

12.12 CLIENT'S RIGHTS IN THE DETERMINATION PROCESS

A. CLIENT'S RIGHT TO AN ADDITIONAL MEDICAL REPORT

If the client requests a second medical examination, either during the application, reevaluation or Hearing process, such examination must be provided and paid for by the Department. A list of participating physicians must be provided from which the client may choose.

If the client does not secure the additional medical report within ninety days, the application is processed using the medical reports which were originally obtained.

This procedure is followed, unless the action concerns an AFDC or AFDC-Related Medicaid case in which the client also meets the definition of unemployment. If the definition of unemployment is met, the case is approved for AFDCU or AFDCU-Related Medicaid until the new medical information is reevaluated by MRT. If the original decision is upheld, the client may remain active in the other case. He may also request a Fair Hearing.

In the following instances an individual in an active case is entitled to an additional medical report at the Department's expense after MRT makes a negative decision about continuing medical eligibility.

- If only one medical report was used in making the MRT decision; or
- If a new medical report, in addition to previous reports, is used in making the negative decision, and it is the new one which causes ineligibility.

The Worker must notify the client of the availability of this service and the impending case closure or removal of the client from the case. An ES-NL-C is used for client notification.

B. PROCEDURE AFTER THE CLIENT'S DECISION ABOUT AN ADDITIONAL MEDICAL REPORT

The Worker action, after the client makes a decision about requesting an additional medical report at the Department's expense, depends upon the client's choice. The possibilities are as follows:

- If the client does not request the additional medical, or does not make a timely (13 days) response

to the notification, the Worker closes the case or removes the client from the benefit group.

- If the client requests the additional medical and responds within the time limit of the ES-NL-C, the Worker does not take any action until notified by MRT that a second decision has been made. Procedures follow:
 - If the original MRT decision is upheld, the Worker takes the action indicated on the original ES-NL-C. No additional 13-day notice period is required.
 - If the original MRT decision is reversed, the Worker takes the action indicated on the new ES-RT-3.

C. CLIENT'S RIGHT TO A MRT RECONSIDERATION

Following a negative decision by MRT, the client may request reconsideration on the medical evidence originally presented. This reconsideration may also include any additional medical reports the client may provide.

The Worker holds the application pending, leaves the active case open or leaves the individual in the benefit group, whichever is appropriate, until notified by MRT.

The Worker's action following the final MRT decision is as follows:

- If the original MRT decision is upheld, the Worker denies the application, closes the case or removes the individual from the benefit group.
- If the original MRT decision is reversed, the Worker approves the application, leaves the case active or leaves the individual in the benefit group. An ES-5 recording is necessary.

D. CLIENT'S RIGHTS IN THE FAIR HEARING PROCESS

In addition to all other reconsiderations, the client has the right to a Fair Hearing. See Chapter 700 in Common Chapters.

This step is usually taken after the second medical report, paid for by the Department, and the

reconsideration by MRT, but the client may choose to bypass either or both of these steps and go directly to a Fair Hearing.

The Hearings Officer may, at any point after the client requests a Hearing, request a second medical report, additional medical reports or a reconsideration by MRT. The Worker is responsible for arranging for such reports.