



Policy/Procedure:	Notice of Determination & Fair Hearing Policy
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Policy:

Bassett Community Health Navigation and Partnering Care Management Agencies will provide Persons with timely notice of decisions regarding Enrollment in the Health Home Program, Denial of Enrollment in the NYS Health Home Program, and Disenrollment from the NYS Health Home Program, as well as the Person’s rights to seek a Fair Hearing to dispute the decision, if desired. Bassett Lead Health Home and Care Management Agencies will participate in the Fair Hearing Process as required and appropriate. Bassett Community Health Navigation shall formalize documented procedures to facilitate the implementation of the Notice of Determination and Fair Hearing Policy.

**This Policy is issued to clarify responsibilities of Care Management Agencies and the Lead Health Home in regard to providing appropriate Notices of Determination and right to Conference and/or Fair Hearing, and the responsibilities of each organization when a Conference or Fair Hearing is requested. The completion and provision of each required DOH Form has been, and continues to be, included in other Policies & Procedures as relevant.*

Quality Management and Performance Improvement

Bassett CHN will periodically review records to assure compliance with the procedures and standards set forth in this policy. Quality indicators will include but may not be limited to:

- Evidence in the Bassett CHN record system to support the decision/determination
- Evidence that member understood disenrollment process (person centered discussion)
- Evidence that member was made aware of their rights to fair hearing (documented)
- Proper and timely issuance of the appropriate notice of determination form

Agencies found to be non-compliant with this policy may be required to engage in corrective actions and/or be imposed other sanctions.

Procedure:

A. Notice of Determination of Enrollment in the NYS Health Home Program (DOH-5234)

1. When a Person is enrolled in the Bassett CHN Health Home Program, the enrolling Care Management Agency/Care Manager will complete the following actions within 5 days of the Person’s enrollment, to notify the Member of Health Home Enrollment and the right to request a Fair Hearing:
 - a. Complete page 1 of Form DOH-5234: Notice of Determination of Enrollment in the NYS Health Home Program, as follows:
 - i. Notice Date: Date DOH-5234 sent/provided to Member
 - ii. Effective Date: Date of Enrollment (Date DOH-5055 signed by Member)
 - iii. Health Home information:
 - iv. Member information:
 - v. Signature: CM/CMA Representative

- b. Provide the Member with a copy of the completed DOH-5234
 - i. May be provided in-person, by mail, or electronically
- c. Ensure the following are present in the Member's Care Management Record:
 - i. Completed DOH-5234
 - ii. Completed DOH-5055 (Initial DOH-5055)
 - iii. Medical Documentation verifying the Member's eligibility
 - iv. Note(s) which evidence providing Member with a copy of completed DOH-5234
- d. Enrollment in Netsmart will be considered notification to Lead HH of Member enrollment

Completion and provision of DOH-5234 are included in procedures covering Member enrollment, in the Bassett CHN Health Home Eligibility & Assessment Policy

B. Notice of Determination of Denial of Enrollment in the NYS Health Home Program (DOH-5236)

1. When a Person has expressed interest in enrolling in the Health Home, or is aware a Referral has been made on their behalf, and is found to be ineligible for Health Home services, the determining CM/Care Management Agency must complete the following actions within 5 days of the decision*, to notify the Person and referral sources of the decision and the Person's right to request a conference with the Lead Health Home, and then pursue a Fair Hearing:
 - a. Complete page 1 of DOH-5236:
 - i. Notice Date:
 - ii. Effective Date:
 - iii. Health Home information
 - iv. Member information
 - v. Reason(s) for Ineligibility: (Select as applicable)
 - Does not meet Health Home chronic condition eligibility
 - Does not have appropriate Medicaid coverage for HH services
 - Does not require Health Home services due to not meeting Risk criteria
 - Does not meet the appropriateness criteria
 - Currently resides in an excluded setting (Medical Facility or Incarceration)
 - Concurrently eligible or enrolled in another Lead Health Home
 - b. Provide the Person with a copy of completed DOH-5236
 - i. May be provided in-person, by mail, or electronically
 - c. Notify Referral Source of decision and reason for denial of enrollment
 - d. Ensure the following are present in the Member's Care Management Record:
 - i. Copy of completed DOH-5236
 - ii. Any documents supporting ineligibility
 - iii. Note(s)/documents which evidence the following:
 - a) Reasonable attempts to verify the Person's eligibility
 - b) Reason(s) for ineligibility
 - c) Provision of DOH-5236 to Person
 - d) Notification to Referral Source
 - iv. providing Member with a copy of completed DOH-5236
 - e. CMA's will notify Bassett CHN Operations Manager & Quality Analyst by email of any assigned referrals that were denied enrollment due to ineligibility

*Decision should be made within 30 days of Person expressing intent to enroll in Health Home

(Completion and provision of DOH-5236 are included in procedures of Bassett CHN Health Home Referral Policy and Bassett CHN Health Home Eligibility & Assessment Policy)



2. If the Person is not in agreement with the decision to deny enrollment, they may contact the Bassett CHN to request a meeting regarding the denial.
 - a. Bassett CHN will request to review any additional information to re-determine eligibility
 - b. Bassett CHN will notify the candidate within 10 days of the meeting decision.
 - c. If the Health home finds the denial valid, the Candidate can request a Fair Hearing within 60 days.

C. Notice of Determination of Disenrollment from the NYS Health Home Program (DOH-5235)

1. When a Person is disenrolled from the Bassett CHN Health Home Program for reasons of ineligibility or inappropriateness for Health Home Services, the dis-enrolling Care Management Agency/Care Manager will complete the following actions at least 10 days prior to the Person's disenrollment. Notify the Member (phone or Face to Face) of the decision and reason for Health Home disenrollment, and the right to request a Fair Hearing (must be explained/read based on member ability to comprehend):
 - a. Complete page 1 of Form DOH-5235: Notice of Determination of Enrollment in the NYS Health Home Program, as follows:
 - i. Notice Date: Date DOH-5235 sent/provided to Member
 - ii. Effective Date: Date of Disenrollment (Must be at least 10 days after Notice Date)
 - iii. Health Home information:
 - iv. Member information:
 - v. Reason(s) for Disenrollment (select as applicable):
 - No longer meets Health Home appropriateness criteria
 - Met Goals, no longer at risk, etc.
 - Concurrently eligible or enrolled in another Lead Health Home
 - Currently resides in an excluded setting (Medical Facility or Incarceration)
 - Is Lost to Follow-up and CMA is unable to provide HH Services
 - No longer meets HH Chronic Condition Criteria
 - Does not have appropriate Medicaid coverage for HH services
 - vi. Signature: CM/CMA Representative
 - b. Provide the Member with a copy of the completed DOH-5235
 - i. May be provided in-person, by mail, or electronically
 - c. Ensure the following are present in the Member's Care Management Record:
 - i. Completed DOH-5235
 - ii. Any documents supporting decision/reason to disenroll
 - iii. Note(s) which evidence the following:
 - a) Providing Member with a copy of completed DOH-5235
 - b) Reasons for Disenrollment
 - d. Notify Lead Health Home Operations Manager and Quality Analyst via email

(Completion and provision of DOH-5235 are included in Disenrollment procedures of the Bassett CHN Health Home Transfer & Disenrollment Policy)

2. Once Notified of Decision to Disenroll from HH Services, Member will have 60 days from the date of the notice to request a Fair Hearing from the Office of Temporary and Disability Assistance (OTDA).
 - a. If a member requests a Fair Hearing with 10 days of receipt of the Notice, they will have the right to delay disenrollment, and continue to receive services unchanged until the Fair Hearing Decision is issued.



- i. If the member requests services to continue, Bassett CHN Lead HH will instruct the CMA Partner to postpone disenrollment and continue CHN services.
 - ii. If CHN services is not granted by OTDA, the Health Home will pend the enrollment segment at the end of the month of disenrollment, for the 60-day period in which they can request a Fair Hearing.
 - iii. If the member checks the box waiving Services Continuing, the Health Home will pend the members segment in MAPP, until the Fair Hearing Decision is issued.
3. Referent/ Legal Guardian/Authorized Representative may contact the Health Home to request a conference regarding the disenrollment, at any time prior to the Fair Hearing.
 - a. Health Home will meet with Participant/ Legal Guardian/Authorized Representative and any other representative within 30 days of the request to review the disenrollment.
 - b. The Health Home will request and review any additional information available to review the disenrollment criteria.
 - c. Health Home will provide the Participant/Family a follow-up determination in writing within 10 days following the conference. IV. Health Home will contact the CMA to reverse the disenrollment if it is found that the decision was made in error.
 - d. If the Health Home finds that the Disenrollment is valid, the Participant/ Legal Guardian/Authorized Representative may move forward with the Fair Hearing Process.

D. Requirements of Fair Hearing Process

1. The Fair Hearing process provides Participants with the opportunity to present evidence in support of reversing a Health Home determination.
2. The Health Home will inform the CMA of receipt of the OAH-440, Acknowledgement of fair Hearing Request, and of the OAH-457, Notice of Fair Hearing, for any of their Participants.
 - a. The Health Home will provide the date of the Hearing, and request the CMA provide needed documentation in Netsmart.
 - b. The Health Home will inform the CMA of any Continuing Aid status that has been designated on the OAH-457, and will make the necessary adjustments in MAPP.
3. The Health Home will attend and participate in the Hearing process as requested, and will provide necessary documentation to the Hearing process. This may include:
 - a. Any Signed Consents;
 - b. Plan of Care;
 - c. Search/Care Notes;
 - d. A written summary substantiating the reasons for denial or disenrollment;
 - e. Medical documentation obtained as appropriate;
 - f. Policy governing the action, and an explanation of why action taken was appropriate;
 - g. A copy of the Notice sent.
4. Copies of all documentation will be provided to the Participant/ Legal Guardian/Authorized Representative and/or their legal representative, within 10 days of receipt of the OAH-457 Fair Hearing Notice.
 - a. If the Participant/ Legal Guardian/Authorized Representative requests additional information to prepare for the hearing, the Health Home will ask the request to be made in writing, and will provide documentation within 5 business days.



- i. If the request is made less than 5 days prior to the hearing, the Health Home will provide the documentation at the time of the Hearing.
 - ii. Documentation will be provided at no cost to the Participant/ Legal Guardian/Authorized Representative
5. If it is felt by the Health Home, that the Hearing is not necessary, due to a valid reason, the Health Home will request an adjournment.
 - a. The adjournment request will be made by contacting OTDA at 877-209-1134, or online at <http://otda.ny.gov/hearings>
6. If the Health Home cannot attend the Hearing, due to a valid reason, the Health Home will submit a Waiver of Appearance at least 5 calendar days before the scheduled Hearing date.
 - a. The request will include primary and back-up contact information; the fair Hearing number; date of hearing; and a summary of the relevant facts in question.
 - b. If the request is accepted, The Health Home will submit for review, a written evidence packet to support the Health Homes initial determination.
7. The Health Home will comply with the Fair Hearing Decisions regarding Health Home denials and disenrollment.
 - a. If the decision is in favor of the dis-enrolled Participant, the Health Home will end the pended segment, and will begin a new enrollment segment the first of the month following disenrollment.
 - b. If the decision is in favor of the Health Home, the denial or dis-enrollment will proceed.
8. If the Participant/ Legal Guardian/Authorized Representative feel that the Health Home has not complied sufficiently with the Fair Hearing Decision, they may submit a Compliance Complaint to the OTDA.
9. Both the Health Home and/or the Participant/ Legal Guardian/Authorized Representative may request the OTDA to reconsider the Decision if it is felt there has been an error in law of facts.
 - a. Requests for reconsideration will be sent to the OTDA Litigation Mailbox at: litigationmail.hearings@OTDA.NY.GOV
 - b. Requests may also be faxed to 518-473-6735.
 - c. During the period of reconsideration, the original Decision After Fair Hearing will be in effect.
 - d. OTDA will notify both parties of the reconsideration decision, and if applicable, will reopen the Hearing process.

E. Compliance with Notices and Fair Hearing Process

1. The Health Home will monitor compliance with the Notice of Determination Process by obtaining and reviewing relevant information from the following sources each month:
 - a. Pulling reports from Netsmart each month which reflect the following areas:
 - i. Enrollments
 - ii. Opt-Outs for Ineligibility Reasons (Denial of Enrollment)
 - iii. Disenrollment's and Reasons for Disenrollment
 - b. Reviewing a sample of Cases each month to review compliance with Notice of Determination requirements
2. The Health Home will track all Fair Hearing processes filed against the Health Home.
 - a. Tracking will include all decisions favorable and unfavorable to the Health Home/CMA.



- b. Issues and trends that would indicate needed technical assistance for the CMA or entire network.
 - c. Compliance with the documentation requirements needed for the Fair Hearing;
 - d. Compliance with providing necessary documentation to the member with required time frames.
3. The Health Home will discuss trends or concerns with Quality Management Performance Committee (QMPC).

Related Forms & Documents:

- ◇ **Bassett CHN Quality Management Performance Committee minutes**
- ◇ **DOH-5236**
- ◇ **DOH-5235**
- ◇ **DOH-5234**
- ◇ **OAH-457**
- ◇ **OAH-440**
- ◇ **Quality Performance Committee Meeting Minutes (if discussed)**