

Section II

BECOMING A WAIVER PARTICIPANT

Introduction

NHTD waiver services can only be provided to eligible individuals whose application has been approved. This section will explain the eligibility criteria, issues that impact eligibility, referral, intake, application and determination processes.

A. Eligibility Criteria

An individual applying to participate in the waiver must meet all of the following criteria in order to be approved for the NHTD waiver:

1. Be a recipient of Medicaid coverage that supports community-based long-term care services. Such coverage includes:

All Services except Nursing Facility Service
Community Coverage with Community-Based Long Term Care
Outpatient Coverage with Community-Based Long Term Care
Outpatient Coverage with no Nursing Facility Services

Note: Type of coverage must be verified by providing a copy of Medicaid verification from the New York State system with the submission of the application packet. (The Service Coordinator attaches this to the Initial Service Plan).

2. Be between age 18 and 64 with a physical disability, or age 65 and older upon application to the waiver; If under age 65, the physical disability will be documented by:
 - a. award letters/determination of:
 - Supplemental Security Income (SSI);
 - Social Security Disability Insurance (SSDI); or
 - Railroad Retirement letter for total permanent disability for SSI benefits.

Note: Because eligibility is restricted to individuals with physical disabilities, additional information may be needed to verify the existence of such a disability.

- b. a letter from the Local Department of Social Services or local disability team (form LDSS 4141) stating the individual has been determined to have a physical disability;
 - c. documentation from the individual's physician, hospital summaries or Nursing Home records verifying the physical disability.
3. Be assessed to need a nursing home level of care. Nursing home eligibility is determined by the Hospital and Community Patient Review Instrument (H/C PRI) and SCREEN (refer to Appendix F). The forms must be dated within ninety (90) calendar days of the individual's application to the waiver and be completed by an individual certified by the State of New York to administer the tool;

4. Sign the Freedom of Choice form indicating that he/she chooses to participate in the NHTD waiver (refer to Appendix B – form B.4);
5. Be able to identify the actual location and living arrangements in which the waiver participant will be living when participating in the waiver;
6. Complete and submit an Application Packet which includes the Initial Service Plan (refer to section C below - Application) in cooperation with the Service Coordinator. This Initial Service Plan must describe why the individual is at risk for nursing home placement without the services of the waiver and indicate how the available supports and requested waiver services identified in the Plan and how the use of the waiver services will prevent institutionalization. The potential applicant must need at least one waiver service (see section C below - Referral, Intake, Application and Determination processes);
7. Have a completed Plan for Protective Oversight (PPO) (refer to Appendix C – C.4). Be capable of directing his/her Service Plan or has a legal guardian available to direct the participant's Service Plan;
8. Services agreed upon in the Initial Service Plan (ISP) must meet regional and statewide cost neutrality; and
9. Be able to live in the community where health and welfare can be maintained as determined by the RRDS.

B. Issues That Impact Eligibility

Federal policy prohibits participation in two HCBS waivers at the same time. Some examples of other HCBS waiver programs include:

- Long Term Home Health Care Program (LTHHCP)
- Office of Mental Retardation and Developmental Disabilities/Home and Community Based Services Waiver (OMRDD/HCBS)
- Traumatic Brain Injury Program (TBI)

If an individual is already receiving services from one of these federal waiver programs and wishes to be considered for participation in the NHTD waiver program, he/she must be informed that if approved, they must be discontinued from their current program to participate in the NHTD waiver.

An individual currently residing in or planning to reside in a facility under the Assisted Living Program (ALP) is not eligible for the NHTD waiver.

In addition, Medicaid regulations will not allow for duplication of services. Therefore, individuals enrolled in a Managed Long Term Care Program (MLTC), a Program of all Inclusive Care for the Elderly (PACE) or receiving Comprehensive Medicaid Case Management (CMCM) through a targeted case management program are **not** eligible for the NHTD waiver unless they are disenrolled from these programs.

C. Referral, Intake, Application and Determination Processes

The following describes the processes for becoming a waiver participant:

Referral: A potential participant or an individual acting on his/her behalf contacts the RRDC in the region where he/she chooses to reside or where they are currently living. The RRDS completes the Referral form (refer to Appendix B) and makes a determination whether to proceed to the Intake process. If the individual is considered not to meet the basic criteria for the waiver or indicates his/her preference not to pursue admission into the NHTD waiver, the RRDS will provide available options for referrals to other programs/services.

Note: It is expected that within two (2) weeks of receiving the referral the RRDS will make contact with the individual and schedule an Intake. If it is immediately apparent that the Referral will not proceed to Intake (e.g. the individual is under age 18), the RRDS has two (2) business days to contact the individual and give them information for other community resources.

Intake: If the potential participant has a Legal Guardian the RRDS will request a copy of the Guardianship document be provided at the time of Intake. The RRDS meets with the potential participant, his/her Legal Guardian, if applicable and anyone the potential participant chooses to be present and describes the waiver philosophy and available services.

The RRDS reviews the Initial Applicant Interview Acknowledgment form (refer to Appendix B – form B.3) with the potential participant and has him/her sign it. The RRDS makes a preliminary determination of probable eligibility for the waiver. If the potential participant is considered ineligible for the waiver or indicates his/her preference not to pursue admission into the NHTD waiver, the RRDS will provide available options for referrals to other programs/services. The RRDS closes the Intake process.

If the RRDS determines probable eligibility for the waiver and the potential participant indicates his/her interest in pursuing admission into the NHTD waiver, the RRDS reviews the Freedom of Choice form with the potential participant and has him/her sign it.

The individual completes and signs the Application for Participation form.

The RRDS provides the potential participant with a list of approved Service Coordination providers and encourages him/her to interview potential Service Coordinators.

The potential participant selects a Service Coordination Agency from the list of approved providers, completes the Service Coordinator Selection form (refer to Appendix B – form B.5) and returns it to the RRDS. The RRDS forwards the Service Coordinator Selection form to the selected

Service Coordinator provider for their signature along with a copy of the Intake form. The Service Coordination Agency will return the completed Service Coordination Selection form to the RRDS, indicating that they are willing and able to accept the applicant. The RRDS completes the Intake form (refer to Appendix B – form B.2). The RRDS will then forward a copy of the Freedom of Choice form, and the Service Coordination Selection form to the Service Coordination Agency. If the potential participant has a Legal Guardian, the RRDS will assure that a copy of the Guardianship documentation is given to the selected Service Coordinator prior to the development of the Service Plan.

If the Service Coordination Agency is unable to provide this service then the potential participant is notified by the RRDS. The potential participant must select another Service Coordination Agency.

Note: The RRDS and Service Coordination agency must follow their Health Insurance Portability and Accountability Act (HIPAA) compliance policies. If the intake meeting does not occur within sixty (60) calendar days after the scheduled date for the Intake meeting, the Intake is cancelled for it did not proceed to the application process. If after this time period the individual decides to proceed with the Intake process, the RRDS must start a new Referral process.

Application: It is at this point the individual becomes a formal applicant. The applicant and anyone he/she may choose, works with their chosen Service Coordinator to develop an ISP (refer to Appendix C – form C.1) and PPO. This process includes the applicant and Service Coordinator working together to develop the ISP and PPO.

Note: It is expected that once the Service Coordinator agency has accepted the applicant the Service Coordinator has sixty (60) calendar days to complete the Application Packet and submit it to the RRDS (refer to Section V – The Service Plan).

The ISP is signed by the applicant indicating they had choice of waiver services and providers of these services. If the waiver service provider agency is unable to provide the service(s) requested, then the applicant is notified by the Service Coordinator. The applicant must then select another waiver provider agency.

Note: All NHTD Waiver Provider agencies must follow their HIPAA compliance policies.

The Service Coordinator assembles the Application Packet, which includes the following forms:

1. Application for Participation- completed with the RRDS
2. Participant Rights and Responsibilities
3. H/C PRI and SCREEN
4. Initial Service Plan (ISP)-including Medicaid coverage

- Verification (Medicaid Eligibility Verification System)
5. Provider Selection form(s)
 6. Insurance, Resource and Funding Information Sheet;
 7. Plan of Protective Oversight (PPO)
 8. Proof of physical disability determination (if under age 65)
 9. Freedom of Choice- completed with the RRDS
 10. Service Coordination Selection- completed with the RRDS

The Service Coordinator sends his/her part of the completed Application Packet to the RRDS which includes Participant Rights and Responsibilities, H/C PRI and SCREEN , PPO, Initial Service Plan, Provider Selection forms, Insurance, Resource and Funding Information Sheet, Proof of disability determination (if under age 65) (refer to Section V - The Service Plan).

Determination: The RRDS reviews the entire Application Packet, which includes the ISP, and either approves the Packet or sends the RRDS ISP Review form (refer to Appendix B – form B.10) to the Service Coordinator and requests in writing, revisions and/or additional information needed for approval. All Service Plans over \$300 per day must be reviewed by the RRDS and forwarded to the QMS for recommendations. The QMS will review, make recommendations and return the Service Plan to the RRDS within three (3) business days of receipt. The RRDS is responsible for the final decision.

Note: The RRDS has fourteen (14) calendar days from receipt of the Application Packet to review and make a determination.

A Notice of Decision (NOD) – Authorization is issued to the applicant by the RRDS for the approved Application Packet indicating the applicant's transition to participant status. This Notice of Decision indicates the start date for the initial six (6) month approval period of the waiver program for the participant. Subsequent six (6) month approvals are based on the participant's choice to remain in the waiver, continued eligibility, and an approved Service Plan. The RRDS also forwards a copy of the NOD to the Local Department of Social Services (LDSS) and to the Service Coordinator. Upon receipt of the NOD, the LDSS inputs program code 60 (NHTD) into the Welfare Management System (WMS).

A Notice of Decision (NOD) - Denial is issued to the applicant when the RRDS determines that the individual is not eligible for the waiver or the Service Plan does not describe a sufficient level of supports and/or services to maintain the individual's health and welfare in the community.

Note: During the referral and intake process when an individual chooses to relocate to a region covered by another RRDS, the current RRDS is responsible for making the initial contact with the RRDS in the relocation region. The RRDS from the new region will contact the individual to provide the list of approved Service Coordination providers in that region.

D. Waiver Participant's Rights and Responsibilities

Every waiver participant is assured certain rights and must agree to certain responsibilities related to the waiver program.

As part of the approval process, the potential participant is presented with a copy of the Waiver Participant's Rights and Responsibilities for the NHTD waiver by the Service Coordinator.

The Service Coordinator is responsible for explaining the rights and responsibilities of being a waiver participant to the individual and/or legal guardian. These rights and responsibilities should be reviewed during the development of the application and at least annually, and any time the Service Coordinator is aware that the participant does not understand his/her rights or responsibilities. The Service Coordinator gives a copy to the participant.

The Waiver Participant's Rights and Responsibilities (refer to Appendix C – form C.5) must be signed and dated by the applicant and/or legal guardian during the application process and at least annually there after. The signed original document is maintained with the Application Packet in the Service Coordinator's record. A copy is given to the participant to be maintained in an accessible location in the participant's home.

The Waiver Participant Has The Right To:

1. Be informed of his/her rights prior to receiving waiver services;
2. Receive services without regard to race, religion, color, creed, gender, national origin, sexual orientation, marital status, or disability;
3. Be treated as an individual with consideration, dignity and respect including but not limited to person, residence and possessions;
4. Have services provided that support his/her health and welfare;
5. Assume reasonable risks and have the opportunity to learn from these experiences;
6. Be provided with an explanation of all services available in the NHTD waiver and other health and community resources that may benefit him/her;
7. Have the opportunity to participate in the development, review and approval of all Service Plans, including any changes to the Service Plan;
8. Select service providers and choose to receive additional waiver services from different agencies or different providers within the same agency without jeopardizing participation in the waiver;
9. Request a change in services (add, increase, decrease or discontinue) at any time;
10. Be fully informed of the process for requesting an Informal Conference and Fair

Hearing upon receipt of a Notice of Decision or at any time while on the waiver.

11. Be informed of the name and duties of any person providing services to him/her under the Service Plan;
12. Have input into when and how waiver services will be provided;
13. Receive services from approved, qualified individuals;
14. Receive from the Service Coordinator in writing a list of names, telephone numbers, and supervisors for all waiver service providers, the RRDS, the QMS and NHTD Complaint Hotline;
15. Refuse care, treatment and services after being fully informed of and understanding the potential risks and consequences of such actions;
16. Have his/her privacy respected, including the confidentiality of personal records, and have the right to refuse the release of the information to anyone not authorized to have such records, except in the case of his/her transfer to a health care facility or as required by law or Medicaid requirements;
17. Submit complaints about any violation of rights and any concerns regarding services provided, without jeopardizing his/her participation in the waiver and not being subject to restraint, interference, coercion, discrimination or reprisal as a result of submitting a complaint;
18. Receive support and direction from the Service Coordinator to resolve his/her concerns and complaints about services and service providers;
19. Receive additional support and direction from the RRDS, QMS, and DOH Waiver Management staff as desired or in the event that his/her Service Coordinator is not successful in resolving concerns and complaints about services and service providers;
20. Have his/her complaints responded to and be informed of the final resolution of the investigation;
21. Have his/her service providers protect and promote his/her ability to exercise all rights identified in this document;
22. Have all rights and responsibilities outlined in this document forwarded to his/her court appointed legal guardian or others authorized to act on his/her behalf; and
23. Participate in surveys inquiring about your experiences as an NHTD waiver participant. This includes the right to refuse to participate in experience surveys without jeopardizing your continued participation in the NHTD waiver program.

Waiver Participant's Responsibilities

The participant is responsible for:

1. Working with the Service Coordinator to develop/revise his/her Service Plan to assure timely reauthorization of the Service Plan;
2. Working with his/her waiver providers as described in his/her Service Plan;
3. Following his/her Service Plan and notifying his/her Service Coordinator if problems occur;
4. Talking to his/her Service Coordinator and other waiver providers if he/she wants to change his/her goals or services;
5. Providing to the best of his/her knowledge complete and accurate medical history including all prescribed and over-the-counter medications he/she is taking and understanding of the risk(s) associated with his/her decisions about care;
6. Informing the Service Coordinator about all treatments and interventions he/she is involved in;
7. Maintaining his/her home in a manner which enables him/her to safely live in the community;
8. Asking questions when he/she does not understand his/her services;
9. Not participating in any criminal behavior. He/she understands that, if he/she does, his/her service provider(s) may leave, the police may be called and his/her continuation in the waiver program may be jeopardized;
10. Reporting any significant changes in his/her medical condition, circumstances, informal supports and formal supports to his/her Service Coordinator;
11. Providing accurate information related to his/her coverage under Medicaid, Medicare or other medically-related insurance programs to your Service Coordinator;
12. Notifying all providers as soon as possible if the scheduled service visit needs to be rescheduled or changed;
13. Notifying appropriate person(s) should any problems occur or he/she is dissatisfied with services provided; and
14. Showing respect and consideration for staff and their property.

Notice of Decision (NOD)

Introduction

A Notice of Decision (NOD) is a written document that notifies an applicant/participant of an action being taken by the waiver program, including an explanation of the reasons for the action.

The RRDS is responsible for assuring the correct NOD is completed and sent out to each applicant/participant, Legal Guardian (if applicable), Authorized Representative (if applicable), Service Coordinator, NHTD Waiver Management staff, and LDSS as specified on the bottom of each form.

The Service Coordinator provides follow-up in this process by contacting the applicant/participant to discuss the reasons for the NOD and to assure his/her understanding of the right to request an Informal Conference and/or Fair Hearing (with aid continuing, if appropriate).

Types of Notice of Decision forms

The following describes each type of Notice of Decision form used in the NHTD waiver program (refer to Appendix B – forms NOD.1 to NOD.9):

- 1) Authorization is sent to an applicant when he/she has been approved to participate in the waiver program. This NOD includes the effective date of services. When a participant is authorized for the NHTD waiver he/she is entered into WMS until a NOD is provided to LDSS indicating the individual is no longer a participant.
- 2) Denial of Waiver Program is sent when an applicant will not become a NHTD waiver participant for the following reasons:
 - (a) The applicant chooses not to receive waiver services;
 - (b) The applicant is not:
 - assessed to require a nursing home level of care based on the PRI/SCREEN;
 - 18 years of age or older;
 - in possession of appropriate documentation verifying a physical disability, if under age 65; or
 - capable of living in the community with the assistance of informal supports, non-Medicaid supports, State Plan Medicaid services, and/or waiver services.
 - (c) The services and supports available through the waiver and all other sources are not sufficient to maintain the individual's health and welfare in the community;
 - (d) The applicant chooses to receive services from another Home and Community Based Services Medicaid Waiver or State Plan Services;

- (e) The cost of the Service Plan is above the level necessary to meet the federally mandated requirement that waiver services must be cost neutral in the aggregate when compared to Statewide nursing home costs;
 - (f) The applicant is not in need of one or more waiver services; and/or
 - (g) The applicant is not Medicaid eligible. When an applicant/participant is denied for this reason, a notice of denial is sent to the applicant/participant by LDSS. The process for pursuing a Fair Hearing regarding their determination may be pursued through the Fair Hearing process as identified in the Notice of Decision received by the /applicant/participant from LDSS system.
- 3) Intent to Discontinue From the Waiver Program (1) is sent to a participant when he/she chooses to no longer participate in the waiver program.
- 4) Intent to Discontinue From the Waiver Program (2) is sent to a participant when the following occurs:
- (a) The participant is no longer eligible for a nursing home level of care, per PRI and SCREEN;
 - (b) Waiver Services cannot safely maintain the participant in the community;
 - (c) An agreement can not be reached between participant and waiver entities regarding the Service Plan;
 - (d) The participant no longer needs waiver services to assure health and welfare in the community;
 - (e) Other appropriate reason as documented on the form.
- 5) Reduction and/or Discontinuation of Waiver Service(s) is sent to a participant when there is a reduction in the hours/frequency of a waiver service(s) and/or discontinuation of waiver service(s).
- 6) Denial Of A Waiver Provider/Denial Of A Waiver Service is sent to a participant when his/her request for a particular waiver provider or a request for an additional service(s) is denied by the RRDS.

Note: When a request for a particular provider is denied by the RRDS because the agency is under Vendor Hold status and therefore can not accept any new participants, an NOD is not issued by the RRDS.

Additionally, when it is the waiver provider agency who is unable/unwilling to accept a participant, an NOD is not issued to the participant.

- 7) Addition and/or increase of Waiver Service(s) is sent to a participant when there is an increase in the hours/frequency of a waiver service(s) and/or when a new waiver services is added to a participant's Service Plan.
- 8) Suspension is sent when all waiver services are being held due to the participant's

temporary absence from participation in the NHTD waiver (e.g. travel in/out of NYS, hospitalization or nursing home placement, incarceration, etc). The Service Coordinator is responsible for distributing this Notice to all waiver providers. A suspension 'holds' a participant's place in the NHTD waiver for up to thirty (30) calendar days at which time the participant's situation is re-evaluated by the Service Coordinator. If additional time is deemed appropriate by the Service Coordinator and RRDS, the Suspension can be extended for up to an additional thirty (30) calendar days.

Upon resuming waiver services following a period of suspension, the RRDS issues written notification to the participant that the suspension has been cancelled. The Service Coordinator must determine whether the participant is in need of an Addendum or a Revised Service Plan and provide timely follow up.

If the participant is unable to resume participation in the waiver by the end of the suspension period, the RRDS issues an NOD-Discontinuation from Waiver Program to the participant.

- 9) Notification of Death of a Waiver Participant to Local Department of Social Services is sent when a participant has died.

Note: This notice is not sent to the participant's home, legal guardian, or to any family/designated representatives. It is only intended for the Service Coordinator, NHTD Waiver Management staff and LDSS in county of residence and with fiscal responsibility as noted on the bottom of the form.

Informal Conference/Fair Hearings

Introduction

Individuals receiving a Notice of Decision (NOD) for issues related to the waiver are eligible for an Informal Conference and/or a Fair Hearing. When a applicant/participant has concerns regarding the NOD, the program tries to work with the applicant/participant to reach a resolution. However, when that can not occur, the program assures the applicant/participant knows his/her rights about requesting an Informal Conference and/or Fair Hearing, and aid continuing, if applicable. All NODs must include information regarding an individual's Informal Conference and Fair Hearing rights; how to apply for an Informal Conference and/or Fair Hearing; and, how to maintain his/her benefits throughout the Fair Hearing process (aid continuing), if appropriate.

Informal Conference

If a participant receives a NOD from the RRDS, an Informal Conference may be conducted prior to or while pursuing a formal Medicaid Fair Hearing. A review by the RRDS may be requested by the participant, legal guardian, advocate, Service Coordinator or anyone involved in the development of the Service Plan. Requesting an Informal Conference does not affect the participant's ability or right to request a Fair Hearing.

The Informal Conference is an opportunity for the participant and/or Legal Guardian to review with the RRDS the reasons for the NOD and address information they feel is not properly represented. Through discussion and negotiation, it may be possible to resolve issues without a Fair Hearing.

Fair Hearings

A Fair Hearing is a hearing held in the presence of a Hearing Officer, a specially trained administrative law judge from the New York State Office of Temporary and Disability Assistance (OTDA). The judge hears arguments from the applicant/participant or Legal Guardian who wishes to appeal a NOD issued by the RRDS. In addition, providers may assist in clarifying issues and attend the hearing upon the request of the RRDS or DOH.

An individual has the right to seek a Fair Hearing for many reasons including issues related to the NHTD waiver. Decisions regarding Medicaid eligibility are addressed through the Fair Hearing process with the Local Department of Social Services.

Issues related to the waiver that can be addressed through the Fair Hearing process include:

- (1) Was the applicant offered the choice of waiver service(s) as an alternative to a nursing home?
- (2) Was the applicant or participant denied the waiver service(s) of his or her choice?
- (3) Was the applicant or participant denied the waiver services of an approved waiver service provider that was willing to serve the applicant/participant?
- (4) Was the decision to reduce or eliminate waiver services correct? and/or
- (5) Was the decision of Denial or Intent to Discontinue correct?

Issues about the waiver that are NOT addressed through the Fair Hearing process include:

- (1) Was the applicant or participant in need of a nursing home level of care (as determined by the PRI/SCREEN)?
- (2) Does the waiver have any openings based on the number of participants approved for the waiver as specified by the federal government? and/or
- (3) Does the applicant have evidence of a physical disability if between ages 18 and 64 or, is a senior over the age of 65?

Aid continuing

Aid continuing offers the participant an opportunity to continue Medicaid benefits previously received while he/she pursues a Fair Hearing until a final determination is made.

When aid continuing is an option included in the NOD form sent to the participant,

he/she has the right to pursue or decline continuation of Medicaid benefits. If the participant wants aid continuing until the Fair Hearing decision is received, this request must be done within ten (10) calendar days of the Notice Date on the form, indicated as the Effective Date. If this ten (10) day time period elapses, the participant can no longer request aid continuing but may still request a Fair Hearing, as long as it is done within sixty (60) calendar days of the Notice Date on the form. If aid continuing is requested, in most instances Medicaid benefits will stay the same until the Fair Hearing decision is made. However, if a participant receives aid continuing and loses the Fair Hearing, he/she may have to pay back the cost of any Medicaid benefits he/she should not have received while waiting for the Fair Hearing decision.

Fair Hearing Process

Upon receiving a copy of a NOD from the RRDS, the Service Coordinator and the participant discuss the impact of the NOD. Information must include discussion of participant's right to pursue an Informal Conference, Fair Hearing or both, and aid continuing policies. The participant is directed to follow the instructions provided in the NOD.

When OTDA receives notification from the participant and/or Legal Guardian of his/her intent to pursue a Fair Hearing, OTDA notifies DOH and the RRDS.

If the request for Fair Hearing also includes the participant's request for aid continuing, the RRDS notifies the Service Coordinator so that appropriate notification can be made to the waiver providers.

To prepare for the Fair Hearing the RRDS:

1. Works in conjunction with DOH Waiver Management staff to prepare for the hearing;
2. Prepares an Evidentiary Packet containing copies of all required documentation and examples that explain the reasons for the NOD and address the participant's concerns;

An Evidentiary Packet includes copies of the following:

- a. Verification of current Medicaid coverage/eligibility, indicating LTC eligibility;
- b. Notice of Decision(s) sent to participant resulting in the request for Fair Hearing ;
- c. Current H/C PRI and SCREEN, completed by an individual(s) certified to administer the tools;
- d. Freedom of Choice form, signed by the applicant/participant;
- e. Case notes;
- f. Current ISP, RSP and/or Addendum approved and signed by RRDS;
- g. Plan for Protective Oversight;
- h. Service provider notes/records which serve as documentation of recurring issues, if applicable;

- i. Neurobehavioral assessments and notes, if applicable;
 - j. Pages from the NHTD Program Manual applicable to the case with section and page number(s) noted; and
 - k. Record of attempts made by the RRDS and Service Coordinator to work with the participant to resolve any issues which have contributed to the issuance of the NOD which is the basis for the Fair Hearing.
3. Responds in a timely manner to a participant's request for access to and/or copies of documents from the participant's record;
4. Attends the Fair Hearing and presents information to the Administrative Law Judge. (DOH may request that its legal counsel or another waiver entity, e.g. waiver provider attend the Fair Hearing and present information as appropriate); and
5. Keeps DOH Waiver Management staff informed of any issues that occur during the Fair Hearing process.

Generally within 90 days, OTDA sends a formal written response to the participant, DOH and LDSS with the final decision of the hearing. DOH provides a copy of this response to the RRDS.

The RRDS:

- Notifies the Service Coordinator of the outcome of the hearing so that appropriate follow-up can occur;
- Assures that any changes to the Service Plan are made accordingly; and
- Assures that if discontinuation from the waiver is indicated for the participant, the Service Coordinator establishes a safe and appropriate discharge plan.