414 REQUIREMENTS FOR SERVICE AUTHORIZATION DECISIONS AND NOTICES OF ADVERSE BENEFIT DETERMINATION

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REFERENCES: 42 U.S.C. 1396d(r)(5), 42 CFR 438.404(b)(2), 42 CFR 438.10(c)(4)(ii), ACOM Policy 414 , AMPM Policy 430

PURPOSE

This policy sets forth Division requirements for Notices of Adverse Benefit Determination relating to Title XIX/XXI coverage and authorization of services.

DEFINITIONS

1. "Adverse Benefit Determination" means the denial or limited authorization of a service request or the reduction, suspension, or termination of a previously approved service.
2. "Appeal" means a request for review of an Adverse Benefit Determination.
3. "Calendar Days" means every day of the week including weekends and holidays.
4. "Expedited Service Authorization Request" means a request for

services in which either the requesting provider indicates, or the Division determines, that following the standard timeframes for issuing an authorization decision could seriously jeopardize the Member's life or health or ability to attain, maintain, or regain maximum function and requires the authorization decision within 72 hours from the receipt of the service request.

5. "Legal Holidays" means Legal Holidays, as defined by the State of Arizona are:

   a. New Year's Day – January 1

   b. Martin Luther King Jr./Civil Rights Day – 3rd Monday in January

   c. Lincoln/Washington Presidents' Day – 3rd Monday in February

   d. Memorial Day – Last Monday in May

   e. Independence Day – July 4

   f. Labor Day – 1st Monday in September

g. Columbus Day – 2nd Monday in October

h. Veterans Day – November 11

i. Thanksgiving Day – 4th Thursday in November

j. Christmas Day – December 25

When a holiday falls on a Saturday, it is recognized on the Friday preceding the holiday and when a holiday falls on a Sunday, it is recognized on the Monday following the holiday.

6. "Member" means the same as "Client" as defined in A.R.S. §36-551.

7. "Notice of Adverse Benefit Determination " means a written notice provided to the Member that explains the reasons for the Adverse Benefit Determination made by the Division regarding the Service Authorization Request and includes the information required by this Policy.

8. "Notice of Extension" or "NOE" means a written notice to a Member to extend the timeframe for making either an expedited or standard authorization decision by up to 14 days if the criteria

for a service authorization extension are met.

9. "Responsible Person" means the parent or guardian of a minor with a developmental disability, the guardian of an adult with a developmental disability or an adult with a developmental disability who is a Member or an applicant for whom no guardian has been appointed.

10. "Service Authorization Request" means a request by the Member, the representative, or a provider for a physical or behavioral health service for the Member that requires Prior Authorization (PA) by the Division.

11. "Working days" means "Working Day" as defined in A.A.C. R9-34-202. Monday, Tuesday, Wednesday, Thursday, or Friday unless:

    a. A legal holiday falls on one of these days; or

    b. A legal holiday falls on Saturday or Sunday and the Division is closed for business the prior Friday or following

Monday.

POLICY

A. NOTICE OF ADVERSE BENEFIT DETERMINATION

1. The Division shall provide a written Notice of Adverse Benefit Determination to the Responsible Person and the provider when the Division decides to deny or limit an authorization request or reduce, suspend, or terminate previously authorized services .

2. The Division shall use the AHCCCS-developed Member Notice of Adverse Benefit Determination templates as specified in 42 CFR 438.10(c)(4)(ii).

    a. The templates shall not be altered except for the areas designated in the template that permit alteration and the removal of the header.

    b. Refer to ACOM Policy 414 Attachment A for the Notice of Adverse Benefit Determination template for Service Authorization Requests that do not pertain to medications.

3. The Division's Member Handbook shall inform the Responsible Persons:

   a. Of their right to make a complaint to the Division about an inadequate Notice of Adverse Benefit Determination;

   b. If the Division does not resolve the complaint about the Notice of Adverse Benefit Determination to the Responsible Person's satisfaction, the Responsible Person may complain to AHCCCS Division of Health Care Management (DHCM), Medical Management (MM) at MedicalManagement@azahcccs.gov; and;

   c. The Division and its providers shall be prohibited from taking punitive action against Responsible Persons exercising their right to Appeal.

   d. That the Division shall inform the Responsible Person that oral interpretation services are available in any language, and alternative communication formats are available for Responsible Persons that are deaf or hard of hearing or

blind or have low vision.

B. RIGHT TO BE REPRESENTED

1. The Division shall acknowledge the Responsible Person's right to be assisted by a third-party representative, including an attorney, during an Appeal of an Adverse Benefit Determination.

2. The Division shall have an Appeals process that registers the existence of the third-party representative.

3. The Division shall ensure the required communications related to the Appeals process occur between the Division and the third party representative.

    a. The Division shall provide the Responsible Person's third party representatives, upon request, timely access to documentation relating to the decision under Appeal.

    b. The Division shall be consistent with federal privacy laws by making reasonable efforts to verify the identity of the third party representative and the authority of the third

party representative to act on behalf of the Responsible Person.

c. The Division may require the third party representative to provide written authorization signed by the Responsible Person.

d. The Division shall promptly communicate to the Responsible Person when the Division questions the authority of the third party representative or the sufficiency of the written authorization.

C. NOTICE OF ADVERSE BENEFIT DETERMINATION CONTENT REQUIREMENTS

1. The Division shall provide a Notice of Adverse Benefit Determination that meets the language requirements as outlined in Division Operations Policy 404.

2. The Division shall provide a Notice of Adverse Benefit Determination that clearly explains the Member-specific reasons for the Division's determination and the information needed so

the Responsible Person can make an informed decision regarding Appealing the determination and how to Appeal the decision.

3. The Division shall clearly inform the Responsible Person when the reason for the Notice of Adverse Benefit Determination denial of a Service Authorization Request is due to the lack of necessary information, and will give the Responsible Person the opportunity to provide the necessary information.

4. The Division shall provide a Notice of Adverse Benefit Determination that is consistent with 42 CFR 438.404 and includes an explanation of the specific facts that pertain to the decision:

   a. The requested service;

   b. The level of service which which may include a request for an enhanced staffing ratio,

   c. The reason or purpose of the requested service;

   d. The reasons for the Adverse Benefit Determination the

Division made or intends to make with respect to the requested service consistent with 42 CFR 438.404(b)(1);

e. The effective date of a service denial, limited authorization, reduction, suspension, or termination;

f. The right of the Responsible Person to be provided, upon request and at no cost to the Responsible Person, reasonable access to and copies of all documents, records, and other information relevant to the Responsible Person's Adverse Benefit Determination. Such information includes medical necessity criteria, and any processes, strategies, or evidentiary standards used in setting coverage limits as required in 42 CFR 438.404(b)(2);

g. The legal basis for the Adverse Benefit Determination including the applicable statutes, rules, contractual provisions, policies, and procedures, if applicable, reference to the general legal authorities alone is unacceptable;

h. Where the Responsible Person can find copies of the legal basis:

i. Reference to the benefit provision, guideline, protocol, or other criterion which the denial is based upon.

ii. An accurate URL site, when a legal authority or an internal reference to the Division's policy manual is available online.

i. A listing of legal aide resources

j. The Responsible Person's right to request an Appeal and the procedures for filing an Appeal of the Division's Adverse Benefit Determination, including information on exhausting the Division's Appeals process described in 42 CFR 438.402(b) and the right to request a State fair hearing consistent with 42 CFR 438.402(c) including if the Division fails to make a decision in a timely manner regarding the Member's Appeal request;

k. The procedures for exercising the Responsible Person's rights as described in 42 CFR 438.404(b)(4);

l. The circumstances under which an Appeal process can be expedited and how to request it; and

m. Explanation of the Member's right to have benefits continue pending the resolution of the Appeal as specified in 42 CFR 438.420, how to request that benefits be continued, and the circumstances, consistent with state policy, under which the Responsible Person may be required to pay the costs of continued services if the Appeal is denied as specified in 42 CFR 438.420(d), and

n. A statement that the provider who requested the Service Authorization has the option to request a peer-to-peer discussion with the Division's Medical Director.

i. The Division shall allow the provider sufficient time for a peer-to-peer to occur before the Division issues its decision regarding the Service Authorization

Request.

ii. The Division shall allow at least 10 business days for the provider to request a peer-to-peer review.

5. The Division shall not cite the lack of medical necessity as a reason for denial, unless the Notice of Adverse Benefit Determination also explains why the service is not medically necessary for the particular Member in this instance.

6. The Division shall include potential alternative options for consideration that may address the Member's condition when citing lack of medical necessity as a reason for the Adverse Benefit Determination.

7. The Division shall provide a Notice of Adverse Benefit Determination that states the reasons supporting the denial, reduction, limitation, suspension, or termination of a service.

8. The Division shall utilize a board-certified professional when citing lack of medical necessity and provide evidence of such

upon AHCCCS request.

9. The Division shall not provide a Notice of Adverse Benefit Determinations that does not give an explanation of why the service has been denied, reduced, limited, suspended, or terminated and merely refer the Responsible Person to a third party for more information.

10. The Division shall provide a Notice of Adverse Benefit Determinations that includes a statement referring a Responsible Person to a third party for more help when the third party can explain treatment alternatives in more detail.

D. EPSDT

1. The Division shall cite Early Periodic Screening, Diagnosis, and Treatment (EPSDT) Federal law 42 U.S.C. 1396d(r)(5) when denying, reducing, limiting, suspending, or terminating a service for a Title XIX Member who is younger than 21 years of age when these provisions are applicable and shall specify the reason(s) why the service fails to correct or ameliorate defects

or physical or behavioral health conditions or illnesses.

2. The Division shall explain the denial, reduction, limitation, suspension, or termination of the requested EPSDT service in accordance with AMPM 430 and this Policy.

3. The Division shall specify why the requested service does not meet the EPSDT criteria and is not covered.

4. The Division shall also specify that EPSDT services include coverage of screening services, vision services, dental services, hearing services, and such other necessary health care, diagnostic services, treatment, and other measures described in Federal law to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the AHCCCS State Plan.

E. RESPONSIBLE PERSON COMPLAINTS REGARDING THE ADEQUACY OR UNDERSTANDIBILITY OF THE NOTICE OF ADVERSE BENEFIT DETERMINATION

1. The Division shall review the initial Notice of Adverse Benefit Determination against the content requirements of this Policy when a Responsible Person complains about the adequacy of a Notice of Adverse Benefit Determination.

2. The Division shall issue an amended Notice of Adverse Benefit Determination consistent with the requirements of this Policy when the Division determines the original Notice of Adverse Benefit Determination is inadequate or deficient.

3. The Division shall begin the timeframe for the Responsible Person to Appeal and continuation of services from the date of the amended Notice of Adverse Benefit Determination when an amended Notice of Adverse Benefit Determination is required.

F. TIMEFRAMES FOR SERVICE AUTHORIZATIONS

All references to "days" in this Policy mean "Calendar Days" unless otherwise specified.

1. The Division shall ensure completion and issuance of the service authorization decision when a Service Authorization Request is

submitted within the following timeframes, including requests that are standard requests and expedited requests.

a. The Division shall consider the date and time the Division or one of its AdSS' receives the request, whichever is earlier, to be considered the date and time of receipt.

b. The Division shall use the date and time to determine the due date for completion of the authorization decision, depending on the timeframe applicable to the particular type of service request. The Division may use electronic date stamps or manual stamping for logging the receipt.

c. The Division shall make sufficient attempts to obtain the information or clarification and document all attempts for Service Authorization Requests lacking sufficient clinical information necessary to render the decision or the required clarification.

2. Standard authorization decision timeframe for Service Authorization Requests

a. The Division shall issue service authorization decisions as expeditiously as the Member's condition requires but no later than 14 Calendar Days from receipt of the request for the service regardless of whether the 14th day falls on a weekend (Saturday and Sunday) or Legal Holiday as defined by the State of Arizona.

b. The Division may issue a NOE of up to 14 additional Calendar Days when the criteria for a service authorization extension are met as specified in section (H) of this Policy.

3. Expedited Service Authorization Decision Timeframe for Service Authorization Requests:

a. The Division shall issue an expedited service authorization decision, as expeditiously as the Member's health condition requires, but no later than 72 hours from receipt of the request for service consistent with 42 CFR 438.210(d)(2)(i) and 42 CFR 438.404(c)(6)] regardless of whether the due date falls on a weekend (Saturday and

Sunday) or legal holiday as defined by the State of Arizona.

b. The Division shall issue a NOE of up to 14 additional Calendar Days, when the criteria for a service authorization extension are met as specified in section (H) of this Policy.

4. Expedited Service Authorization Request treated as a standard request:

a. The Division shall treat the Expedited Service Authorization Request as a Standard Authorization Request when the Expedited Service Authorization Request fails to meet the requirements for expedited consideration.

b. The Division shall have a process included in the Division's policy for prior authorization (PA) that describes how the Responsible Person and provider shall be notified of the change to a standard authorization request and be given an opportunity to provide additional information, refer to

Provider Policy Manual Chapter 17.

c. The Division shall permit the requesting provider to send additional documentation supporting the need for an Expedited Service Authorization request.

5. Service authorization decisions not reached within the timeframes:

a. The Division shall consider a Service Authorization Request decision that is not reached within the required timeframes for a standard or expedited request, as a denial when the Division has not made a decision.

b. The Division shall issue a Notice of Adverse Benefit Determination denying the request on the date that the timeframe expires.

6. Service authorization decisions not reached within the extended timeframes:

a. The Division shall consider a Service Request Authorization

decision that is not reached within the timeframe noted in the NOE as a denial.

b. The Division shall issue a Notice of Adverse Benefit Determination denying the service request on the date that the timeframe expires as specified in 42 CFR 438.404(c)(5).

G. TIMEFRAMES FOR COMPLETING NOTICES OF ADVERSE BENEFIT DETERMINATIONS

1. The Division shall mail the Notice of Adverse Benefit Determination within the following timeframes:

   a. For termination, suspension, or reduction of a previously authorized service, the Division shall mail the Notice of Adverse Benefit Determination at least 10 Calendar Days before the date of the proposed termination, suspension, or reduction except for situations in 42 CFR 438.210 providing exceptions to advance notice [42 CFR 431.211, 42 CFR 438.404(c)(1)];

b. For standard service authorization decisions that deny or limit services, the Division shall provide a Notice of Adverse Benefit Determination:

i. As expeditiously as the Member's health condition requires, but no later than 14 Calendar Days from the receipt of the request, regardless of whether the due date falls on a weekend (Saturday and Sunday) or Legal Holiday as defined by the State of Arizona, unless there is a NOE. For extension timeframes, refer to NOE requirements in this Policy [42 CFR 438.404(c)(3) and (4), 42 CFR 438.210(d)(1)];

ii. As expeditiously as the Member's health condition requires, but no later than 72 hours from receipt of an Expedited Service Authorization Request consistent with 42 CFR 438.210(d)(2)(i) and 42 CFR 438.404(c)(6), regardless of whether the due date falls on a weekend (Saturday and Sunday) or Legal Holiday as defined by the State of Arizona unless

there is a NOE. For extension timeframes, refer to NOE requirements in this Policy.

H. NOTICE OF EXTENSION (NOE) REQUIREMENTS

1. Notice of Extensions (NOE) Timeframes

   a. The Division shall extend the timeframe to make a service authorization decision for both standard and Expedited Service Authorization Requests when:

      i. The Responsible Person or provider, with the Responsible Person’s written consent, requests an extension, or

      ii. The Division shall document all attempts made to the requesting provider for the needed information.

      iii. The Division shall notify the Responsible Person of the reason for the extension and attempt to obtain the Member's approval before the Division pursues an extension due to lack of sufficient clinical

information.

2. The Division shall not pursue the NOE until the Division has made sufficient attempts to first obtain the necessary information from the Responsible Person or provider within the standard or expedited timeframe, whichever is applicable. Refer to 42 CFR 438.404(c)(4) and 438.210(d).

3. The Division shall document all attempts to obtain the necessary information.

4. The Division shall notify the Member of the reason for the extension and attempt to obtain the Member's approval before the Division pursues an extension due to lack of sufficient clinical information.

5. The Division shall not send the NOE until the Division has made sufficient attempts to obtain the necessary information from the requesting provider [42 CFR 438.404(c)(6), 42 CFR 438.210(d)(2)(ii)];

   a. For standard Service Authorization Requests, the Division

may extend the 14 Calendar Day time frame to make a decision by up to an additional 14 Calendar Days, not to exceed 28 Calendar Days from the service request date, regardless of whether the due date falls on a weekend (Saturday and Sunday) or Legal Holiday as defined by the State of Arizona;

b. For an Expedited Service Authorization Request, the Division may extend the 72-hour timeframe to make a decision by up to an additional 14 Calendar Days, regardless of whether the due date falls on a weekend (Saturday and Sunday) or Legal Holiday as defined by the State of Arizona;

c. When the Division justifies the need for additional information is in the Member's best interest. The Notice of NOE shall not be sent until the Division has made sufficient attempts to obtain the necessary information from the Responsible Person [42 CFR 438.404(c)(6), 42 CFR

438.210(d)(2)(ii)].

d. For Standard Service Authorization requests, the Division may extend the 14-Calendar Day timeframe to make a decision by up to an additional 14 Calendar Days, not to exceed 28 Calendar Days from the Service Authorization Request date, regardless of whether the due date falls on a weekend (Saturday and Sunday) or Legal Holiday as defined by the State of Arizona.

e. For Service Authorization requests involving medication, refer to Timelines for Completing Notices of Adverse Benefit Determinations in this Policy when the prior authorization requests lack sufficient information from the prescriber.

f. For an expedited Service Authorization Request (requests that do not involve medication), the Division may extend the 72-hour timeframe to make a decision by up to an additional 14 Calendar Days, regardless of whether the

due date falls on a weekend (Saturday and Sunday) or Legal Holiday as defined by the State of Arizona.

6. When the Division extends the timeframe to make a decision, in accordance with 42 CFR 438.210(d)(1) the Division shall:

   a. Provide the Responsible Person written notice of the reason for the decision to extend the timeframe, including what information is needed in order to make a decision, and in easily understood language, as outlined in Division Operations Policy 404;

   b. Inform the Responsible Person of the right to file a grievance or complaint if the Responsible Person disagrees with the decision to extend the timeframe as described in 42 CFR 438.210(d)(1)(ii); 42 CFR 438.404(c)(4)(i); and;

   c. Issue and carry out the decision as expeditiously as the Member's condition requires and no later than the date the extension expires consistent with 42 CFR 438.210(d)(1)(ii); 42 CFR 438.404(c)(4)(ii).