



Department
of Health

Office of
Mental Health

Office of Alcoholism and
Substance Abuse Services

Office of Children
and Family Services

Office for People With
Developmental Disabilities

Health Home Notices of Determination and Fair Hearing Process

December 13, 2017

Agenda

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Statutory Authority for Fair Hearings in New York State

- Health Home care management is a New York State Medicaid State Plan Benefit and is subject to the statutory requirements of 18 NYCRR § 358. This is the section of the law that governs the Fair Hearing Process in NYS.
- Part 358 states, in part, that a person has a right to “adequate notice” when an agency accepts or denies their application.



Health Home Responsibilities

The Health Home must:

- issue an adequate notice of a decision to accept or deny an application for enrollment, and issue a timely and adequate notice of a disenrollment
- ensure that the care management agency has a procedure in place to immediately notify the Health Home upon enrollment, denial of enrollment, or disenrollment of a member from the Health Home program
- have well documented evidence to support enrollment/disenrollment determinations when a Fair Hearing is scheduled, including, by not limited to:
 - DOH 5055
 - updated plan of care
 - care record notes
 - program policy upon which the decision is based



Health Home Responsibilities (*con't*)

- provide a copy of the evidence packet to the member or their legally authorized representative and provide copies of other documents from the member's case file upon request from the member or their legally authorized representative prior to the hearing
- hold an Informal Agency Conference with the member and their representative upon request of the member
- attend the Fair Hearing, be familiar with the case, and have the authority to make binding decisions at the hearing including the authority to withdraw the decision
- comply with the Decision after Fair Hearing as to enrollment or continued enrollment in the NYS Health Home Program



Notice of Determination

- The Department has developed three notices for Health Homes to use to advise a Health Home member or a potential Health Home member and/or their parent/caretaker/guardian/legally authorized representative, of the Health Home's determination on eligibility for enrollment or continued enrollment in the Health Home program. This Notice requirement applies to ***all*** Health Homes serving adults and children.
 - Enrollment into the Health Home Program – DOH-5234
 - Denial of Enrollment into the Health Home Program – DOH-5236
 - Disenrollment from the Health Home Program – DOH-5235



Notice of Determination (*con't*)

- The Notice of Determination informs the member of the Health Home's decision regarding enrollment or continued enrollment in the Health Home Program and the effective date of such action
- The back of the Notice of Determination informs the individual of their right to a Fair Hearing and how to request a Fair Hearing
- The member has 60 days from the date of the Notice of Determination to request a Fair Hearing from the Office of Temporary and Disability Assistance (OTDA)
- The Notice of Determination also informs the individual of their right to Aid Continuing in certain circumstances, their right to an Informal Agency Conference with the Health Home, and their right to access to their file and receive copies of documents in the case record to assist the member in preparing for the Fair Hearing



Notice of Determination for Enrollment into the Health Home Program – DOH-5234

- Upon enrollment into the Health Home program, the Health Home must issue an Notice of Determination to the member and/or their parent, legal guardian or legally authorized representative
- The Notice of Determination will inform the member that they have been enrolled into the Health Home program with the effective date of enrollment and the commencement of care management services
- The Notice of Determination for Enrollment into the Health Home Program is required and is in addition to any Welcome Letter that is issued by the Health Home upon enrollment



Notice of Determination for Denial of Enrollment into the Health Home Program – DOH-5236

- Eligibility for Health Home enrollment must be verified including proper Medicaid coverage, Health Home eligibility, and appropriateness criteria
- Health Homes must issue an Notice of Determination for Denial of Enrollment into the Health Home program to any potential (non-enrolled) Health Home member if they are found ineligible
- The Notice of Determination will inform the potential member that they do not meet the eligibility criteria for enrollment into the Health Home Program and the reason for denial of enrollment.



Notice of Determination for Disenrollment from the Health Home Program - DOH-5235

- If a determination is made to disenroll a Health Home member or upon a member's successful completion of the Health Home program, timely and adequate notice by means of Form DOH-5235 is required before the Health Home can take any action
- The member has the right to request Aid Continuing as long as they request the hearing within 10 days of the effective date of the Notice of Determination - unless they check the box on the form that they agree to the action taken on the Notice of Determination
- The Health Home must have **clear and complete** documentation to support any reason to deny enrollment or to disenroll a member from the Health Home Program



Aid Continuing

- If the member requests a Fair Hearing within the first 10 days of the 60 days they have to request a Fair Hearing, the member has the right to have the benefit unchanged until the Fair Hearing Decision is issued
- If the member requests Aid Continuing, the Health Home **MUST** continue to serve the member and **NOT** disenroll them from the Health Home Program until the Fair Hearing Decision is issued
- If the member checks the box on the back of the form agreeing to the action taken on the Notice of Determination, then the Health Home should pend the member's segment in MAPP until the Fair Hearing Decision is issued



Agency Conference

- At any reasonable time prior to the Fair Hearing the member can request an Agency Conference with the Health Home
- If the member requests an Agency Conference, the Health Home must arrange for a meeting with the member and/or their representative or anyone they choose (friend, family, attorney etc.) and allow the member to submit additional information and review the determination on enrollment or continued enrollment
- The Health Home can reverse its initial determination and enroll or re-enroll the member.
- If the Health Home decides to uphold its initial determination they will continue on to the Fair Hearing.



Waiver of Appearance

- Under certain circumstances, and no later than five calendar days before the hearing date, the Health Home may request a waiver of appearance from OTDA
- The Health Home can complete a Waiver of Appearance Request and submit it to the OTDA
- Waiver requests will be reviewed and granted on a case-by-case basis
- The waiver request should contain the primary and back-up contact persons' names and telephone numbers. The waiver request must also contain the fair hearing number, date of hearing, and a summary of the specific facts relevant to the issue under review at the hearing



Decision After Fair Hearing

- When the Decision After Fair Hearing is issued, it is binding upon the Health Home and must be complied with
- If the Decision After Fair Hearing is in favor of the disenrolled member, the Health Home will need to end the pended segment in the tracking system and begin a new enrollment segment to be effective the first of the month following disenrollment to ensure no lapse in the segments
- If the member does not feel the Health Home has complied with the fair hearing decision within a reasonable time after receiving the decision, the member may submit a Compliance Complaint to OTDA to be investigated
- Either party may request that OTDA reconsider the Decision After Fair Hearing if the party feels there has been an error in law or fact. A request for reconsideration must be sent to the OTDA Litigation Mailbox noted in the policy



Maintaining Members' Status in the Tracking System

- If Aid Continuing is not granted by OTDA, the Health Home should PEND the enrollment segment in MAPP at the end of the month of disenrollment for the 60 days that the member has to request a Fair Hearing
- The pend/end reason codes that are available in MAPP are being revised to align with the reasons on the Notice of Determination forms



Health Home and HARP/HIV SNP HCBS

- If the NYS Eligibility (Brief) Assessment determines that a member is not eligible for HCBS, the HARP or SNP (**not** the Health Home) will issue a Notice of Determination to the member regarding the outcome of the eligibility assessment for BH HCBS
- If a Fair Hearing is requested, the Health Home will compile the evidence packet as directed by the HARP or SNP in support of the determination
- The HARP or SNP have 10 days from the date of the Notice of Determination to forward the evidentiary packet
- The HARP or SNP may request that the Health Home participate in the Fair Hearing process, but the HARP or SNP will issue the Notice of Determination regarding eligibility for HCBS



Useful Resources

- Visit the Health Home website: http://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/
- Get updates from the Health Homes listserv. To subscribe send an email to: listserv@listserv.health.state.ny.us (In the body of the message, type SUBSCRIBE HHOMES-L YourFirstName YourLastName)
- To email Health Homes, visit the Health Home Website, and click on the tab “Email Health Homes” http://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/
- Call the Health Home Provider Support Line: 518-473-5569
- Link to the Health Home Eligibility policy for adults and children

https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/docs/health_home_chronic_conditions.pdf

