



**Series 3 Fair Hearing Plan Directive
February 4th, 2025**

Series 3: Fair Hearing Backlog Select Cases Aged 1 Year with Aid Continuing

The Fair Hearing Series 3 spreadsheet for each plan contains members who filed and still have a pending Fair Hearing case with the Office of Temporary and Disability Assistance (OTDA).

The Fair Hearing Series 3 cases on each plan's spreadsheet is compiled of cases that appear to be reconcilable via an administrative Pre-Hearing Disposition (PHD) process.

The Series 3 Fair Hearing Backlog includes these filters:

- The member's Fair Hearing has aged one year
- Single Issue
- The fair hearing is about inadequate, discontinued or reduce services. (INAD/DISC/REDU)
- Fair Hearing is not yet scheduled
- The member has retained Aid to Continue (Has AC) while this fair hearing has been backlogged.

For each member on the Fair Hearing List of Cases Series 3 member spreadsheet, plans must:

1. Review and confirm the information on the spreadsheet is accurate, and that the member still has that specific open Fair Hearing case on file with the plan.
2. If any information on the attached Fair Hearing List of Cases Series 3 spreadsheet is incorrect, please indicate the correct information, if known, in the space provided on the attached spreadsheet in **Column M**.
3. If the membership and Fair Hearing information is accurate, the plan is directed to maintain the authorization at or above the type, level, or amount of services required under the applicable Aid to Continue order. In rare cases where a member's authorization is subject to a subsequent Aid to Continue order or separate court order, the plan must maintain the authorization at or above the type, level, or amount of services required under whichever order is more favorable to the member.
4. Plans are required to follow the instructions included with the Fair Hearing List of Cases Series 3 spreadsheet of members and to **return the Series 3 completed spreadsheet with a Series 3 Fair Hearing Attestation signed via HCS, by February 18, 2025.**
5. **New to Series 3: Plans are now required to PHD cases unless the plan can provide a reasonable reason why the hearing should not go through PHD.**

Once the Fair Hearing Series 3 Excel Spreadsheet has been completed by the plan, the Department will forward the information to OTDA to issue the PHD letter.

6. Once the Fair Hearing Series 3 spreadsheet and Series 3 Fair Hearing Attestation are returned to the Department, both will be forwarded to OTDA.

7. For each member's case where the plan indicates and attests it will authorize services in accordance with the above directives, **OTDA will verify the member information and plan's attestation and issue the PHD letter** to the member. (A sample of the proposed PHD letter that OTDA sends to members is attached).
8. Unless the member timely objects, the Fair Hearing will be dismissed on the basis that the actions were resolved in the member's favor.
9. The plan will be notified of the PHD by OTDA through the encrypted email as is done currently, usually within a day or two from receiving the Fair Hearing Series 3 spreadsheet. Plans should confirm the type, level, and amount of services to authorize by reviewing the applicable Aid to Continue authorization instructions received on OTDA OAH's 750 Report sent to plans via encrypted email.

Once the plan receives the PHD notice from OTDA, the plan must send a notice to the member.

10. The plan must send a notice of service authorization to the members promptly and as expeditiously as the member's condition requires and no more than 72 hours from when the plan receives notice of the fair hearing decision.
11. The notice must include the type, level, and amount of services that complies with the PHD issued by OTDA.
12. The plan is directed to maintain the applicable service authorization until the plan reassesses the member's need for that service.
13. Fair Hearing Series 3 cases that the plan does not indicate to proceed with the PHD process, or that OTDA verifies cannot proceed with the PHD process, will proceed with scheduling a Fair Hearing.
14. Should the plan in the future determine to reduce or discontinue Medicaid home care services, the plan must do so based on the results of a new assessment and the plan must issue a new adverse determination notice in accordance with state and federal law.
15. The Department will follow usual procedure and verify the plan's compliance to the member's Fair Hearing Cases PHD for Series 3 by requesting evidence of compliance which is a copy of the member's service authorization aligned to this PHD Series 3 directive which will be due within 10 days of the Department's request.

Action Needed by Each Managed Care Plan

Fair Hearing List of Cases Series 3 spreadsheet and Series 3 Attestation are due back to the Department via HCS by Close of Business, February 18, 2025.

Questions may be directed with subject title FH Backlog Series 3 to:

- MMC: ManagedCare.FairHearings@health.ny.gov
- MLTC: MLTCMC.FairHearings@health.ny.gov