.

[44 FR 17932, Mar. 29, 1979, as amended at 57 FR 56505, Nov. 30, 1992; 58 FR 25784, Apr. 28, 1993; 78 FR 42301, July 15, 2013]

### NOTICE

### § 431.210 Content of notice.

A notice required under § 431.206 (c)(2), (c)(3), or (c)(4) of this subpart must contain—

(a) A statement of what action the State, skilled nursing facility, or nursing facility intends to take;

(b) The reasons for the intended action;

(c) The specific regulations that support, or the change in Federal or State law that requires, the action;