

Subject: Member Appeals and Contested Case Hearings

Objective:

- I. To ensure Tuality Health Alliance (THA) members have access to a comprehensive process for appeals or contested case hearings for adverse determinations and actions taken.
- II. To ensure THA member confidentiality throughout the appeals or contested case hearing process.

Definition(s):

Action:

- a) denial or limited authorization of a requested covered service, including the type or level of service;
- b) reduction, suspension or termination of a previously authorized service;
- c) denial in whole or in part, of payment for a service; or
- d) failure to provide services in a timely manner.

Adverse benefit determination:

- a) denial or limited authorization of a requested service, including determinations based on the type or level of service, requirements for medical necessity, appropriateness, setting, or effectiveness of a covered benefit.
- b) reduction, suspension, or termination of a previously authorized service;
- c) denial, in whole or in part, of payment for a service;
- d) failure to provide services in a timely manner, as defined by the State;
- e) failure to resolve a grievance and provide notice to the affected parties, as expeditiously as the member's health condition requires.

Appeal: a request for review of an action.

Expedited resolution: the member's provider indicates or THA determines that a standard resolution timeframe could seriously jeopardize the member's life or health or ability to attain, maintain or regain maximum function.

Grievance and appeal system: the processes to handle appeals of an adverse benefit determination and grievances, as well as the processes to collect and track information about them.

Policy:

- I. The member's provider may act on behalf of the member when the member provides express written consent to act on their behalf.

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- II. The member, member's authorized representative or members' provider acting on the members' behalf, may file an appeal or request a contested case hearing.
- III. An appeal or request for contested case hearing must be filed within sixty (60) calendar days from the date of the Notice of Action.
- IV. An appeal or contested case hearing request can be withdrawn at any time.
- V. THA will protect members and providers from retaliation, retribution, or any form of harassment for requesting or considering an appeal or a contested case hearing.
- VI. THA will assist the member with any reasonable assistance in completing forms and taking other procedural steps related to filing and resolution of an appeal or contested case hearing. THA will provide members with interpreter services or TTY/TTD capabilities as needed.
- VII. When the member receives the Notice of Action, the appeals process is explained along with the member's right to file an Appeal and Administrative Hearing request. Notice of Hearing Rights Form (DMAP 3030) is included with all Notice of Action letters sent to members.
- VIII. A request for an appeal or a contested case hearing can be made orally or in writing. If made orally, the appeal or request for contested case hearing must also be submitted in writing, dated and signed by the member, the member's authorized representative, or the member's provider acting on the member's behalf, except when expedited resolution has been requested. If the appeal is not submitted in writing within the appeals timeframe, the appeal will expire.
- IX. For an expedited resolution, the member, or member representative, or member's provider acting on the member's behalf, may request an oral appeal.
- X. Upon making an appeal, the member shall be given a reasonable opportunity to present evidence and testimony and make legal and factual arguments in person as well as in writing.
- XI. The THA member must authorize disclosure or release of information if there is a need to discuss their appeal with providers not involved with the action. An authorization to release information related to the appeal does not constitute authorization to disclose medical information unrelated to that appeal. If the grievance is alleged to be a quality of care issue, THA has the right to use

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member information for purposes of resolving the grievance and for health oversight purposes without a signed release from the member.

XII. Continuation of Benefits

- a. THA will continue benefits pending resolution if requested and:
 - i. the appeal or request for contested case hearing is filed within ten (10) calendar days of the Notice of Action mailing;
 - ii. the appeal or request for contested case hearing involves termination, suspension, or a reduction of previously authorized services;
 - iii. services were obtained by an authorized provider; and
 - iv. the period covered by the original authorization has not expired.
- b. If THA is requested to continue benefits or reinstates the member's benefits while the appeal is pending, benefits must be continued until one of the following occurs:
 - The member's withdraws the appeal or request for contested case hearing;
 - The member fails to request a contested case hearing and continuation of benefits within ten (10) calendar days after THA sends the Notice of Adverse Resolution; or
 - A contested case hearing decision adverse to the member is made.
- c. If the member's benefits are continued while the appeal or contested case hearing is pending, and the resolution is adverse to the member, the member may have to repay the cost of services furnished to the member while the appeal or contested case hearing was pending.

XIII. THA ensures that staff involved in the original decision will not review and decide the appeal decision.

XIV. For concerns of the denial of an expedited appeal resolution, THA will ensure that the appeal is reviewed by a health care professional with clinical expertise in treating the member's condition or disease.

XV. Appeals Resolution

- a. **Standard resolution:** THA shall resolve each appeal as expeditiously as the member's health condition requires, but no later than sixteen (16) days from the receipt of the appeal. In addition, THA shall inform the member, the members authorized representative, or the member's provider acting on the member's behalf, of the limited time available;

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- b. Expedited resolution: THA shall resolve each accepted expedited resolution request within seventy two (72) hours of the receipt of the appeal. Upon receipt, THA will:
 - i. Inform the member, the members authorized representative, or the member's provider acting on the member's behalf, of the limited time available;
 - ii. Make reasonable efforts to contact the member to advise them of the resolution within three (3) calendar days of receiving the request; and
 - iii. Mail written confirmation of the resolution to the member within three (3) calendar days.

- c. If expedited resolution is denied, THA shall:
 - i. Transfer the appeal to the standard resolution timeframe; and
 - ii. Make reasonable efforts to give the member and requesting provider prompt oral notice of the denial and follow up within two (2) days with a written notice of the same.

XVI. Resolution Extensions

- a. If the member requests, an extension may be granted for up to an additional fourteen (14) days.

- b. If THA demonstrates a need for additional information and the delay is in the member's interests, an extension may be granted for a standard or expedited resolution up to an additional fourteen (14) days. THA shall give the member oral notice of the reason for the extension and within two (2) days give the member written of their right to file a grievance if they disagree with the decision.

XVII. Notification of Appeal Resolution will include:

- a. Explanation of the resolution and the date completed if resolved wholly in favor of the member; or
- b. If not resolved wholly in favor of the member, the following information:
 - i. The resolution;
 - ii. Applicable regulations or statutes for each denied item;
 - iii. The member's right to request a contested case hearing or expedited hearing; and
 - iv. An explanation that the member may be held liable for the cost of those benefits if the hearing decision upholds THA's action.

XVIII. Members shall complete the appeals process prior to requesting a contested case hearing.

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XIX. Deemed exhaustion of appeals process

If THA fails to adhere to the notice and timing requirements in this policy, the member is deemed to have exhausted the appeals process. The member may request a contested case hearing.

XX.A contested case hearing may not be requested more than 120 days from the date on the Notice of Appeals Resolution.

XXI. If the contested case hearing request was made directly to Oregon Health Authority (OHA), THA shall submit the required documentation to the OHA Hearings Unit within two (2) business days of the OHA request.

XXII. THA Medical Management Manager monitors the appeals and contested case hearing system for:

- a. Review of completeness, accuracy and timeliness of documentation;
- b. Compliance with written procedures for receipt, resolution, and documentation;
- c. Compliance with applicable Oregon Health Plan rules; and
- d. To evaluate access, provider service, clinical care, or other THA service to members for improvement.

XXIII. At least quarterly, THA Medical Management Manager reports on appeals and contested case hearings trends to the THA Quality Management Committee (QMC) for monitoring, modification, disciplinary action, or quality improvement.

XXIV. If indicated, THA Medical Management Manager and/or other appropriate THA staff will provide training on identified quality improvement needs.

- References:**
- 42 CFR 438.210(d)
 - 42 CFR 431.230(b)
 - 42 CFR 431.300
 - 42 CFR 438.408
 - 42 CFR 438.410(e)
 - 42 CFR 438.420
 - 45 CFR 164.501
 - ORS 411.320
 - OAR 410-141-3200
 - OAR 410-141-3245 through 410-141-3247
 - OAR 410-141-3260 through 410-141-3264
 - Oregon Health Authority Coordinated Care Organization Contract
 - Health Share of Oregon-Tuality Health Alliance Contract

Formulated:	October 1993
Reviewed:	November 2013 July 2014 June 2016
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