

NOTICE OF DECISION TO DENY  
(FISCAL ASSESSMENT)  
PERSONAL CARE SERVICES

NOTICE DATE:	EFFECTIVE DATE:	NAME AND ADDRESS	
CASE NUMBER	CIN NUMBER		
CASE NAME AND ADDRESS			
		GENERAL TELEPHONE	
		OR Agency Conference Fair Hearing and assistance Record Access Legal Assistance	
Office No.	Unit No.	Worker No.	Unit or Worker No.

This is to inform you that we intend to deny your request  
\_\_\_\_\_.

We are taking this action because:

- o The average monthly cost of your personal care services exceeds the average monthly cost of residential health care facility (RHCF) services and you are financially responsible for your Medical Assistance.

Based on your fiscal assessment, the average monthly cost of your services is \$\_\_\_\_\_ and 90% of the average cost of RHCF services is \$\_\_\_\_\_. OVER the 90% of RHCF cost of your services is \$\_\_\_\_\_.

- o Your case does not meet any of the EXCEPTION CRITERIA listed in the regulation.

THE REGULATION WHICH ALLOWS US TO DO THIS IS 18 NYCRR 505.14.

REGULATIONS REQUIRE THAT YOU IMMEDIATELY NOTIFY THIS DEPARTMENT OF ANY CHANGES IN NEEDS, IN LIVING ARRANGEMENTS OR ADDRESS.

Personal Care Services (Fiscal Assessment)- DENIAL

RIGHT TO A CONFERENCE: You may have a conference to review these actions. If you want one as soon as possible. At the conference, if we discover that we made a mistake in the information you provide, we determine to change our decision, we will give you written notice. You may ask for a conference by calling us at the number on the notice or by a written request to us at the address listed at the top of the first page of the notice asking for a conference. It is not the way you request a fair hearing. If you ask for a conference, you are entitled to a fair hearing. Read below for fair hearing information.

RIGHT TO A FAIR HEARING: If you believe that the above action is wrong, you may request a fair hearing.

(1) Telephoning: (PLEASE HAVE THIS NOTICE WITH YOU WHEN YOU CALL)

If you live in: New York City (Manhattan, Bronx, Brooklyn, Queens, Richmond, Westchester, Albany, Rensselaer, Saratoga, Schenectady, Schoharie, Sullivan, Ulster, Warren, Washington, Dutchess, Putnam, Orange, Otsego, Montgomery, Delaware, Columbia, Clinton, Albany, 8781)

If you live in: Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, Oneida, Warren, Yates, Hamilton, Madison, Fulton, Schoharie, Sullivan, Ulster, Warren, Washington, Dutchess, Putnam, Orange, Otsego, Montgomery, Delaware, Columbia, Clinton, Albany, 8781

If you live in: Allegany, Chemung, Livingston, Monroe, Ontario, Seneca, Yates, Hamilton, Madison, Fulton, Schoharie, Sullivan, Ulster, Warren, Washington, Dutchess, Putnam, Orange, Otsego, Montgomery, Delaware, Columbia, Clinton, Albany, 8781

If you live in: Broome, Cayuga, Chenango, Cortland, Herkimer, Jefferson, Oswego, St. Lawrence, Tompkins or Tioga County: (607) 733-8781

If you live in: Albany, Clinton, Columbia, Delaware, Dutchess, Essex, Hamilton, Madison, Fulton, Schoharie, Sullivan, Ulster, Warren, Washington, Dutchess, Putnam, Orange, Otsego, Montgomery, Delaware, Columbia, Clinton, Albany, 8781

OR

(2) Writing: By sending a copy of this notice completed, to the Fair Hearing Unit, Social Services, P.O. Box 1930, Albany, New York 12201. Please keep a copy of this notice. I want a fair hearing. The Agency's action is wrong because:

---



---



---

Signature of Client \_\_\_\_\_ Date \_\_\_\_\_

Address..... \_\_\_\_\_

Phone Number..... \_\_\_\_\_ Case Number \_\_\_\_\_

YOU HAVE 60 DAYS FROM THE DATE OF THIS NOTICE TO REQUEST A FAIR HEARING.

If you request a fair hearing, the State will send you a notice informing you of your rights. You have the right to be represented by legal counsel, a relative or friend, or yourself. At the hearing you, your attorney or other representative will present oral evidence to demonstrate why the action should not be taken, as well as you may appear at the hearing. Also, you have a right to bring witnesses to support your case at the hearing any documents such as this notice, medical bills, medical verification, etc.

EXCEPTION CRITERIA

+-----+  
FOR DENIAL OF PERSONAL CARE SERVICES

The social services official has determined that you do not meet and you disagree with this determination and you think that you meet at least one of the criteria, you may ask for a State fair hearing. Please refer to the attached notice to learn more about the hearing process.

The exception criteria are as follows:

1. You are not medically eligible for residential health care for long-term care services, including other residential long-term care services.

2. Personal care services are cost-effective when compared to other services appropriate for your needs. The social services official determines whether services are cost-effective by following these rules:

a. If you would be placed in a general hospital, the social services official compares the costs of the personal care services you are reasonably expected to need for care in a general hospital. The Department of Health determines the appropriate hospital by adding the payments made to all general hospitals in the region in which you would be classified, dividing the result by the sum of the group weights in such DRG, multiplying the result by 365 and further dividing by 12.

b. If you would be placed in an intermediate care facility for persons with mental retardation, the social services official compares the average monthly costs of the personal care services for 12 months to the regional rate of payment for care in an intermediate care facility for the disabled, as determined by the Department in consultation with the Office of Mental Retardation and Disabilities.

c. If you would be placed in a residential health care facility, the social services official compares the average monthly costs of the personal care services you are reasonably expected to need for 12 months to the average monthly costs of residential health care facility services in the region in which you are classified in the same resource utilization group (RUG) category.

d. If you would be placed in other residential long-term care services, the social services official compares the average monthly costs of the personal care services you are reasonably expected to need for 12 months to the average monthly costs of other residential long-term care services or non-residential long-term care services.

3. You are employed. You are employed if you work and your activities for which you are paid or from which you receive or could receive income. The social services official determines whether you are employed by using the federal regulations that define "substantial gainful activity." These regulations are located at 20 C.F.R. 404.1571 through 404.1594.

A. You are in school. The educational program in which you are enrolled is a program on preschool special education established in accordance with Section 4410 of the Education Law or a program of special education established in accordance with Section 4402 of the Education Law.

B. You are the parent or legal guardian of a child who lives with you and:

- a. the child is younger than 18; or
- b. the child is younger than 21 and is enrolled in an educational program in a public or private school, college, or Regents; or
- c. the child is 18 years old or older and is blind or disabled as defined by the Department's regulations (18 NYCRR Part 360, Subpart 360-5)

NOTICE OF DECISION TO DISCONTINUE  
PERSONAL CARE SERVICES  
(Fiscal Assessment)

NOTICE DATE:	EFFECTIVE DATE:	NAME AND ADDRESS	
CASE NUMBER	CIN NUMBER		
CASE NAME AND ADDRESS			
+---		---+	
		GENERAL TELEPHONE	
		OR Agency Conference	
		Fair Hearing	
		and assistance	
		Record Access	
		Legal Assistance	
+---		---+	
Office No.	Unit No.	Worker No.	Unit or Worker No.

This is to inform you that we intend to discontinue your personal care services that you are currently receiving will continue until the appeal becomes available. This discontinuance will not happen before the \_\_\_\_\_.

We are taking this action because:

- o The average monthly cost of your personal care services exceeds the average monthly cost of residential health care facility (RHCF) services. You are financially responsible for your Medical Assistance.

Based on your fiscal assessment, the average monthly cost is \$\_\_\_\_\_ and 90% of the average monthly cost is \$\_\_\_\_\_. The cost of your services is \$\_\_\_\_\_.

- o Your case does not meet any of the EXCEPTION CRITERIA listed below.

Based on your current medical condition, you must be referred to \_\_\_\_\_ services:

\_\_\_\_\_

\_\_\_\_\_

If you request a fair hearing, the State will send you a notice informing you of your rights. You have the right to be represented by legal counsel, a relative, a friend, or yourself. At the hearing you, your attorney or other representative will present oral evidence to demonstrate why the action should not be taken, as well as

EXCEPTION CRITERIA

+-----+  
FOR DISCONTINUANCE OF PERSONAL CARE SERVICES

The social services official has determined that you do not meet the criteria for long-term care services. This means that you must be referred to long-term care services that are not residential. Your personal care services will continue until the other appropriate long-term care services are arranged.

If you disagree with this determination and you think that you do not meet the criteria, you may ask for a State fair hearing and for your personal care services to be continued until a fair hearing decision is issued (aid continuing). Please refer to the administrative rules for a State fair hearing and aid continuing.

The exception criteria are as follows:

1. You are not medically eligible for residential health care facility services or long-term care services, including other residential long-term care services.

2. Personal care services are cost-effective when compared to the costs of residential health care facility services appropriate for your needs. The social services official determines whether the services are cost-effective by following these rules:

a. If you would be placed in a general hospital, the social services official compares the average monthly costs of the personal care services you are reasonably expected to need for 12 months to the average monthly costs of care in a general hospital. The Department of Health determines the average monthly costs of care in a general hospital by adding the payments made to all general hospitals in the region in which you would be classified, dividing the result by the sum of the group weights for all hospitals in such DRG, multiplying the result by 365 and further dividing by 12.

b. If you would be placed in an intermediate care facility, the social services official compares the average monthly costs of the personal care services you are reasonably expected to need for 12 months to the regional rate of payment for care in an intermediate care facility for the disabled, as determined by the Department in consultation with the Office of Disability Services.

c. If you would be placed in a residential health care facility, the social services official compares the average monthly costs of the personal care services you are reasonably expected to need for 12 months to the average monthly costs of residential health care facility services in the region in which you would be classified who are classified in the same resource utilization group (RUG) category as you are.

d. If you would be placed in other residential long-term care services, the social services official compares the average monthly costs of the personal care services you are reasonably expected to need for 12 months to the average monthly costs of other residential long-term care services or non-residential long-term care services.

3. You are employed. You are employed if you work and your work activities for which you are paid or from which you receive or could receive compensation are substantial. The social services official determines whether you are employed by using the federal regulations that govern disability benefits under Title II of the federal Social Security Act. These regulations are located at 20 C.F.R. 404.1571 through 404.1594.

A. You are in school. The educational program in which you are enrolled is a program of instruction for children with disabilities on preschool special education established in accordance with Section 4402 of the Education of All Handicapped Children Act of 1975.

B. You are the parent or legal guardian of a child who lives with you.