

4205.26.00 CONTINUED BENEFITS WHILE APPEAL IS PENDING

Benefits must continue without change if an appeal is received by the DFR not later than close of business on the day prior to the effective date of the proposed adverse action.¹ If the day before the effective date is a non-business day, the appeal is timely if received by the next FSSA business day. Close of business is 4:30 P.M. local time where the appeal is received.

The only exceptions to continued benefits are (1) the recipient declined continued benefits specifically in his appeal request, or (2) the reason for discontinuance was failure to pay any applicable Medicaid premium or failure to pay the POWER account payment required to remain eligible for the Healthy Indiana Plan.²

Once continued benefits are allowed, benefits are not to be reduced or terminated, for the reason under appeal, prior to receipt of the official hearing decision. Benefits can be reduced or terminated during an appeal only if there is another reason that causes a reduction or termination in benefits during the continued benefit period, other than the reason for why there is an appeal in the first place. The appeal, however, must continue.

For Medicaid members, if there is an active appeal with continued benefits, no negative action should be taken on the case until the ALJ determination is received. For example, if a member's Medicaid was closed for failure to return income, the member appeals with continued benefits, then the member later turns in income but is over the income limit, the Medicaid must remain open until the ALJ makes their determination. After the decision is released, then if no longer eligible, the case can be closed.

Note: Continuous benefits authorized for children under 19 pending an appeal decision do not initiate or establish a new CE period. The continuous eligibility period and/or category is established or reestablished by the effective date of the member's application decision or annual redetermination decision (**can include retro period**); whichever is most recent.³

¹ 42 CFR 431.230, **and** 42 CFR 431.231

² 405 IAC 9-4-5; 405 IAC 9-5-3

³ ~~42 CFR 431.230 and Section 5112 of the Consolidated Appropriations Act, 2023 (CAA, 2023)~~
42 CFR 435.926(c)(2)