

Information Item Q

PROCEDURES TO GIVE NOTICE OF FAIR HEARINGS Medicaid Mental Health Case Management & Medicaid Mental Health Rehabilitative Services

Section 412.318(d) of 25 TAC Chapter 412, Subchapter G (regarding Mental Health Community Services Standards); §412.415 of 25 TAC Chapter 412, Subchapter I (regarding Mental Health Case Management Services); §416.16 of 25 TAC Chapter 416 Subchapter A (regarding Mental Health Rehabilitative Services); and 1 TAC Part 15 Chapter 357, Subchapter A (regarding Uniform Fair Hearings) provide Medicaid-eligible individuals with the right to request a fair hearing. Contractor shall adhere to 1 TAC Part 15 Chapter 357, Subchapter A (regarding Uniform Fair Hearings) sets forth the rights and hearing processes that provide Medicaid-eligible individuals with the right to request a fair hearing and are entitled to appeal the following actions relating to Medicaid-funded services: a) an action to reduce, suspend, terminate or deny benefits or eligibility; b) a failure to act with reasonable promptness on an individual's claim for benefits or services. The following are the procedures that the Contractor shall adhere to in providing Medicaid-eligible individuals with notice of their right to a fair hearing:

Crisis Intervention Services

Crisis intervention services are significantly different from the other Medicaid mental health rehabilitative services in that crisis intervention services become available upon request (i.e., an individual believes he or she is an immediate danger to self or others or at risk of serious deterioration), are for the purpose of immediately resolving a crisis, are not ongoing, and do not necessarily provide an opportunity for contact with the individual after the resolution of the crisis (e.g., an individual may refuse to provide a home address or phone number). In such instances, crisis intervention services are retroactively authorized for seven days.

All other Medicaid Mental Health Case Management & Medicaid Mental Health Rehabilitative Services

Denial of eligibility or failure to act promptly to provide services - Contractor shall provide written notice (notice letter) to an individual who is eligible for Medicaid and presents for services that may include Medicaid case management or Medicaid mental health rehabilitative service or the individual's legally authorized representative (LAR), and:

- is assessed and determined not to need Medicaid case management or Medicaid mental health rehabilitative services; or
 - if the individual or LAR complains that the assessment is not administered promptly.
-
- Contractor shall have an oversight process (e.g., supervisory review) to ensure the validity of decisions made to deny eligibility for Medicaid mental health case management services or Medicaid mental health rehabilitative services and to ensure that assessments are administered promptly.

- If services were denied, the notice letter shall identify the basis for the denial of eligibility and the citation of the appropriate rule authorizing the denial of eligibility, as set forth in 25 TAC §412.415 for Medicaid mental health case management services, and 25 TAC §416.16 for Medicaid mental health rehabilitative services. The reason for denial of eligibility shall also be documented in the individual's record.
- The notice letter shall include a Fair Hearing Request Form. The individual or LAR, however, may use any other form of a written request.
- Contractor shall send the notice letter at the time of the denial of eligibility (or immediately following the complaint of failure to act promptly) by certified mail, return receipt requested, or obtain a written acknowledgement that the individual or LAR received the notice letter by hand delivery.
- Please note in the notice letter that the individual or LAR must send a written request for a fair hearing to the Department of State Health Services (DSHS), and that DSHS must receive the written request within 90 days of the date of the letter. The written request for a fair hearing should be sent to the DSHS Office of Consumer Services and Rights Protection, Mail Code 2053, P. O. Box 149347, TX 78714-9347.

Termination of services - Contractor shall provide written notice to an individual or LAR whose Medicaid mental health case management services or Medicaid mental health rehabilitative services are proposed to be terminated by Contractor for any reason.

- The notice letter shall identify the basis for the proposed termination of services consistent with the eligibility criteria set forth in 25 TAC §412.405 (Eligibility for MH Case Management) and §416.5 (Eligibility). Contractor will notify the individual of his or her right to a fair hearing according to 25 TAC §412.415 (Notifications and Terminations), and 25 TAC §416.16 (Fair Hearings and Reviews). In addition, Contractor shall include the citation of the appropriate rule authorizing the proposed termination, unless the basis is that the individual no longer desires services, cannot be located or is dead, in which case a rule citation is not included in the notice letter. The reason for proposed termination shall also be documented in the individual's record.
- Contractor shall have an oversight process (e.g., supervisory review) in place to ensure the validity of decisions made to terminate Medicaid mental health case management services or Medicaid mental health rehabilitative services.
- The notice letter shall include a Fair Hearing Request Form. The individual or LAR, however, may use any other form of a written request.
- Contractor shall include in the notice letter the date the services are proposed to be terminated, which is 10 – 14 days after the date of the letter.

- Contractor shall mail the notice letter within 4 days of the contractor's decision and at least 10 days before the date of the proposed termination by certified mail, return receipt requested, or obtain a written acknowledgement that the individual or LAR received the notice letter by hand delivery.
- Please note in the notice letter that the individual or LAR must send a written request for a fair hearing to DSHS and that DSHS must receive the written request within 90 days of the date of the letter. The written request for a fair hearing should be sent to the DSHS Office of Consumer Services and Rights Protection, Mail Code 2053, P. O. Box 149347, Austin, TX 78714-9347.
- If DSHS receives the request prior to the date services are proposed to be terminated, services shall continue until the hearing officer makes a final decision.

Reduction or suspension of services - Contractor shall provide written notice to an individual or LAR whose Medicaid mental health case management services or Medicaid mental health rehabilitative services are proposed to be reduced or suspended by Contractor for any reason.

- The notice letter shall identify the basis for the proposed reduction or suspension of services and the citation of the appropriate rule authorizing the proposed reduction or suspension, as set forth in 25 TAC §412.405 for Medicaid mental health case management services, and 25 §416.16 for Medicaid mental health rehabilitative services. The reason for proposed reduction or suspension shall also be documented in the individual's record. Contractor will notify the individual of his or her right to a fair hearing according to 25 TAC §412.415 (Notifications and Terminations), and 25 TAC §416.16 (Fair Hearings and Reviews).
- Contractor shall have an oversight process (e.g., supervisory review) in place to ensure the validity of decisions made to reduce or suspend Medicaid mental health case management services or Medicaid mental health rehabilitative services.
- When providing the notice letter to the individual or LAR, Contractor shall include a Fair Hearing Request Form. The individual or LAR, however, may use any other form of a written request.
- Contractor shall include in the notice letter the date the services are proposed to be reduced or suspended, which is 10 - 14 days after the date of the letter.
- Contractor shall mail the notice letter within 4 days of the Contractor's decision and at least 10 days before the date of the proposed reduction or suspension by certified mail, return receipt requested, or obtain a written acknowledgement that the individual or LAR received the notice letter by hand delivery.
- Please note in the notice letter that the individual or LAR must send a written request for a fair hearing to DSHS and that DSHS must receive the written request within 90

days of the date of the letter. The written request for a fair hearing should be sent to the DSHS Office of Consumer Services and Rights Protection, Mail Code 2053, P. O. Box 149347, Austin, TX 78714-9347.

- If DSHS receives the request prior to the date services are proposed to be reduced or suspended, services shall continue until the hearing officer makes a final decision.

When DSHS receives a request for a fair hearing, DSHS notifies Contractor of such request and the date that the request was received. At that time, it would be prudent for Contractor to review the basis of its decision to deny, terminate, reduce, or suspend services. If services are proposed to be terminated, reduced, or suspended and the request for a fair hearing is received prior to the date of the proposed termination, reduction, or suspension, Contractor shall continue services until the hearing officer makes a final decision. In addition, Contractor shall provide DSHS with a copy of the notice letter, the name and phone number of the contact person for purposes of scheduling and conducting the fair hearing, and the name of the contact person's supervisor.

As the Texas Health and Human Services Commission (HHSC) conducts fair hearings for Medicaid services, DSHS notifies HHSC when a fair hearing has been requested and provides HHSC with the name of Contractor's contact person. The hearing officer appointed by HHSC sends all correspondence related to the fair hearing proceeding, including the date of the hearing, to the individual or LAR requesting the hearing and Contractor's contact person. HHSC does not provide DSHS with a copy of such correspondence. Contractor will participate in the fair hearing as the representative for the state authority and present its case to the hearing officer.

Fair hearings are conducted in accordance with 1 TAC Part 15 Chapter 357, Subchapter A (regarding Uniform Fair Hearings).

If you have any questions, require additional information, or need copies of the notice letters and request forms, please contact the DSHS Office of Consumer Services and Rights Protection, at (512) 206-5764 or (800) 252-8154 (toll free).