

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, re-evaluation 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 Medicaid 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 AFDC Medicaid or AFDC-Related Medicaid until the new medical information is re-evaluated 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 AG 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 or appropriate RAPIDS letter is used for client notification.

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

The Worker action after the client makes a decision to request an additional medical report at the Department's expense, depends upon the client's request. 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 AG or removes the client from the AG.

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- If the client requests the additional medical and responds within the time limit of the ES-NL-C or RAPIDS notice, 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 or RAPIDS notice. 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 and or DFA-RT-3M.

C. CLIENT'S RIGHT TO A MRT RECONSIDERATION

Following a negative decision by MRT, the client may request a 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 AG open or leaves the individual in the AG, 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 AG or removes the individual from the AG.
- If the original MRT decision is reversed, the Worker approves the application, leaves the AG active or leaves the individual in the AG. A recording in RAPIDS on CMCC recording is required.

D. CLIENT'S RIGHTS IN THE FAIR HEARING PROCESS

In addition to all other reconsiderations, the client has the right to request 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 any such reports.