

Exhibit I – Grievance System

Contractor shall establish internal Grievance procedures under which Members, or Providers acting on their behalf, may challenge any Action. Contractor shall maintain its Grievance System in accordance with this exhibit, OAR 410-141-3260 through 410-141-3266, and 42 CFR 438.400 through 438.424.

1. Grievance System

Contractor shall have a system in place for Members that includes a Grievance process, an Appeal process and access to a Contested Case Hearing.

a. Filing Requirements

- (1) A Member or Member Representative may file a Grievance, a Contractor level Appeal and may request a Contested Case Hearing;
- (2) A Provider acting on behalf of the Member and with the Member's written consent, may file a Grievance, file an Appeal or request an Contested Case Hearing.

b. Timing

Within 60 days from the date on the Notice of Action (NOA):

- (1) The Member or Provider may file an Appeal; and
- (2) The Member or Provider acting on behalf of the Member, with written consent may request a Contested Case Hearing.

The entire process must be no less than 20 days and no more than 90 days.

c. Procedures

- (1) The Member may file a Grievance either orally or in writing; and
- (2) The Member or Provider may file an Appeal either orally or in writing, and unless an expedited resolution is requested, must follow an oral filing with a written and signed Appeal.

2. Notice of Action

When Contractor intends to take any Action the Contractor shall mail a written NOA to the Member.

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- Contractor shall only use OHA approved NOA format. The NOA form shall meet the language and format requirements in Exhibit B, Part 3, Section 3 and include at a minimum the following information:

- (1) Date of the notice;

- (2) Contractor name, address and phone number;
- (3) Provider name;
- (4) Member's name and ID number;
- (5) Date of service or item requested or provided;
- (6) Who requested or provided the item or service;
- (7) Effective date of the Action;
- (8) The Action the Contractor has taken or intends to take;
- (9) Reason(s) for the Action, that clearly explains the actual reason for the denial, including, but not limited to, the following reasons:
 - (a) Treatment is not a Covered Service;
 - (b) The item requires prior authorization and it was not prior authorized;
 - (c) The service is not Medically Appropriate;
 - (d) The service or item was received in an emergency care setting and does not qualify as an Emergency Service;
 - (e) The person was not a Member at the time of the service or is not a Member at the time of a requested service; or
 - (f) The Provider is not on the Contractor's panel and prior approval was not obtained (if such prior authorization would be required under the OHP Rules).
- (10) A reference to the specific sections of the statutes and administrative rules involved for each reason identified in the NOA;
- (11) The Member's or Provider's right to file an Appeal, and the procedures to exercise that right;
- (12) The Member's right to request a Contested Case Hearing, and the procedures to exercise that right,
- (13) The circumstances under which an expedited resolution is available and how to request it;
- (14) The Member's rights to have benefits continue pending resolution of the Appeal, how to request that benefits be continued, and the circumstances under which the Member may be required to pay the costs of the services.

- b.** Contractor shall, for every NOA, meet the following timeframes:
- (1)** For termination, suspension, or reduction of previously authorized Covered Services:
 - (a)** The NOA shall be mailed at least 10 calendar days before the date of Action, except as permitted under Items (b) or (c) below.
 - (b)** The NOA shall be mailed not later than the date of Action if:
 - (i)** Contractor has factual information confirming the death of the Member;
 - (ii)** Contractor receives a clear, written statement signed by the Member that he or she no longer wishes services or gives information that requires termination or reduction of services and indicates that he or she understands that this must be the result of supplying the information;
 - (iii)** The Member has been admitted to an institution where he or she is ineligible for Covered Services from the Contractor;
 - (iv)** The Member's whereabouts are unknown and the Contractor receives a notice from the post office indicating no forwarding address;
 - (v)** The Contractor establishes the fact that another state, territory, or commonwealth has accepted the Member for Medicaid services in Appeal;
 - (vi)** There is a change in the level of medical care that is prescribed by the Member's Provider;
 - (vii)** There is an adverse determination made with regard to the preadmission screening requirements for LTTPC admissions; or
 - (viii)** The safety or health of individuals in the facility would be endangered, the Member's health improves sufficiently to allow a more immediate transfer or discharge, an immediate transfer or discharge is required by the Member's urgent medical needs, or a Member has not resided in the LTTPC for 30 days (applies only to adverse Actions for LTTPC transfers).
 - (c)** The NOA shall be mailed five calendar days before the date of the Action for Actions taken because of probable fraud on part of the Member. The Contractor shall have facts indicating that an Action should be taken because of probable fraud and whenever possible, these facts should be verified through secondary sources.

- (2) For denial of payment, the NOA shall be mailed at the time of any Action that affects the Claim;
- (3) For prior authorizations that deny a requested service or that authorize a service in an amount, duration, or scope that is less than requested:
 - (a) The NOA shall be mailed as expeditiously as the Member's health condition requires and within 14 calendar days following receipt of the request for service, except that:
 - (i) The Contractor may have an extension of up to 14 additional calendar days if the Member or the Provider requests the extension; or if the Contractor justifies (to OHA upon request) a need for additional information and how the extension is in the Member's interest;
 - (ii) If the Contractor extends the timeframe, in accordance with Item (i) above, it shall give the Member written notice of the reason for the decision to extend the timeframe and inform the Member of the right to file a Grievance if he or she disagrees with that decision.
 - (iii) The Contractor shall issue and carry out its prior authorization determination as expeditiously as the Member's health condition requires and no later than the date the extension expires.
- (4) For prior authorization decisions not reached within the appropriate timeframes (which constitutes a denial and is thus an adverse Action), the NOA shall be mailed on the date that the timeframes expire;

3. Handling of Grievances and Appeals

Contractor shall meet all of the following requirements when handling Grievances and Appeal:

a. General Requirements

- (1) Give Members any reasonable assistance in completing forms and taking other procedural steps. This includes, but is not limited to providing certified and qualified interpreter services and toll-free numbers that have adequate TTY/TTD and certified and qualified interpreter capability;
- (2) Acknowledge receipt of each Grievance and Appeal;
- (3) Ensure that the individuals who make decisions on Grievances and Appeals are individuals:
 - (a) Who were not involved in any previous level of review or decisions-making; and

- (b)** Who, if deciding any of the following, are health care professionals who have the appropriate clinical expertise, as determined by OHA, in treating the Member's condition or disease:
 - (i)** An Appeal of a denial that is based on lack of medical necessity,
 - (ii)** A Grievance regarding denial of expedited resolution of an Appeal, and
 - (iii)** A Grievance or Appeal that involves clinical issues.

b. Special Requirements for Appeals

The process for Appeals shall:

- (1)** Provide that oral inquiries seeking to Appeal an action are treated as Appeals, in order to establish the earliest possible filing date, and must be confirmed in writing, unless the Member or the Provider requests an expedited resolution.
- (2)** Provide the Member a reasonable opportunity to present evidence and allegations of fact or law, in person as well as in writing. The Contractor shall inform the Member of the limited time available for this in the case of expedited resolution.
- (3)** Provide the Member and Member Representative opportunity, before and during the Appeals process, to examine the Member's case file, including medical records, and any other documents and records considered during the Appeal process.
- (4)** Include as parties to the Appeal:
 - (a)** The Member and the Member Representative,
 - (b)** A Provider acting on behalf of a Member, with written consent from the Member;
 - (c)** Contractor; and
 - (d)** The legal representative of a deceased Member's estate.

c. Resolution and Notification for Grievances and Appeals

(1) Basic Rule

Contractor shall resolve each Grievance and Appeal, and provide notice, as expeditiously as the Member's health condition requires and within the timeframes in this section.

(2) Standard Resolution for Grievances

Notify the Member, within 5 working days from the date of the Contractor's receipt of the Grievance, of one of the following:

- (a)** A decision on the Grievance has been made and what that decision is; or
- (b)** That there will be a delay in the Contractor's decision, of up to 30 calendar days. The written notice shall specify why the additional time is necessary.

(3) Notice of Resolution of Grievance

- (a)** If an oral Grievance was received an oral decision shall be provided.
- (b)** If a written Grievance was received, a written decision shall be provided.
- (c)** Either way the decision is relayed to the Member the decision shall address each aspect of the Member's Grievance and explain the reason for the Contractor's decision.
- (d)** Include in each notice of resolution to the Member, that is not in favor of the Member, that they may present the Grievance to DHS' Governor's Advocacy Office (GAO) at 503-945-6904 or toll free at 800-442-5238 or OHA's Ombudsman at 503-947-2346 or toll free at 877-642-0450.
- (e)** Cooperate with the investigation and resolution of the Grievance by the GAO or OHA's Ombudsman, including providing all requested records.

(4) Standard Resolution for Appeals

All Appeals must be received no later than 60 calendar days from the date on the notice of Action.

- (a)** Resolve each Appeal as expeditiously as the Member's health condition requires and within the following time frames:
 - (i)** No later than 30 calendar days from the day the Contractor receives the Appeal. This timeframe may be extended as follows:
 - (A)** The Contractor may extend the timeframes by up to 14 calendar days if:
 - (I)** The Member requests the extension; or

(II) The Contractor shows (to the satisfaction of OHA, upon its request) that there is need for additional information and how the delay is in the Member's interest.

(B) If the Contractor extends the timeframes, it shall, for any extension not requested by the Member, give the Member a written notice of the reason for the delay.

(5) Expedited Resolution for Appeals

The Member or Provider may file an expedited appeal either orally or writing. No additional Member follow-up is required.

- (a)** For cases in which a Provider indicates, or the Contractor determines, that following the standard timeframe could seriously jeopardize the Member's life or health or ability to attain, maintain, or regain maximum function, the Contractor shall make an expedited decision and provide notice as expeditiously as the Member's health condition requires and no later than three working days after receipt of the request for service.
- (b)** Resolve each expedited Appeal request within three days from the date that the Contractor received the request for an expedited Appeal.
- (c)** The Contractor may extend the timeframes by up to 14 calendar days if:
 - (i)** The Member requests the extension; or
 - (ii)** The Contractor shows (to the satisfaction of OHA, upon its request) that there is need for additional information and how the delay is in the Member's interest.
- (d)** If the Contractor extends the timeframes, it shall, for any extension not requested by the Member, give the Member a written notice of the reason for the delay.
- (e)** If the Contractor provides an expedited Appeal, but denies the services or items requested in the expedited Appeal, the Contractor shall:
 - (i)** Transfer the Appeal to the time frame for standard resolution in accordance with Section 3.a., above; and
 - (ii)** Make reasonable efforts to give the Member prompt oral notice of the denial, and follow-up within two calendar days with a written notice.

The written notice must state the right of a Member, who believes that taking the time for a standard resolution of an

Appeal and Contested Case Hearing could seriously jeopardize the Member's life or health or ability to attain, maintain or regain maximum function, to request an expedited Contested Case Hearing.

- (iii) Transmit the denial decision to OHA for review as an expedited Contested Case Hearing.
 - (iv) Submit all relevant documentation to OHA within two working days following the Member's expedited Contested Case Hearing request for a decision as to the necessity of an expedited Contested Case Hearing.
 - (f) Contractor shall ensure that punitive action is neither taken against a Provider who requests and expedited resolution or supports a Member's Appeal.
- (6) Notice of Resolution of Appeals

All notice of resolution of an Appeal shall be in writing. For notice of an expedited resolution, Contractor shall make reasonable effort to provide oral notice.

- (a) Content of Notice of Resolution of Appeal

The written notice of resolution of an Appeal shall include the following:

- (i) The results of the resolution process and the date it was completed;
- (ii) For Appeals not resolved wholly in favor of the Member:
 - (A) The right to request a Contested Case Hearing and how to do so, which includes sending the Notice of Hearing Rights (DMAP 3030) and the Hearing Request Form (MSC 0443);

4. Contested Case Hearing Request

- a. All Contested Case Hearing requests must be filed using a MSC 0443, with Contractor or OHA no later than 45 days from the date of the notice of Appeal resolution.
- b. Upon receipt of a MSC 0443, from Member, Contractor shall immediately transmit the request to OHA and review the request as an Appeal as described in this exhibit.
- c. Include as parties to the Contested Case Hearing:

- (1) The Member and the Member Representative,
- (2) Contractor; and
- (3) The legal representative of a deceased Member's estate.

5. Continuation of Benefits While the Contractor Appeal and Contested Case Hearing is Pending:

a. Duration of Continued Benefits

The Contractor continues the Member's benefits while the Appeal is pending. Benefits must remain in effect.

- (1) Until OHA issues an Appeal decision adverse to the Member; or
- (2) The authorization expires or authorization service limits are met.

b. Member Responsibilities for Services Furnished While the Appeal is Pending:

If the final resolution of the Appeal is adverse to the Member, that is, upholds the Contractor's Action, the Contractor may recover from the Member the cost of the services furnished to the Member while the Appeal was pending.

6. Implementation of Reversed Appeal Resolution

a. Services Not Furnished While an Appeal is Pending

If the Contractor or Contested Case Hearing reverses a decision to deny, limit, or delay services that were not furnished while the Appeal was pending, the Contractor shall authorize or provide, the disputed services promptly, and as expeditiously as the Member's health condition requires.

b. Services Furnished While an Appeal is Pending

If the Contractor or Contested Case Hearing reverses a decision to deny authorization of services, and the Member received the disputed services while the Appeal was pending, the Contractor or OHA will pay for the services.

7. Final Order

A final order should be issued or the case otherwise resolved by OHA within 90 calendar days from the earlier of the following: the date the Member filed the Appeal request with the Contractor or the date the Member filed the Contested Case Hearing request. The final order is the final decision of OHA.

8. Documentation and Quality Improvement

- a.** Contractor's shall document all Grievances and Appeals using the Grievance Log Sheet found at (*enter web address*) and submit to OHA 60 days following the end of

each calendar quarter. Contractor shall monitor the Grievance Log Sheets on a monthly basis for completeness and accuracy.

- b.** Contractor shall maintain a record, in a central location for each Grievance and Appeal included in the Grievance Log Sheet. The record shall include, at a minimum:
 - (1) Notice of Action;
 - (2) If filed in writing, the Appeal or Grievance;
 - (3) If an oral filing was received, documentation that the Grievance or Appeal was received orally;
 - (4) Records of the review or investigation;
 - (5) Notice of resolution of the Grievance or Appeal; and
 - (6) All written decisions and copies of all correspondence with all parties to the Grievance or Appeal.
- c.** Contractor shall submit to OHA upon request, a total number or copies of Notices of Action sent to Members.
- d.** Contractor shall review and analyze the Grievance System, including all Grievances and Appeals. The analysis of the Grievance System shall be forwarded to the Quality Improvement committee as necessary to comply with the Quality Improvement standards as follows:
 - (1) Review of completeness, accuracy and timeliness of documentation,
 - (2) Compliance with written procedures for receipt, disposition, and documentation and
 - (3) Compliance with applicable OHP rules.