

# Why Due Process Matters to Individuals with Developmental Disabilities



## Statement of Principles

The North Carolina Council on Developmental Disabilities (NCCDD) believes that individuals with intellectual and other developmental disabilities (I/DD) and their family members have the right to due process and should have a voice in the manner in which long-term care services and supports are delivered and received. This is particularly true for those receiving Medicaid services.

Due process means having the opportunity for a hearing or to voice disagreement with a provider's decision to deny, reduce, suspend or terminate a Medicaid service. Medicaid recipients have the right to appeal adverse decisions of the state Medicaid agency and receive a fair hearing pursuant to the Social Security Act, 42 C.F.R. 431.200 et seq. and N.C.G.S. §108A-70.9. Recipients of Medicaid-funded services have a constitutional right to due process.

I/DD have unique needs that vary from person to person; therefore, long-term services and supports cannot be delivered in a "one-size-fits-all" manner. The appeals process allows individuals to advocate for services that best support and meet their unique needs.

The process for making appeals regarding Medicaid services must be accessible and easy to understand. Many service recipients would like to voice their disagreement with provider decisions; yet, they find the process to be confusing and cumbersome. There is concern that people may be forfeiting their rights or voice in the decision making process because the process is unclear.

Due process for I/DD should include a hearing before an independent third party; full disclosure of the criteria used to make decisions regarding the level of service; timely notice regarding the effective date of any changes to services; the process by which an appeal can be requested including any time limitations; and details about how services will be maintained during the appeal process.

The NCCDD believes that the delivery and receipt of long-term services and support should be an interactive process with ongoing and open communication among Local Management Entity/Managed Care Organization (LME/MCOs), providers, and service recipients. Decisions made by any party without adequate communication and justification violate the principles of a participant-centered system.

With continued population growth, budget deficits, and new service delivery models being implemented, North Carolina's system of long-term services and supports must maintain due process and give individuals a voice with respect to the services that so critically affect their quality of life.