

Activity Fair Hearing/State Review Comprehensive Guide

Key Concepts

The table below outlines key terms related to processing a request in the Fair Hearing/State Review (FH/SR) node within for an ineligible outcome the HCBS/LOC Eligibility Determination assessment. These terms are used throughout this document and related training modules.

Key Terms

Term	Description
Health Home (HH)	The state oversight entity for Health Home Care Management Agencies.
Care Management Agency (CMA)	Care Management Agency that reports to the HH.
Health Home Care Manager (HHCM)	Conducts the assessments for the CMA (the assessor CANS-NY-40).
Children and Youth Evaluation Services (C-YES)	State Designated Care Management Agency for those children/youth who opt-out of Health Home care management or need/want HCBS but do not yet have Medicaid
HCBS Provider	A State designated provider approved to provide a set of services to children/youth found HCBS eligible and enrolled.
Member	Child/youth being assessed, determined whether eligible, and if found eligible, ultimately receiving the services.
HHCM/C-YES Supervisor	Oversees the HHCM/C-YES evaluator and enters the fair hearing request to the child's assessment. This is the only role (CANS-45) that can enter the fair hearing request within the UAS.
HCBS/LOC Determination Tool/Assessment	The HCBS/LOC Eligibility Determination (HCBS/LOC) assessment is used as part of a collaborative process with the child and family to obtain the necessary information and documentation to determine HCBS eligibility.
Fair Hearing/State Review node	A node within the HCBS/LOC used to document the fair hearing item and the decision determined within a recently finalized HCBS/LOC.
Notice of Decision	The HCBS Eligibility Determination outcome is captured in the Notice of Decision form (DOH 5287) for enrollment or the reason for denial of enrollment into HCBS. The Notice of Decision forms indicate to the child/youth/family how to dispute the determination and obtain a fair hearing.
Fair Hearing	The fair hearing is the right of a member or potential member that has received a denial of HCBS and does not agree with the decision. The fair hearing is handled by the Office of Temporary and Disability Assistance (OTDA) and is decided by a Judge.
State Review	The State Review is completed by a State agency when there is a need within the program to allow for changes necessary to meet requirements and or determined through DOH guidance.
Child Requests Continuation of Services	Children/youth already enrolled and receiving HCBS can request Aid Continuation of Services when deemed ineligible during re-assessment of HCBS/LOC Eligibility Determination. The member will be able to continue receiving services from HCBS Provider(s) until the fair hearing Judge makes a decision regarding the HCBS Eligibility Determination.
Decision Outcome and Date	This is used to document the final determination of either the fair hearing or State Review. This includes the date of the decision.
Fair Hearing Comments	Data text box required to be used to document the reason for the changes made to an existing fair hearing item. Reasons may include: <ul style="list-style-type: none"> • changes to any of the data item selections. • a different assessor supervisor signs and finalizes the fair hearing item.
DOH	Department of Health.

Introduction to Fair Hearing/State Review Node

After an HCBS/LOC assessment has been conducted signed and finalized, and the Assessment Outcomes have been signed and finalized, it is the responsibility of the assessor to review the eligibility status with the child and family. If a child/youth is found ineligible for services, the assessor and assessor supervisor will follow one of two paths:

1. Child who is already participating in HCBS:

- a. The assessor must:
 - communicate to the family that a Notice of Determination (NOD) will be sent to them within 10 days from the ineligible determination.
 - support the family by reviewing the steps for requesting a fair hearing.
 - inform the family that they can request Aid Continuances of Services while awaiting the fair hearing.
 - share with the family that the request for a fair hearing request MUST be completed within 60 days of receiving the NOD.
 - communicate to the assessor supervisor that the family is requesting a fair hearing and whether or not the member choose Continuation of Services (if applicable).
- b. The assessor supervisor must:
 - enter a fair hearing to the child's assessment.
 - indicate whether or not the child is requesting to continue services. This is only for already enrolled HCBS children/youth.
Important Note: The selection is essential for HCBS provider payment. If it is NOT selected, the HCBS Provider will not get paid for services provided to the child.
 - update the fair hearing item in the assessment when a decision has been reached by the Fair Hearing Judge.
 - sign and finalize the fair hearing item.

2. Child who is brand new and not currently participating in HCBS:

- a. The assessor must:
 - communicate to the family that a Notice of Determination (NOD) will be sent to them within 10 days from the ineligible determination.
 - support the family by reviewing the steps for requesting a fair hearing.
 - share with the family that the request for a fair hearing MUST be completed within 60 days of receiving the NOD.
 - communicate to the assessor supervisor that the family plans to request fair hearing and whether or not the member choose Continuation of Services (if applicable).
- b. The assessor supervisor must:
 - the assessor supervisor must enter a fair hearing to the child's assessment.
 - update the fair hearing item when a decision has been reached by the Fair Hearing Judge.
 - sign and finalize the fair hearing item.

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The Fair Hearing and State Review Node in the HCBS/LOC

When the family elects to request a fair hearing, the assessor supervisor must be notified by the assessor to enter the information within the UAS to add to the assessment. There are two appeal types within the Fair Hearing/ State Review node:

1. A Fair Hearing is the right of a member or potential member that has received a determination of ineligible in the HCBS/LOC eligibility determination assessment and does not agree with the decision. The fair hearing is handled by the Office of Temporary and Disability Assistance (OTDA) and is decided by a Judge.
2. The State Review is completed by a State agency when there is a need within the program to allow for changes necessary to meet requirements and or determined through DOH guidance.

Special Note: While there is State Review type that can also be added to a child's assessment, this type can only be added by the State and cannot be completed by the HHCM Supervisor or C-YES assessor supervisors.

Adding a Fair Hearing Request to an Assessment

Before a fair hearing request is added to an assessment, it is a best practice to open the child's case file and review the HCBS/LOC assessment and assessment outcomes.

Opening the case file AND Adding a Fair Hearing:

1. Search for and **open the child's casefile**.

SEARCH CASE LIST

Search by: Last Name
 Search Value: Jones

Sort First: Last Name Asc
 Sort Second: Last Name Asc

Last Name	First Name and MI	Date of Birth	Last 4 SSN	Medicaid ID	TABS ID
Jones	Catherine	10/21/2015			

Search by: First Name and
 Search Value: Catherine

Search Filter: Open

Clear Search

Open Case File

2. Select the **Assessments node**.

Catherine A Jones

+ Add Refresh x Delete Check Missing

Catherine Jones

- Identification Info
- Assessments**
- Attestations

3. Review the **Assessment Summary** page for clarification on when the assessment was created and signed.

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Opening the case file AND Adding a Fair Hearing (cont.):

Catherine Jones

- Identification Info
- Assessments
 - 12/03/2019 HCBS/LOC Elig 0-5**
 - Reference Date
 - Target Pop Selection
 - Link to CANS-NY
 - Intake/Demographics
 - HCBS/LOC Eligibility 0-5
 - Sign/Finalize
 - Fair Hearing/State Review
 - Assessment Outcomes
 - Attestations

Assessor Signature Summary

Date/Time	User	Organization
12/15/2020 09:22 AM	taguas	APICHA (HHCMA)

Assessment Creation Summary

Date/Time	User	Organization
12/03/2019 07:15 AM	taguas	APICHA (HHCMA)

4. Review the **Assessment Outcomes** for clarification on:

- the **HCBS/LOC eligibility status**.
- the **date the outcomes were signed**.

+ Add Refresh x Delete Check Missing

Catherine Jones

- Identification Info
- Assessments
 - 12/03/2020 HCBS/LOC Elig 0-5
 - Reference Date
 - Target Pop Selection
 - Link to CANS-NY
 - Intake/Demographics
 - HCBS/LOC Eligibility 0-5
 - Serious Emotional Disturbance
 - Medically Fragile
 - Dev Disability & Foster Care
 - Dev Disability & Med Frag
 - Fair Hearing/State Review
 - Sign/Finalize
 - Assessment Outcomes**

Summary

HCBS/LOC Eligibility No, not eligible

Serious Emotional Disturbance Not selected

Medically Fragile No

Developmental Disability & Foster Care Not Selected

Developmental Disability & Medically Fragile Not Selected

Outcome Finalization

Assessor Name **Andrew King**

Date of Signature 12/15/2020

5. Open the **Fair Hearing/State Review** node.

Catherine Jones

- Identification Info
- Assessments
 - 12/03/2020 HCBS/LOC Elig 0-5
 - Reference Date
 - Target Pop Selection
 - Link to CANS-NY
 - Intake/Demographics
 - HCBS/LOC Eligibility 0-5
 - Serious Emotional Disturbance
 - Medically Fragile
 - Dev Disability & Foster Care
 - Dev Disability & Med Frag
 - Fair Hearing/State Review**
 - Sign/Finalize
 - Assessment Outcomes

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Opening the case file AND Adding a Fair Hearing (cont.):

As you will note, the Fair Hearing/State Review node is the **ONLY** editable node within the signed and finalized HCBS/LOC. It is for the sole purpose of entering a Fair Hearing request to the assessment. No other part of the assessment can or will be modified when adding a Fair Hearing request to the assessment.

6. Take a moment to **review the data items** that are part of the Fair Hearing/State Review node.

Fair Hearing / State Review

Signing and finalizing the Fair Hearing / State Review does not start the HCBS Eligibility period. Signing and finalizing the Assessment Outcomes is ALWAYS required to start the one-year HCBS Eligibility period.

Type No Selection
 Fair Hearing
 State Review

Child requests continuation of services No Selection
 No
 Yes
 Not applicable; not currently receiving services

Decision No Selection
 Denied
 Approved

Date of Decision

If you alter Fair Hearing or State Review information, you must enter a reason

I attest to the accuracy of this Fair Hearing or State Review information which is based on official documentation entered in the applicant's case record. **Sign/Finalize**

Date of Decision

7. Select the **type**:

- **Fair Hearing:** The Fair Hearing is the right of a member or potential member that has received a determination of ineligible for HCBS and does not agree with the decision.

Note: The fair hearing is handled by the Office of Temporary and Disability Assistance (OTDA) and is decided by a Judge. Only a HHCM/C-YES supervisor (CANS-45) role can enter and complete a fair hearing.

- **State Review:** The State Review is completed only by a State agency when there is a need within the program to allow for changes necessary to meet requirements and or determined through DOH guidance (only used by State staff).

8. Select the **Type** of decision:

Type No Selection
 Fair Hearing
 State Review

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Opening the case file AND Adding a Fair Hearing (cont.):

9. Select if the **Child/Youth Requests Continuation of Services**.

- Children/youth already enrolled and receiving HCBS can request Aid Continuation of Services when deemed ineligible during re-assessment of HCBS/LOC Eligibility Determination*.

***Important Note:** If the child/youth is currently receiving services and wishes to continue receiving services, this selection **must** be set to yes. If it is not set to yes, then the K-code may be removed from the child/youth's Medicaid file and the HCBS provider will not be paid for services provided to the child.

Child requests continuation of services	<input checked="" type="radio"/> No Selection <input type="radio"/> No <input type="radio"/> Yes <input type="radio"/> Not applicable; not currently receiving services
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Updating a Fair Hearing or State Review

After a fair hearing item has been entered to the Fair Hearing/State Review node, it will remain unsigned/unfinalized until a decision is returned to the assessor supervisor. The decision items are used to document the final determination of fair hearing from the OTDA judge.

Updating a Fair Hearing/State Review:

1. Select the status of the Decision :	<table border="1"> <tr> <td>Decision</td> <td> <input checked="" type="radio"/> No Selection <input type="radio"/> Denied <input type="radio"/> Approved </td> </tr> </table>	Decision	<input checked="" type="radio"/> No Selection <input type="radio"/> Denied <input type="radio"/> Approved																																																						
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2. Select calendar icon to choose the Date of decision .	<table border="1"> <tr> <td>Date of Decision</td> <td>   </td> </tr> </table>	Date of Decision	 																																																						
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3. Select the date from the calendar.	<table border="1"> <tr> <td colspan="7">09/03/2020 ✕</td> </tr> <tr> <td colspan="4">September</td> <td colspan="3">2020</td> </tr> <tr> <td>Sun</td> <td>Mon</td> <td>Tue</td> <td>Wed</td> <td>Thu</td> <td>Fri</td> <td>Sat</td> </tr> <tr> <td></td> <td></td> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> <tr> <td>6</td> <td>7</td> <td>8</td> <td>9</td> <td>10</td> <td>11</td> <td>12</td> </tr> <tr> <td>13</td> <td>14</td> <td>15</td> <td>16</td> <td>17</td> <td>18</td> <td>19</td> </tr> <tr> <td>20</td> <td>21</td> <td>22</td> <td>23</td> <td>24</td> <td>25</td> <td>26</td> </tr> <tr> <td>27</td> <td>28</td> <td>29</td> <td>30</td> <td></td> <td></td> <td></td> </tr> </table>	09/03/2020 ✕							September				2020			Sun	Mon	Tue	Wed	Thu	Fri	Sat			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30			
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Sign and Finalize a Fair Hearing Item

After the Decision and Date of Decision have been updated, the assessor supervisor must **Sign/Finalize** the fair hearing item. Once this section is signed and finalized, the data in this node cannot be edited.

Important Note: In the event there is a change made to previous selections (in the FH/SR section) or if a different HHCM/CYES supervisor (CANS 45) completes the fair hearing information, a note must be made to document the reason for the change. The HCBS LOC Eligibility Determination Assessment cannot be altered only the FH/SR section can be unsigned/unfinalized for editing.

Sign and Finalize a Fair Hearing:

1. Select the **Comments** text box.
2. If appropriate – enter comments that include the reason for the change.

If you alter Fair Hearing or State Review information, you must enter a reason

3. Select the **Sign/Finalize** command button.

I attest to the accuracy of this Fair Hearing or State Review information which is based on official documentation entered in the applicant's case record.

Sign/Finalize



After the assessor supervisor has selected to **Sign/Finalize** the fair hearing the page will refresh and the system will populate the date of the signature and the HCS User ID of the person who signed and finalized the fair hearing item. **This information cannot be edited.**

Fair Hearing / State Review

Signing and finalizing the Fair Hearing / State Review does not start the HCBS Eligibility period. Signing and finalizing the Assessment Outcomes is ALWAYS required to start the one year HCBS Eligibility period.

Type: No Selection, Fair Hearing, State Review

Child requests continuation of services: No Selection, No, Yes, Not applicable; not currently receiving services

Decision: No Selection, Denied, Approved

Date of Decision: 09/03/2020

If you alter Fair Hearing or State Review information, you must enter a reason:

Date of Signature: 09/24/2020 09:17 AM

HCS User ID: taguas

Organization Name: APICHA (HHCMA)

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Updating a Signed and Finalized Fair Hearing

In the event a fair hearing that has been signed and finalized must be updated, the assessor supervisor can elect to unsign and unfinalize the fair hearing item.

Important Note: In the event there is a change made to previously signed and finalized fair hearing item, the assessor supervisor must document the reason for the change.

Updating a Signed/Finalized Fair Hearing Request:

1. Select the **Fair Hearing/State Review** node from the appropriate assessment.
2. Select the **UnSign/Unfinalize** command button.

Fair Hearing / State Review

Signing and finalizing the Fair Hearing / State Review does not start the HCBS Eligibility period. Signing and finalizing the Assessment Outcomes is ALWAYS required to start the one year HCBS Eligibility period.

Type	<input type="radio"/> No Selection <input checked="" type="radio"/> Fair Hearing <input type="radio"/> State Review
Child requests continuation of services	<input type="radio"/> No Selection <input type="radio"/> No <input type="radio"/> Yes <input checked="" type="radio"/> Not applicable; not currently receiving services
Decision	<input type="radio"/> No Selection <input type="radio"/> Denied <input checked="" type="radio"/> Approved
Date of Decision	<input type="text" value="09/03/2020"/>
If you alter Fair Hearing or State Review information, you must enter a reason	<input type="text"/>
	<input type="button" value="Unsign/Unfinalize"/>
Date of Signature	<input type="text" value="09/24/2020 09:17 AM"/>
HCS User ID:	taguas
Organization Name:	APICHA (HHCMA)

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Updating a Signed/Finalized Fair Hearing Request:

3. Update the data items as appropriate.
4. Changes must be documented.
For example: After speaking with the family, I learned they had changed their mind and would like these services to be continued until a decision is made.
5. Sign and finalize the updated Fair Hearing item.

Fair Hearing / State Review

Signing and finalizing the Fair Hearing / State Review does not start the HCBS Eligibility period. Signing and finalizing the Assessment Outcomes is ALWAYS required to start the one year HCBS Eligibility period.

Type

No Selection

Fair Hearing

State Review

Child requests continuation of services

No Selection

No

Yes

Not applicable (not currently receiving services)

Decision

No Selection

Denied

Approved

Date of Decision

09/03/2020

If you alter Fair Hearing or State Review information, you must enter a reason

After speaking with the family, I learned they had changed their mind and would like these services to be continued until a decision is made

I attest to the accuracy of this Fair Hearing or State Review information which is based on official documentation entered in the applicant's case record.

Date of Signature