

## INSERT AGENCY LETTERHEAD HERE

### NOTICE OF TERMINATION OF COMMUNITY ALTERNATIVES PROGRAM FOR PERSONS WITH MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES (CAP-MRDD) SERVICES

[Insert Date]

[Recipient/Legal Representative/Guardian's Name] [Medical Provider Name]  
[Recipient Address] [Address]

RE: [Insert Recipient's Name]  
MID #: [Insert last four digits and alpha of MID #]

Dear [insert name of recipient or parent/guardian/authorized representative]:

Medicaid will no longer pay for Community Alternatives Program for Persons with Mental Retardation and Developmental Disabilities (CAP-MRDD) for the above named recipient. CAP-MRDD will be **terminated 30 days from the date this notice was mailed**. This notice explains why this decision was made and tells you how to appeal if you disagree.

The reason Medicaid decided to terminate Medicaid coverage for CAP-MRDD is because a review of the recipient's medical records revealed that [he/she] has not utilized CAP-MRDD waiver services since [insert date] for a period of [insert number of days] days. Medicaid's decision is based on the waiver requirement that for an individual to participate in this waiver program services must be utilized at least monthly. The CAP-MRDD Waiver Manual specifically states, "For an individual to be considered to require the level of care specified for the waiver, it must be determined that a person requires at least one waiver service, and requires the provision of waiver services at least monthly, or if less frequently, requires monthly monitoring to assure health and safety. Individuals may not be enrolled in the waiver for the sole purpose of enabling them to obtain Medicaid eligibility and must receive at least monitoring monthly through case management to insure health and safety." Medicaid's medical policies can be found at <http://www.dhhs.state.nc.us/dma/prov.htm>. The CAP-MRDD Manual can be found at <http://www.ncdhhs.gov/mhddsas/cap-mrdd/capmanual1-18-06.pdf>.

**Si desea apelar esta decisión, debe responder a no más tardar de 30 días a partir de la fecha que esta carta fue enviada. Si necesitas ayuda para leer y entender la carta, por favor contáctese con el 1-800-662-7030. DIGA AL OPERADOR QUE LA NOTIFICACION DMA 2002.**

DMA 2002-CAP-MRDD Utilization  
07/03/08  
REV 09/24/08

**YOU HAVE THE RIGHT TO APPEAL THIS DECISION.** If you decide to appeal the decision, you must file for an evidentiary hearing with the Office of Administrative Hearings. **YOU HAVE 30 DAYS FROM THE DATE THIS DECISION LETTER WAS MAILED TO FILE THE REQUEST FOR HEARING.**

To learn more about the hearing process or to speak with a Medicaid clinical policy analyst about this decision, call the Appeals Coordinator, Division of Medical Assistance at 919-855-4260. You may also call the toll free **CARE-LINE, Information and Referral Services**, at **1-800-662-7030** and request that your call be transferred. The enclosed general information sheet also explains the hearing process.

**THE HEARING PROCESS AND FILING THE REQUEST:**

- Hearings are conducted by an administrative law judge with the Office of Administrative Hearings (OAH).
- To file for a hearing, you must submit **a completed hearing request form** (enclosed in this mailing). You can also obtain a hearing request form by calling the Division of Medical Assistance at the number specified above, or you can call the Office of Administrative Hearings at 919-431-3000.
- Mail or fax the completed hearing request form to Clerk, Office of Administrative Hearings **AND** General Counsel, North Carolina Department of Health and Human Services at the addresses or fax numbers on the enclosed hearing request form. **The completed form must be filed within 30 days of the date this decision letter was mailed.** As the mailing date is located on the envelope, **please keep the envelope containing this decision letter**.
- The Office of Administrative Hearings or the Mediation Network of North Carolina will contact you to discuss your case and to offer an opportunity for mediation in an effort to resolve your appeal. If mediation resolves your case, your hearing will be dismissed, and services will be provided as specified by the Mediation Network of North Carolina.
- If you do not accept the offer of mediation or the results of mediation, your case will proceed to hearing. You will be notified by mail of the date, time, and location of your hearing.
- The administrative law judge will make a decision and will send that decision to Medicaid for a final agency decision. You will receive a written copy of both the administrative law judge's decision and Medicaid's final agency decision.
- If you do not agree with Medicaid's final agency decision, you may ask for a judicial review in superior court.
- You may represent yourself in the hearing process, hire an attorney, or ask a relative, friend, or other spokesperson to speak for you.
- If you request a hearing within **30 days of the date this decision letter was mailed** **and** as long as you remain otherwise Medicaid eligible, unless you give up this right, you are entitled to receive services during the pendency of the appeal. **This right to receive services applies even if you change providers.** Services will be provided at

the same level you were receiving the day before the decision or the level requested by your provider, whichever is less. The services that continue must be based on your current condition and must be provided in accordance with all applicable state and federal statutes and rules and regulations.

- If you lose your appeal, you may be required to pay for the services that continue because of the appeal.

**Free legal aid may be available to assist with your appeal.** Contact your nearest Legal Aid of North Carolina office or call 919-856-2564 or toll-free at 1-866-369-6923 to obtain the telephone number of the office that serves your community.

Sincerely,

[insert contact name and credentials]

919- [insert telephone # of contact]

Enclosure: Recipient Hearing Request Form, DMA 2003  
(Only the recipient may appeal the decision).

C: Provider  
Appeals Coordinator, Division of Medical Assistance  
Office of Administrative Hearings

## FEDERAL CITATIONS FOR FAIR HEARINGS

- **42 C.F.R. 431.200 - .250** sets forth in 42 C.F.R. Subpart E that Medicaid applicants and recipients are entitled to a fair hearing when an adverse decision is made.
- **42 U.S.C. 1396a(a)(3)** provides that a State plan for medical assistance must grant an opportunity for a fair hearing.
- **42 C.F.R. Subpart J** involves regulations regarding applications for Medicaid.

## STATE CITATIONS FOR FAIR HEARINGS HB 2438

The above cited bill was a technical amendment to SL-2008-107, An Act to Modify the Current Operations and Capital Appropriations Act of 2007, to Authorize Indebtedness for Capital Projects, and to Make Various Tax Law and Fee Changes. The amendment was approved July 18, 2008, with a July 01, 2008, effective date. **S.L. 2008-118 s. 3.13, effective July 01, 2008**, is contained in this amendment and addresses Medicaid recipient and applicant appeal rights specifically in **S.L. 2008-118 s. 3.13(a), effective July 01, 2008** and **S.L. 2008-118 s. 3.13(b), effective July 01, 2008**.

- **(Citation) S.L. 2008-118 s. 3.13(a), effective July 01, 2008** (former HB 2438 Section 10.15A(h1) specifies:
  - ❖ types of adverse decisions that may be appealed,
  - ❖ service of notice,
  - ❖ who can appeal the adverse determination,
  - ❖ content requirement of notice,
  - ❖ when and how appeal should be filed,
  - ❖ format of the appeal request form, and
  - ❖ final agency decision and timeline.
- **(Citation) S.L. 2008-118 s. 3.13(b), effective July 01, 2008** (former HB 2438 Section 10.15A(h2-h6) addresses the following:
  - ❖ (h2): application of the law, simplified OAH procedures, mediation, burden of proof, and decision,
  - ❖ (h3): transference of DHHS funds to OAH for the conduct of the appeals process,
  - ❖ (h4): discontinuance of DHHS recipient informal appeal process effective October 01, 2008,
  - ❖ (h5): performance of DHHS informal review prior to issuing notice of adverse determination, and
  - ❖ (h6): required reports from DHHS and OAH to the General Assembly re costs, effectiveness, and efficiency of the Medicaid appeals process on March 10, 2009, October 01, 2009, and March 01, 2010, and expiration of the law on July 01, 2010.

Additional procedures for conducting a hearing are found in the North Carolina Administrative Procedure Act (N.C.G.S. §§ 150B-22 to -52).