

Medi-Cal Managed Care: An Independent Medical Review (IMR) Can Change a Plan's No to Yes

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1. I have Medi-Cal managed care. What options do I have if my health plan denies a service?

Most Californians who get Medi-Cal are in managed care through a Medi-Cal health plan. Health plans are also called managed care organizations or health maintenance organizations.

You have several options if your Medi-Cal health plan denies a service, so don't give up! Here are some of the steps you can take:

- Ask for a grievance with your health plan.
- Ask for an Independent Medical Review (IMR). Note: This publication focuses on Independent Medical Reviews.
- Ask for a state hearing from the Department of Social Services.

See Disability Rights California's publication on *Medi-Cal Managed Care Health Plans. What are they? What do I need to know about them?* Available at <http://www.disabilityrightsca.org/pubs/549501.pdf> for background information about health plans and an overview of your options if you have problems.

2. What is a grievance?

A grievance is a written complaint to your health plan. The complaint explains why you think your health plan made a wrong decision. Every

health plan is required to have a grievance process and to inform consumers about the process. Health & Safety Code sec. 1368(a). Information about your health plan's grievance policy must be on its website. You can also ask your doctor or other health care provider for a copy of the grievance policy. Health & Safety Code sec. 1368.015, 28 CCR sec. 1300.68 (b)(7). Your health plan has 30 days to respond in writing to your grievance. If the matter is urgent, your health plan must respond to your grievance within 3 days. Health & Safety Code sec. 1368.01(b), 28 CCR sec. 1300.68(a).

3. What is an Independent Medical Review (IMR)? What state agency is responsible for IMRs?

An Independent Medical Review (IMR) is a way for you to get an external, independent medical review if your health plan denies, modifies, or delays services because of medical necessity. Health & Safety Code sec. 1374.30-35. However, Medi-Cal laws must also be followed: see www.dmhc.ca.gov: “[r]eviews shall be conducted in accordance with the statutes and regulations of the Medi-Cal program.” 28 CCR sec. 1300.74.30(f)(3). The Department of Health Care Services supervises the Medi-Cal program and Medi-Cal managed care plans, but the Department of Managed Health Care handles IMRs. You can only ask for an IMR if you are in a health plan that is licensed under the Knox-Keene Act. The five plans that are NOT Knox-Keene licensed are: CalOptima – Orange; CenCal Health - Santa Barbara and San Luis Obispo; Central California Alliance for Health - Santa Cruz, Monterey, Merced; Gold Coast Health Plan – Ventura; and Partnership HealthPlan of California - Solano, Napa, Yolo, Sonoma, Mendocino, Marin, Del Norte, Humboldt, Lake, Lassen, Modoc, Shasta, Siskiyou, Trinity. If you have one of these plans, you cannot ask for an IMR.

4. Do I have to file a grievance before I file for an IMR?

Yes. Before you file for an IMR, **usually** you first have to file a grievance with your health plan. If your health plan denies your grievance or does nothing in 30 days, the next step is asking for an IMR. Health & Safety Code sections 1368.01 and 1374.30(j)(3); 28 CCR sec. 1300.68.01. See

question 8 below for an explanation of when you **do not** have to ask for a grievance before you ask for an IMR.

5. Under what circumstances can I ask for an IMR?

You can ask for an IMR if your health plan, or your doctor or other health care provider, denies, modifies, or delays a service based on medical necessity. Health & Safety Code sec. 1374.30. IMRs are available to address a “disputed health care service” “which means any health care service eligible for coverage and payment under a health care service plan contract that has been denied, modified, or delayed by a decision of the plan . . . due to a finding that the service is not medically necessary.” Health & Safety Code sec. 1374.30(b). Medi-Cal defines medical necessity differently for adults than for children. For adults, medical necessity means services, medicines, supplies, and devices necessary to protect your life, to prevent a significant illness or disability, or to alleviate severe pain. Cal. Welf. & Inst. Code sections 14059, 14059.5, 14133.3; 22 CCR sec. 51303(a). For children, the medical necessity definition is broader. It includes services which are necessary “to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services....” 42 U.S.C. sections 1396a(a)(43) and 1396d(r)(5); 22 CCR sections 51184 and 51340. Please see Disability Rights California’s publication on *Extra Services for Children and Youth Under the Medi-Cal EPSDT Program for more information about Medi-Cal services for children*. This publication is available at <http://www.disabilityrightsca.org/pubs/PublicationsHealthBenefits.htm> .

You can also ask for an IMR when a plan denies reimbursement for emergency or urgent care claiming that no emergency or urgency existed OR when an enrollee seeks treatment for a life-threatening or debilitating condition, and the plan denies the treatment sought as “experimental or investigational.” Health & Safety Code sec. 1370.4 and 1374.30(j)(1).

6. What are examples of situations when I could get an IMR?

Here are examples of when you could get an IMR:

- Your health care provider has said you need a service because it is medically necessary, but your health plan denies it, changes it, or causes delays in your getting the service; or
- Your health plan refuses to pay for the service you received or to authorize continued services that your doctor says are medically necessary. This includes denials of a continued period of nursing or physical/occupational or other services pursuant to 22 CCR sections 51003 (c), 51014.1(f), 51014.2(a) and (d); or
- You went to a doctor either in or outside the plan who says the service you are requesting is medically necessary, but your health plan denies your request. You can ask for an IMR based on the recommendation a provider who is not part of your health plan. Health & Safety Code section 1374.30(j)(C).
- You have a life-threatening or debilitating condition, ask for treatment for it, and the plan says no because it is experimental or investigational. Health & Safety Code section 1370.4.
- You got emergency or urgent care and your plan will not pay for it. Health & Safety Code section 1374.30.

7. Can I get an IMR regarding all disagreements?

No. You can only get an IMR if the issue is medical necessity. Contrast this with a “coverage decision” about whether a service could be covered. Health & Safety Code sec. 1374.30(c). However, even if the plan says they made a coverage decision, you should go ahead and ask for an IMR. That way, the Department of Managed Health Care can make a decision about whether or not an IMR is available in your situation. Disputes that are not eligible for IMR review can still be appealed to DMHC through its complaint process. Call the DMHC Help Center at 1-888-466-2219.

8. Are there ever times when I can ask for an IMR without filing for a grievance first?

Yes, you can skip a grievance and go straight to an IMR in two situations:

- If the provider or health plan denies the service because it says that the service is “experimental or investigational.” 28 CCR sec. 1300.70.4. While Medi-Cal does not cover “experimental” services, it does cover “investigational” services if you meet certain criteria. 22 CCR sections 51303(g) and (h) and page 19 of Chapter 11 in the National Health Law Program’s Medi-Cal Overview Manual, found at:
<http://www.healthconsumer.org/Medi-CalOverview2008Ch11.pdf>
- If the situation is very serious and you need an expedited IMR. Health & Safety Code sec. 1374.31(a). See question 13 below for more information.

9. How do I file an IMR?

You can file an IMR by filling out an IMR Application/Complaint Form. It is available online at:

http://www.dmhc.ca.gov/dmhc_consumer/pc/pc_forms.aspx in 13 languages, including English and Spanish.

You can ask for the form by calling Department of Managed Health Care Help Center at 1-888-466-2219 or TDD at 1-877-688-9891. You can submit the form via email, or mail or fax it to Department of Managed Health Care, 980 9th Street, Suite 500 Sacramento, CA 95814-2724; FAX: 916-255-5241. More information is available at

http://www.dmhc.ca.gov/dmhc_consumer/pc/pc_default.aspx. You can also visit <http://www.healthconsumer.org/fs046LAeng.pdf> for additional suggestions about IMRs and what to do if you need one.

10. What is the deadline for filing an IMR?

You must file an IMR within 6 months of the plan’s response to your grievance.

11. Is there anything special about requesting an IMR for someone under age 21?

Yes. If you are requesting an IMR for a Med-Cal beneficiary who is under age 21, you should insist that the expert reviewer have pediatric expertise or is affiliated with a children's hospital.

12. How long will it take to get a decision on an IMR?

The Department of Managed Health Care must give you a written decision on your IMR within 30 days. Health & Safety Code sec. 1374.33(c).

13. What if I need a decision on my IMR right away?

If your situation is very serious, there is a way for you to skip the grievance process and ask for an "expedited" IMR. You must have your provider put in writing that you will face serious harm if you do not get the service you have requested. Health & Safety Code sec. 1374.33(c). Include this information in your IMR request. You can get a decision within 3 days. Health & Safety Code sec. 1374.33(c).

14. Can I look at past IMR determinations online?

Yes. All IMR determinations since 2001 are posted on the Department of Managed Health Care's website so you can look at outcomes. All personal information is removed. They are categorized by diagnosis and treatment. Search for IMR determinations here: <http://wps0.dmhc.ca.gov/imr/>

15. What is a Medi-Cal fair hearing? Can I file for a Medi-Cal fair hearing?

A Medi-Cal fair hearing is another way of challenging a decision about your Medi-Cal that you think is wrong. You can file for a Medi-Cal fair hearing if the issue is whether the service is covered by Medi-Cal or medically necessary. Currently and through June 30, 2017, you can file an appeal with your Medi-Cal managed care plan and file for a Medi-Cal fair hearing simultaneously. Beginning July 1, 2017, though, you will have to exhaust internal remedies first (i.e., go through your Medi-Cal managed care plan's entire internal appeals process) before filing for a Medi-Cal fair hearing.

The hearing is held before an Administrative Law Judge who works for the Department of Social Services. The CDSS hearing website is here: <http://www.dss.cahw.net.gov/shd/default.htm>. Information about requesting a fair hearing is here: <http://www.dss.cahw.net.gov/shd/PG1104.htm> (or you can call 1-800-952-5253 (Voice); 1-800-952-8349 (TDD)).

16. Can I have a Medi-Cal fair hearing and an IMR?

There are some restrictions on getting a Medi-Cal fair hearing if you have already asked for an IMR. See Disability Rights California's publication *Medi-Cal Managed Care Health Plans. What are they? What do I need to know about them?* Here: <http://www.disabilityrightsca.org/pubs/549501.pdf>

17. How can I decide if I should file for a Medi-Cal fair hearing or an IMR?

Here are some factors for you to consider:

- Will an IMR or a Medi-Cal hearing get you a decision faster?
- You have 90 days to ask for a Medi-Cal fair hearing, but you have 6 months to ask for an IMR.
- Is the issue something a medical professional would be better at deciding than an administrative law judge? If so, you may want to file an IMR.
- Do you need your services to continue during the process? You can't stop your services from being cut while you ask for an IMR. But you can stop your services from being cut if you ask for a Medi-Cal hearing before your services are cut. This is called "aid paid pending" the hearing and it means your service stays the same during the appeal process. Therefore, if you need continued services, a Medi-Cal hearing may be best for you.

Please call Disability Rights California for more information. Whichever option you choose, make sure you meet the deadlines.

18. What resources are available to help me if I have additional questions or I need help?

Disability Rights California, www.disabilityrightsca.org, 1-800-776-5746

Health Consumer Alliance,
<http://healthconsumer.org/index.php?id=partners>, to find the local legal services program closest to you.

Department of Managed Health Care, www.dmhca.ca.gov, 1-888-466-2219 or (TDD) 1-877-688-9891 for more information about grievances and IMRs.

Department of Social Services State Hearings Division for information about asking for a Medi-Cal state hearing,
<http://www.dss.cahwnet.gov/cdssweb/PG27.htm> , 1-800-952-5253, 1-800-952-8349 (TDD)

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