

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

EFFECTIVE DATE: October 1, 2019

REFERENCES: ACOM 414 (with Attachments), AMPM Policy 430

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

### **Definitions**

- A. Adverse Benefit Determination - The denial or limited authorization of a service request, or the reduction, suspension, or termination of a previously approved service.
- B. Appeal - A request for review of an Adverse Benefit Determination.
- C. Calendar days - Every day of the week including weekends and holidays.
- D. Computation of time in calendar days - Computation of time in calendar days that begins the day after the act, event, or decision and includes all calendar days and the final day of the period. For purposes of computing member appeal dates only, if the final day of the period is a weekend or legal holiday, the period is extended until the end of the next day that is not a weekend (Saturday or Sunday) or a legal holiday. The first day of the "count" always begins on the day after the event.
- E. Expedited service authorization request - 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.
- F. Legal holidays - Legal holidays, as defined by the State of Arizona are:
- New Year's Day – January 1
  - Martin Luther King Jr./Civil Rights Day – 3rd Monday in January
  - Lincoln/Washington Presidents' Day – 3rd Monday in February
  - Memorial Day – Last Monday in May
  - Independence Day – July 4
  - Labor Day – 1st Monday in September
  - Columbus Day – 2nd Monday in October
  - Veterans Day – November 11
  - Thanksgiving Day – 4th Thursday in November
  - 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.

- G. Notice of Adverse Benefit Determination (NOA) - 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.
- H. Notice of Extension (NOE) - 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 criteria for a service authorization extension are met.
- I. Service authorization request - 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.
- J. Working days - "Working Day" as defined in A.A.C. R9-34-202. Monday, Tuesday, Wednesday, Thursday, or Friday unless:
  - 1. A legal holiday falls on one of these days; or
  - 2. A legal holiday falls on Saturday or Sunday and the Division is closed for business the prior Friday or following Monday.

### **Policy Overview**

When the Division decides to deny or limit an authorization request or reduce, suspend, or terminate previously authorized services, the Division must provide a written NOA to the member as described in 42 CFR 438.404.

- A. The Division must use the AHCCCS-developed member NOA templates as specified in 42 CFR 438.10(c)(4)(ii). The templates must not be altered except for the areas designated in the template that permit alteration and the removal of the header. Refer to AHCCCS Contractors Operations Manual (ACOM) 414 Attachment A-1 (Notice of Adverse Benefit Determination not Involving Medications Template) for the NOA template for service authorization requests that do not pertain to medications.
- B. The Division's Member Handbook informs members:
  - 1. Of their right to make a complaint to the Division about an inadequate NOA;
  - 2. That if the Division does not resolve the complaint about the NOA to the member's satisfaction, the member may complain to AHCCCS Division of Health Care Management (DHCM), Medical Management (MM) at [MedicalManagement@azahcccs.gov](mailto:MedicalManagement@azahcccs.gov); and;
  - 3. That the Division and its providers are prohibited from taking punitive action against members exercising their right to appeal.

### **Right to be represented**

The Division acknowledges the member's right to be assisted by a third-party representative, including an attorney, during an appeal of an Adverse Benefit Determination. A list of legal aid services available to members is provided in ACOM Policy 414, Attachment B (Legal Services Program). The Division's appeals process registers the

existence of the third-party and the Division ensures that the required communications related to the appeals process occur between the Division and the representative. The member's representatives, upon request, must be provided timely access to documentation relating to the decision under appeal. Consistent with federal privacy laws, the Division must make reasonable efforts to verify the identity of the third party and the authority of the third party to act on behalf of the member. This verification may include requiring that the representative provide a written authorization signed by the member, however, if the Division questions the authority of the representative or the sufficiency of a written authorization, it must promptly communicate that to the representative.

### **Notice of Adverse Benefit Determination Content Requirements**

- A. The NOA must contain and clearly explain in easily understood language, at 6th grade or below reading level, the information necessary for the member to understand the Adverse Benefit Determination, the reason for the Division's determination such that the member may make an informed decision regarding appealing the determination, and how to appeal the decision. If the reason for the denial of a service authorization request is due to the lack of necessary information, the member must be clearly informed of that reason in order to be given the opportunity to provide the necessary information.
- B. The NOA must contain and clearly explain in easily understood language, at 6th grade or below reading level, the following information and must be consistent with 42 CFR 438.404:
  1. The requested service;
  2. The reason or purpose of the requested service;
  3. The reasons for the Adverse Benefit Determination the Division has made or intends to make (i.e. denial, limited authorization, reduction, suspension, or termination) with respect to the requested service consistent with 42 CFR 438.404(b)(1);
  4. The effective date of a service denial, limited authorization, reduction, suspension, or termination;
  5. The right of the member to be provided, upon request and free of charge, reasonable access to and copies of all documents, records, and other information relevant to the member'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);
  6. The legal basis for the Adverse Benefit Determination;
  7. Where members can find copies of the legal basis, (e.g. the local public library and the web page with links to legal authorities). When a legal authority or an internal reference to the Division's policy manual is available online, the Division must provide the accurate URL site to enable the member to find the reference online;

8. A listing of legal aid resources;
  9. The member's right to request an appeal and the procedures for filing an appeal of the Division 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);
  10. The procedures for exercising the member's rights as described in 42 CFR 438.404(b)(4);
  11. The circumstances under which an appeal process can be expedited and how to request it; and
  12. 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 member may be required to pay the costs of continued services if the appeal is denied [42 CFR 438.420(d)].
- C. It is unacceptable to cite lack of medical necessity as a reason for denial, unless the NOA also provides a complete explanation of why the service is not medically necessary. Failure to provide the reasons and explanation supporting the lack of medical necessity in the Adverse Benefit Determination will result in regulatory action by AHCCCS. Refer to ACOM 414 Attachment C (Guide to Language in Notices of Adverse Benefit Determination) for examples where medical necessity is appropriately used in denying or limiting services.
- D. The NOA must state the reasons supporting the denial, reduction, limitation, suspension, or termination of a service. NOAs that do not provide explanation of why the service has been denied, reduced, limited, suspended, or terminated and merely refer the member to a third party for more information are unacceptable. The Division may include a statement referring a member to a third party for more help when the third party can explain treatment alternatives in more detail.
- F. Early Periodic Screening, Diagnosis, and Treatment (EPSDT)**
1. The Contractor must 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. The Contractor must explain in accordance with this Policy and AHCCCS Medical Policy Manual (AMPM) Policy 430 the denial, reduction, limitation, suspension, or termination of the requested EPSDT service.
  2. In such circumstances, the Contractor must specify why the requested service does not meet the EPSDT criteria and is not covered and must 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 State Plan.

### **Member Complaints Regarding the Adequacy or Understandability of the Notice of Adverse Benefit Determination**

If a member complains about the adequacy of an NOA, the Division must review the initial NOA against the content requirements of this Policy. If the Division determines that the original NOA is inadequate or deficient, the Division must issue an amended NOA consistent with the requirements of this Policy. Should an amended NOA be required, the timeframe for the member to appeal and continuation of services must start from the date of the amended NOA.

### **Timeframes for Service Authorization Decisions**

- A. All references to “days” in this Policy mean “calendar days” unless otherwise specified.
- B. When a service authorization request is submitted, the Division ensures completion and issuance of the service authorization decision within the following timeframes. Different timeframes apply depending upon whether or not the service authorization request is a standard request, an expedited request, and whether the service request relates to medications. The date/time the Division receives the request is considered the date/time of receipt, whichever is applicable. The date/time is used 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. If an Administrative Services Subcontractor (AdSS) receives the request, the date or time the AdSS receives the request is used for establishing receipt of the request.
- C. An expedited authorization request is a request for a service 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, health, or ability to attain, maintain, or regain maximum function. For expedited requests that meet these requirements, the authorization decision is prioritized and shall be completed in the 72-hour expedited timeframe as described in this Section.
- D. A standard authorization request is a request for a service that does not meet the definition of an expedited service authorization request. For standard service authorization requests, the date the Division receives the request is considered the date of receipt and is used to determine the due date for completion of the decision.
- E. For expedited service authorization requests, the time the request is received is used to determine the completion time for the decision.
- F. Standard Authorization Decision Timeframe for Service Authorization Requests
  1. The Division must 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.

2. The Division may issue an NOE of up to 14 additional calendar days, if the criteria for a service authorization extension are met as specified in this Policy.
- G. Expedited Service Authorization Decision Timeframe for Service Authorization Requests:
1. The Division must 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.
  2. The Division may issue an NOE of up to 14 additional calendar days, if the criteria for a service authorization extension are met as specified in Section (J) this Policy.
- H. Expedited Service Authorization Request Treated as a Standard Request:
- When the Division receives an expedited request for a service authorization and the service request fails to meet the requirements for expedited consideration, the Division may treat the expedited authorization request as a standard request. The Division has a process included in the Division's policy for Prior Authorization (PA) that describes how the individual will be notified of the downgrade change to a standard authorization request and be given an opportunity to provide additional information (Refer to Division of Developmental Disabilities Provider Policy Manual, Chapter 17). The requesting provider must be permitted to send additional documentation supporting the need for an expedited authorization.
- I. Service Authorization Decisions Not Reached Within the Timeframes:
- A service authorization decision that is not reached within the required timeframes for a standard or expedited request constitutes a denial. The Division must issue an NOA denying the request on the date that the timeframe expires.
- J. Service Authorization Decisions Not Reached Within the Extended Timeframes:
- A service authorization decision that is not reached within the timeframe noted in the NOE constitutes a denial. The Division must issue an NOA denying the service request on the date that the timeframe expires [42 CFR 438.404(c)(5)].

### **Timeframes for Completing Notices of Adverse Benefit Determinations**

The Division must mail the NOA within the following timeframes:

- A. For termination, suspension, or reduction of a previously authorized service, the NOA must be mailed 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 must provide an NOA:
1. 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)];
  2. 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 an NOE. For extension timeframes, refer to NOE Requirements in this Policy.

### **Notice of Extension Requirements**

#### NOE Timeframes

- A. The Division may extend the timeframe to make a Service Authorization Decision for both standard and expedited service authorization requests when the member or provider (with written consent of the member) requests an extension, or when the Division justifies the need for additional information is in the member's best interest. The NOE shall not be sent 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)];
- B. 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 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;
- C. 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;
- D. Refer to Computation of Time in Calendar Days under "Definitions" for further information regarding when the end date falls on a weekend or legal holiday;
- E. If the Division extends the timeframe in order to make a decision, in accordance with 42 CFR 438.210(d)(1) the Division must:
1. Give the member written notice of the reason for the decision to extend the timeframe in easily understood language, at 6th grade or below reading level;

2. Include what information is needed in order to make a determination;
  3. Inform the member of the right to file a grievance (complaint) if the member 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;
  4. 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).
- F. For examples of easily understood NOA language, refer to ACOM Policy 414 Attachment C (Guide to Language in Notices of Adverse Benefit Determination).