

**Uniform Assessment System (UAS-NY)**  
**1.9 Update Review Webinar for Fair Hearing/State Review Appeals**  
**Home and Community Based Service (HCBS)/Level of Care (LOC)**  
**The Department of Health 1915(c) Children’s Waiver**  
**Frequency Asked Questions (FAQ)<sup>1</sup>**

1. Is the annual LOC due based on the fair hearing decision date or the date the LOC was finalized?
  - a. The annual HCBS/LOC due date will be based on the date the Outcomes Finalization was signed from the previous HCBS/LOC Eligibility Determination.
2. If a child (who was transitioned over from the previous 1915c waiver) is found to be HCBS eligible, but for whatever reason the family decides to decline the actual HCBS, will the child then lose their Medicaid?
  - a. Children/youth/families have choice to decline HCBS regardless of the child/youth being found eligible. For a child/youth who has Medicaid budgeting of “Family of One”, if the child/youth is not enrolled in the Children’s Waiver and is not receiving a monthly HCBS, the child/youth may lose their Medicaid, as the “Family of One” Medicaid budgeting was determined based upon Waiver eligibility and enrollment.
3. Where is the Fair Hearing approval or denial coming from? Can you please review that process?
  - a. The Fair Hearing approval or denial is coming from an OTDA Fair Hearing Judge. The process for requesting a Fair Hearing can be found on the back of the Notice of Decision (DOH-5287). Also, your Lead Health Home’s policy and procedure manual will provide the steps for the Fair Hearing process.
4. Is it correct, that only the assessor supervisor can enter the fair hearing request, or can assessors enter also?
  - a. Yes, only the CANS-NY 45 Assessor Supervisor role can enter the information in a fair hearing node. The assessor will work with their supervisor to ensure the information is known and entered.
5. Where can I download the materials from?
  - a. The presentation slide and recording are located on the NYS DOH Health Home Serving Children CANS-NY website and within the UAS training environment 8100 Course: CANS-NY Instruments and Reference Manuals.

HHSC CANS-NY Website Link:

[https://www.health.ny.gov/health\\_care/medicaid/program/medicaid\\_health\\_home\\_s/hh\\_children/docs/uas\\_update\\_review\\_fh\\_webinar\\_state\\_review\\_appeals.pdf](https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_home_s/hh_children/docs/uas_update_review_fh_webinar_state_review_appeals.pdf)

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[https://www.health.ny.gov/health\\_care/medicaid/program/medicaid\\_health\\_homes/hh\\_children/docs/uas\\_update\\_review\\_fh\\_webinar\\_state\\_review\\_appeals.pdf](https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/hh_children/docs/uas_update_review_fh_webinar_state_review_appeals.pdf)

UAS-NY Moodle Link: <https://commerce.health.state.ny.us/uasny/moodle/>

6. Why ask for Fair Hearing if approved and family wants to continue receiving services?
  - a. A Fair Hearing request when the HCBS/LOC eligibility determination was found ineligible. If the child/youth is found ineligible and is currently in receipt of HCBS, then the family has the option to ask for “aid continuing” – to continue HCBS while awaiting the Fair Hearing instead of being discharged until the Fair Hearing. This is important to note in order for the HCBS Provider to continue to provide services and be paid, pending the Fair Hearing date.
7. I am a supervisor however I’m carrying a caseload and regularly complete CANS & HCBS assessments. I have an assessor role, but don't have a supervisor role because I'm told having the supervisor role will affect ability to assess. Will I be able to see the "add" function in the case file?
  - a. Supervisors should be using the CANS-NY 45 role, which allows the user to function as the CANS-40 role, so that they will be able to conduct assessments as well as perform the supervisor CANS-45 functions.
8. What does it mean if a Fair Hearing is “Approved”?
  - a. If the Fair Hearing Judge “approves” the Fair Hearing request and overturns the ineligibility determination, then the member is now HCBS eligible. This determination will need to be properly documented so that the member will not be discharged and can be re-enrolled for HCBS.
9. How do I identify the denial date?
  - a. The Denial date will be the date found on the Fair Hearing notice. HHCM will need to follow up with the contact at their agency that receives the Fair Hearing decision, so that the copy can be sent to the family.
10. The fair hearing request can only be entered into the UAS by assessment supervisors. As a care manager, what is my role in this process?
  - a. Yes, assessor/care managers will obtain the information from the family and ensure the Fair Hearing request is made, per the family's request. Entering the request for Fair Hearing and the decision made by the Fair Hearing Judge can only be added to the HCBS assessment by the CANS-NY 45 Assessor Supervisor role.
11. After the October training series, are any other trainings required in UAS to continue to use the system?
  - a. Yes, the UAS online training for Fair Hearings and the other new items within the UAS must be completed before it becomes a required training, and then must be completed prior to accessing to the UAS. An announcement of the dates to access the online training and when it will be required will be forthcoming.
12. Does User Role CANS-NY-50 for supervisors allow for Fair Hearing submissions?
  - a. Only the CANS-NY 45 Supervisor role can add the Fair Hearing in the assessment. The CANS-50 role cannot initiate or sign an assessment.

13. Can I hold both CANS 40 assessor and CANS 45 supervisor role?
  - a. It is best practice for CANS-NY users are only allowed one role<sup>2</sup>. (UAS-NY 19.4 UAS Role Provisioning and Maintenance for the Uniform Assessment System for New York (UAS-NY)).
  
14. What are some reasons an individual would be denied after completing the LOC?
  - a. HCBS/LOC are determined by the information input in the HCBS/LOC Eligibility Determination and the algorithm running. The HCBS/LOC Eligibility assessment may find the child/youth eligible or ineligible.
  
15. I just want to fully understand the purpose of the Fair Hearing. You said that the Fair Hearing section needs to be completed for continuation of services. Can you please repeat the piece? thank you.
  - a. The purpose of a Fair Hearing is to appeal an ineligible decision when a HCBS/LOC Eligibility Determination. After a child/youth is found ineligible for HCBS, they have up to 60 days from the decision to contact the Office of Temporary Disability Assistance (OTDA) to have a Fair Hearing Judge review all documentation and either “Approve” or “Deny” the outcome. If the child/youth is currently receiving HCBS, the child/youth has the option of Continuing services until the Fair Hearing Judge “Approves” or “Denies” the ineligible determination. Please refer to the course 1301-CANS Fair Hearing/State Review Node in the HCBS/LOC for more details and a clear understanding of the Fair Hearing request within the HCBS/LOC. UAS-NY reference and training guides can be found at: <https://commerce.health.state.ny.us/uasny/moodle/>
  
16. Does the denial letter get sent to the family from the State?
  - a. The Notice of Decision of whether the child/youth was found HCBS/LOC eligible or ineligible is sent by the Health Home care manager or C-YES evaluator. The Fair Hearing requirement for the agency to attend is sent by the Office of Temporary Disability Assistance (OTDA) to the family, appropriate care management agencies, and providers. The decision of the Fair Hearing is also sent by OTDA to the family and other appropriate involved parties of the Fair Hearing.
  
17. Will we receive confirmation of attendance for this training, as it is mandatory?
  - a. Currently there is no confirmation of attendance, but if it is needed for a specific reason, please reach out to [HHSC@Health.ny.gov](mailto:HHSC@Health.ny.gov) .
  
18. As a Care Manager, our role is "an advocate on behalf of the child". How can we provide advocacy when the State has transferred the role of determining whether or not someone is still eligible for a program?
  - a. The role of the Care Manager is to help the child/youth navigate the Fair Hearing process. Assessors do not determine whether someone is eligible for the program. Rather they work with the child/youth and their Interdisciplinary team to

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<sup>2</sup> [https://commerce.health.state.ny.us/uasny/moodle/pluginfile.php/105506/mod\\_resource/content/1/UAS-NY.19.4%20-%20Role%20Provisioning%20and%20Maintenance%20in%20the%20UAS-NY.pdf](https://commerce.health.state.ny.us/uasny/moodle/pluginfile.php/105506/mod_resource/content/1/UAS-NY.19.4%20-%20Role%20Provisioning%20and%20Maintenance%20in%20the%20UAS-NY.pdf)

complete the HCBS/LOC in the UAS-NY based upon the information provided and collected. Once the HCBS/LOC is finalized, the results will show whether the child/youth is HCBS eligible or ineligible. If the member is found ineligible and the child/youth/family does not agree with this determination, then the care manager can assist the family in filing the Fair Hearing through OTDA. This is the same work that a care manager does to determine if a child/youth is eligible for the Health Home program.

19. Supervisors also can have a caseload of clients. Does this create a conflict if the same person who is providing CM services is also denying or approving someone's eligibility for services?
  - a. Similar to the Health Home program or other programs, HCBS providers (staff and supervisors) cannot determine HCBS eligibility and then provide the service they just determined someone eligible for. The Supervisor's role in the Fair Hearing process is to document the child/youth/family's choice to file for a Fair Hearing and the results of such found by the OTDA judge, so the child/youth can be served appropriately based upon the filing and judge's decision.