



Medicaid Grievance and Appeals System – Grievances, Appeals and Hearings

<i>State(s):</i> <input type="checkbox"/> Idaho <input type="checkbox"/> Montana <input checked="" type="checkbox"/> Oregon <input type="checkbox"/> Washington <input type="checkbox"/> Other:	<i>LOB(s):</i> <input type="checkbox"/> Commercial <input type="checkbox"/> Medicare <input checked="" type="checkbox"/> Medicaid <input type="checkbox"/> PSA
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Government Policy

This Policy outlines the requirements and actions of how PacificSource Community Solutions will accept, process and respond to appeals, grievances, and contested hearings in line with Oregon Administrative Rules (OAR) 410-141-3875 through 410-141-3915, 410-141-3525, 410-141-3751 through 410-141-3915, 410-120-1860, 137-003-0501 through 137-003-0700, 410-141-3915, 410-141-3500, 410-141-3885.

This policy is subject to approval by the Oregon Health Authority (OHA) and must be submitted annually, as directed by OHA, or anytime thereafter upon a significant change.

Procedure: Grievances, Appeals and Hearings

(1) The following definitions apply for purposes of this rule and OAR 410-141-3835 through 410-141-3915:

(a) “Appeal” means a review by PacificSource, pursuant to OAR 410-141-3890 of an adverse benefit determination.

(b) “Adverse Benefit Determination” means, any of the following, consistent with 42 CFR § 438.400(b):

(A) The denial or limited authorization of a requested service, including determinations based on the type or level of service, requirements for medical necessity, appropriateness, setting, or effectiveness of a covered benefit;

(B) The reduction, suspension, or termination of a previously authorized service;

(C) The denial, in whole or in part, of payment for a service;

(D) The failure to provide services in a timely manner pursuant to 410-141-3515;

(E) PacificSource’s failure to act within the timeframes provided in these rules regarding the standard resolution of grievances and appeals;

(F) For a resident of a rural area with only one MCE, the denial of a member’s request to exercise their legal right, under 42 CFR 438.52(b)(2)(ii), to obtain services outside the network;
or

(G) The denial of a member’s request to dispute a financial liability, including cost sharing, copayments, premiums, deductibles, coinsurance, and other member financial liabilities.

- (c) "Contested Case Hearing" means a hearing before the Authority under the procedures of OAR 410-141-3900 and 410-120-1860;
 - (d) "Continuing benefits" means a continuation of benefits in the same manner and same amount while an appeal or contested case hearing is pending, pursuant to OAR 410-141-3910;
 - (e) "Grievance" means a member's expression of dissatisfaction to PacificSource or to a participating provider the Authority about any matter other than an adverse benefit determination, as defined in OAR 410-120-0000. Grievances may include, but are not limited to, the quality of care or services provided, and aspects of interpersonal relationships such as rudeness of a provider or employee, or failure to respect the member's rights regardless of whether remedial action is requested. A Grievance also includes a member's right to dispute an extension of time proposed by PacificSource to make an authorization decision;
 - (f) "Member." With respect to actions taken regarding grievances, appeals and contested case hearings, references to a "member" include, as appropriate, the member, the member's representative, and the representative of a deceased member's estate. With respect to PacificSource notification requirements, a separate notice must be sent to each individual who falls within this definition;
 - (g) "Notice of Adverse Benefit Determination" means the notice must meet all requirements found at 42 CFR 438.44
- (2) PacificSource shall establish and have an Authority approved process and written procedures for compliance with grievance and appeals requirements that shall include the following:
- (a) Member rights to file a grievance at any time for any matter other than an adverse benefit determination;
 - (b) Member rights to appeal and request an MCE review of an adverse benefit determination, including the ability of providers and authorized representatives to appeal on behalf of a member;
 - (c) Member rights to request a contested case hearing regarding a PacificSource adverse benefit determination once the plan has issued a written notice of appeal resolution under the Administrative Procedures Act;
 - (d) An explanation of how PacificSource shall accept, acknowledge receipt, process, and respond to grievances, appeals, and contested case hearing requests within the required timeframes;
 - (e) Compliance with grievance and appeals requirements as part of state quality strategy and to enforce a consistent response to complaints of violations of consumer rights and protections;
 - (f) Specific to the appeals process, the policies shall:
 - (A) Consistent with confidentiality requirements, ensure PacificSource's staff designated to receive appeals begins to obtain documentation of the facts concerning the appeal upon receipt;
 - (B) Provide the member a reasonable opportunity to present evidence and testimony and make legal and factual arguments in person as well as in writing;;
 - (C) PacificSource shall inform the member of the limited time available for this sufficiently in advance of the resolution timeframe for both standard and expedited appeals;
 - (D) PacificSource shall provide the member the member's case file, including medical records, other documents and records, and any new or additional evidence considered, relied upon, or generated by PacificSource (or at the direction of PacificSource) in connection with the appeal of the adverse benefit determination at no charge and sufficiently in advance of the standard resolution timeframe for appeals.; and

(E) Ensure documentation of appeals in an appeals log maintained by PacificSource that complies with OAR 410-141-3915 and is consistent with contractual requirements.

(3) PacificSource shall provide information to members regarding the following:

- (a) An explanation of how PacificSource shall accept, process, and respond to grievances, appeals, and contested case hearing requests, including requests for expedited review of grievances and appeals;
- (b) Member rights and responsibilities; and
- (c) How to file for a hearing through the state's eligibility hearings unit related to the member's current eligibility with OHP.

(4) PacificSource shall adopt and maintain compliance with grievances and appeals process timelines in 42 CFR §§ 438.408(b)(1) and (2) and these rules.

(5) Upon receipt of a grievance or appeal, PacificSource shall:

- (a) Within five business days, resolve or acknowledge receipt of the grievance or appeal to the member and the member's provider where indicated;
- (b) Give the grievance or appeal to staff with the authority to act upon the matter;
- (c) Obtain documentation of all relevant facts concerning the issues, including taking into account all comments, documents, records, and other information submitted by the member without regard to whether the information was submitted or considered in the initial adverse benefit determination or resolution of grievance;
- (d) Ensure staff and any consulting experts making decisions on grievances and appeals are:

(A) Not involved in any previous level of review or decision making nor a subordinate of any such individual;

(B) Health care professionals with appropriate clinical expertise in treating the member's condition or disease, if the grievance or appeal involves clinical issues or if the member requests

an expedited review. Health care professionals shall make decisions for the following:

- (i) An appeal of a denial that is based on lack of medically appropriate services or involves clinical issues;
- (ii) A grievance regarding denial of expedited resolution of an appeal or involves clinical issues.

(C) Taking into account all comments, documents, records, and other information submitted by the member without regard to whether the information was submitted or considered in the initial adverse benefit determination;

(D) Not receiving incentivized compensation for utilization management activities by ensuring that individuals or entities who conduct utilization management activities are not structured so as to provide incentives for the individual or entity to deny, limit, or discontinue medically necessary services to any member.

(6) PacificSource shall analyze all grievances, appeals, and hearings in the context of quality improvement activity pursuant to OAR 410-141-3525 and 410-141-3875.

(7) PacificSource shall keep all health care information concerning a member's request confidential, consistent with appropriate use or disclosure as defined in 45 CFR 164.501, and include providing member assurance of confidentiality in all written, oral, and posted material in grievance and appeal processes.

(8) The following pertains to the release of a member's information:

(a) PacificSource and any provider whose authorizations, treatments, services, items, quality of care, or requests for payment are involved in the grievance, appeal, or hearing may use this information without the member's signed release for purposes of:

(A) Resolving the matter; or

(B) Maintaining the grievance or appeals log as specified in 42 CFR 438.416.

(a) If PacificSource needs to communicate with other individuals or entities not listed in subsection (a) to respond to the matter, PacificSource shall obtain the member's signed release and retain the release in the member's record.

(9) PacificSource shall provide members with any reasonable assistance in completing forms and taking other procedural steps related to filing grievances, appeals, or hearing requests.

Reasonable assistance includes but is not limited to:

(a) Assistance from certified community health workers, peer wellness specialists, or personal health navigators to participate in processes affecting the member's care and services;

(b) Free interpreter services or other services to meet language access requirements where required in 42 CFR §438.10;

(c) Providing auxiliary aids and services upon request including but not limited to toll-free phone numbers that have adequate TTY/TTD and interpreter capabilities; and

(d) Reasonable accommodation or policy and procedure modifications as required by any disability of the member.

(10) PacificSource, its subcontractors, and its participating providers may not:

(a) Discourage a member from using any aspect of the grievance, appeal, or hearing process or take punitive action against a provider who requests an expedited resolution or supports a member's appeal;

(b) Encourage the withdrawal of a grievance, appeal, or hearing request already filed; or

(c) Use the filing or resolution of a grievance, appeal, or hearing request as a reason to retaliate against a member or to request member disenrollment. Moreover, must protect the anonymity of members utilizing any of the rights afforded in the Grievance system.

(11) In all MCE administrative offices and in those physical, behavioral, and oral health offices where PacificSource has delegated responsibilities for appeal, hearing request, or grievance involvement, PacificSource shall have the following forms available:

- (a) OHP Complaint Form (OHP 3001);
- (b) MCE appeal forms;
- (c) Hearing request form (MSC 443) and Notice of Hearing Rights (OHP 3030); or
- (d) The Health Systems Division Service Denial Appeal and Hearing Request form (OHP 3302) or approved facsimile.

(12) In all investigations or requests from the Department of Human Services Governor's Advocacy Office, the OHP Client Services Unit, the Authority's Ombudsperson or hearing representatives, PacificSource, and participating providers shall cooperate in ensuring access to all activities related to member appeals, hearing requests, and grievances including providing all requested written materials in required timeframes as expeditiously as the affected member's health condition requires.

(13) If at the member's request PacificSource continues or reinstates the member's benefits while the appeal or administrative hearing is pending, the benefits shall continue pending administrative hearing pursuant to OAR 410-141-3910.

(14) Adjudication of appeals in a member grievance and appeals process may not be delegated to a subcontractor. If PacificSource delegates any other portion of the grievance and appeal process to a subcontractor, PacificSource must, in addition to the general obligations established under OAR 410-141-3505, do the following:

- (a) Ensure the subcontractor meets the requirements consistent with this rule and OAR 410-141-3715 through 410-141-3915;
- (b) Monitor the subcontractor's performance on an ongoing basis;
- (c) Perform a formal compliance review at least once a year to assess performance, deficiencies, or areas for improvement; and
- (d) Ensure the subcontractor takes corrective action for any identified areas of deficiencies that need improvement.

CCO Grievance Process Requirements

(1) A member and, with the written consent of the member, a provider or an authorized representative may file a grievance at any time either orally or in writing, on behalf of a member. The grievance may be filed with PacificSource or the Authority. If the grievance is filed with the Authority, it shall be promptly forwarded to PacificSource.

(2) For standard resolution of a grievance, PacificSource shall resolve each grievance and provide notice of the disposition as expeditiously as the member's health condition requires. PacificSource shall:

- (a) Within five business days from the date of PacificSource's receipt of the grievance, notify the member in their preferred language that a decision on the grievance has been made and what that decisions is; or

(b) Promptly, but in no event more than five business days after the date of PacificSource's receipt of the grievance, notify the member in their preferred language that there shall be a delay in PacificSource's decision of up to 30 days. The written notice shall specify why the additional time is necessary.

(3) PacificSource shall ensure that the individuals who make decisions on grievances follow all requirements in OAR 410-141-3875 MCE Grievance and Appeals System General Requirements.

(4) When informing members of PacificSource's decision, PacificSource:

- (a) Shall provide its decision related to oral grievances orally but shall also, in all instances respond to oral grievances in writing. Both oral and written responses shall be made in the member's preferred language;
- (b) Shall address each aspect of the grievance and explain the reason for the decision; and
- (c) Shall respond in writing to written grievances in the member's preferred language. In addition to written responses, PacificSource may also respond orally in the member's preferred language.; and
- (d) Shall notify members who are dissatisfied with the disposition of a grievance that they may present their grievance to the OHP Client Services Unit (CSU) toll free at 800-273-0557 or the Authority's Ombudsperson at 503-947-2346 or toll free at 877-642-0450.

(5) In compliance with Title VI of the Civil Rights Act and ORS Chapter 659A, PacificSource shall review and report to the Authority, as outlined in the CCO contract, member complaints related to their race and ethnicity, gender identity, sexual orientation, socioeconomic status, culturally or linguistically appropriate services requests, and disability status and other identity factors for consideration in improving services for health equity. Written notice shall be provided to members of the nondiscrimination policy and process to report a complaint of discrimination.

(6) If PacificSource receives a grievance related to a member's entitlement of continuing benefits in the same manner and same amount during the transition of transferring from one MCE to another MCE as defined in OAR 410-141-3850, PacificSource shall log the grievance and work with the receiving or sending MCE to ensure continuity of care during the transition.

(7) The MCE must allow Members to file a grievance (after receiving notice that an adverse benefit determination is upheld). The MCE must allow providers, or authorized representatives, acting on behalf of the Member and with the Member's written consent, to request an appeal, file a grievance, or request a state fair hearing request.

(8) The MCE shall give Members any reasonable assistance in completing forms and taking other procedural steps related to a grievance or appeal. This includes, but is not limited to providing Certified or Qualified Health Care Interpreter services and toll-free numbers that have adequate TTY/TTD and Certified or Qualified Health Care Interpreter capability.

- 1) Assistance from qualified community health workers, qualified peer wellness specialists, or personal health navigators to participate in processes affecting the member's care and services;
- 2) Free interpreter services or other services to meet language access requirements where required in 42CFR §438.10;
- 3) Providing auxiliary aids and services upon request including but not limited to toll-free phone numbers that have adequate TTY/TTD and interpreter capabilities; and

- 4) Reasonable accommodation or policy and procedure modifications as required by any disability of the member.
- (9) PacificSource shall not discourage any Member from using any aspect of the Grievance and Appeal System. Nor shall PacificSource:
- 1) Encourage any Member to withdraw a Grievance, Appeal, or Contested Case Hearing request already filed;
 - 2) Use the filing or resolution of a Grievance, Appeal, or Contested Case Hearing request as a reason to retaliate against a Member or as a basis for requesting Member Disenrollment, or
 - 3) Take punitive action against a Provider who requests an expedited resolution or supports a Member's Grievance or Appeal.

CCO Appeal Requirements

- (1) A member, provider, or authorized representatives, acting on behalf of the member with the member's written consent, may file an appeal with PacificSource to:
 - (a) Express disagreement with an adverse benefit determination; or
 - (b) Contest PacificSource's failure to act within the timeframes provided in 42 CFR § 438.408(b)(1) and (2) regarding the standard resolution of grievances and appeals.
- (2) Appeals may be initiated orally or in writing,
- (3) Each MCE may have only one level of appeal for members, and members shall complete the appeals process with PacificSource prior to requesting a contested case hearing.
- (4) For standard resolution of an appeal and notice to the affected parties, PacificSource shall establish a timeframe that is no longer than 16 days from the day PacificSource receives the appeal:
 - (a) If PacificSource fails to adhere to the notice and timing requirements in 42 CFR § 438.408, the member is considered to have exhausted PacificSource's appeals process. In this case, the member may initiate a contested case hearing;
 - (b) PacificSource may extend the timeframes from section (3) of this rule by up to 14 days if:
 - (A) The member requests the extension; or
 - (B) PacificSource shows to the satisfaction of the Authority upon its request that there is need for additional information and how the delay is in the member's interest.
 - (c) If PacificSource extends the timeframes but not at the request of the member, PacificSource shall:
 - (A) Make reasonable efforts to give the member prompt oral notice of the delay;
 - (B) Within two days, 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 the member disagrees with that decision.
- (5) For purposes of this rule, an appeal includes a request from the Authority to PacificSource for review of a notice.

(6) A member, authorized representative, or the provider on the member's behalf may request an appeal either orally or in writing directly to PacificSource for any notice or failure to act within the timeframes provided in 42CFR §438.408(b)(1) and (2) regarding the standard resolution of appeals by PacificSource:

(a) PacificSource shall ensure oral requests for appeal of a notice are treated as appeals to establish the earliest possible filing date without the need for written follow-up;

(b) The member shall file the appeal with PacificSource no later than 60 days from the date on the notice.

(7) Parties to the appeal include, as applicable:

(a) The member; or

(b) Member's authorized representative; or

(c) Provider acting on behalf of a member, with written consent from the member; or

(d) Legal representative of a deceased member's estate; and

(e) PacificSource

(8) PacificSource shall resolve each standard appeal in time period defined above in section (4). PacificSource shall provide the member with a notice of appeal resolution as expeditiously as the member's health condition requires, or within 72 hours for matters that meet the requirements for expedited appeals in OAR 410-141-3895.

(9) If PacificSource or the Administrative Law Judge reverses a decision to deny, limit, or delay services that were not furnished while the appeal was pending, PacificSource shall authorize or provide the disputed services promptly and as expeditiously as the member's health condition requires but no later than 72 hours from the date it receives notice reversing the determination.

(10) If PacificSource or the Administrative Law Judge reverses a decision to deny authorization of services, and the member received the disputed services while the appeal was pending, PacificSource or the state shall pay for those services in accordance with the Authority policy and regulations.

(11) The written notice of appeal resolution shall be in a format approved by the Authority. The notice shall contain, as appropriate, the same elements as the adverse benefit determination, as specified in OAR 410-141-3885, in addition to:

(a) The results of the resolution process and the date PacificSource completed the resolution; and

(b) For appeals not resolved wholly in favor of the member:

(A) Reasons for the resolution and a reference to the particular sections of the statutes and rules involved for each reason identified in the Notice of Appeal Resolution relied upon to deny the appeal;

(B) The right to request a contested hearing or expedited hearing with the Authority and how to do so;

- (C) The right to request to continue receiving benefits while the hearing is pending and how to do so; and
- (D) An explanation that the member may be held liable for the cost of those benefits if the hearing decision upholds PacificSource's adverse benefit determination;
- (E) Copies of the appropriate forms:

- (i) Hearing request form (MSC 443) and Notice of Hearing Rights (OHP 3030); or
- (ii) The Health Systems Division Service Denial Appeal and Hearing Request form (OHP 3302) or approved facsimile.

Expedited CCO Appeal Requirements

(1) PacificSource shall establish and maintain an expedited review process for appeals when the member or the provider indicates that taking the time for a standard resolution could seriously jeopardize the member's life, health, or ability to attain, maintain, or regain maximum function as set forth in 410-120-1860.

(2) PacificSource shall ensure that punitive action is not taken against a provider who requests an expedited resolution.

(3) For expedited resolution of an appeal and notice to affected parties, PacificSource shall complete the review of the expedited appeal in a timeframe that is no longer than 72 hours after PacificSource receives the appeal. PacificSource shall:

- (a) Inform the member of the limited time available for receipt of materials or documentation for the review;
- (b) Make reasonable efforts to call the member and the provider to tell them of the resolution within 72 hours after receiving the request; and
- (c) Mail written confirmation of the resolution to the member within three days;
- (d) Extend the timeframes by up to 14 days if:

- (A) The member requests the extension; or
- (B) PacificSource shows (to the satisfaction of the Authority upon its request) that there is need for additional information and how the delay is in the member's interest.

(e) If PacificSource extends the timeframes not at the request of the member, PacificSource shall:

- (A) Make reasonable efforts to give the member prompt oral notice of the delay;
- (B) Within two days, 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.

(4) If PacificSource denies a request for expedited resolution of an appeal, it must transfer the appeal to the standard timeframe, PacificSource shall:

- (a) Resolve the appeal no later than 16 days from the day the MCE receives the appeal with a possible 14-day extension;
- (b) Make reasonable efforts to give the Member prompt oral notice of the denial, and follow-up within two days with a written notice; and
- (c) The written notice must state the right of a Member to file a grievance with the MCE if he or she disagrees with that decision.

(5) If PacificSource provides an expedited appeal but denies the services or items requested in the expedited appeal, PacificSource shall inform the member of the right to request an expedited contested case hearing and shall send the member a Notice of Appeal Resolution, in addition to Hearing Request and Information forms as set forth in OAR 410-141-3890.

Contested Case Hearings Requirements

(1) PacificSource shall have a system in place to ensure its members, providers, or authorized representatives, acting on behalf of the member, have access to appeal for PacificSource's action by requesting a contested case hearing:

- (a) Contested case hearings are conducted pursuant to ORS 183.411 to 183.497 and the Attorney General's Uniform and Model Rules of Procedure for the Office of Administrative Hearings, OAR 137-003-0501 to 137-003-0700. Processes for contested case hearings are provided in OAR 410-120-1860 Contested Case Hearing Procedures.;
- (b) If a provider filed an appeal on behalf of a member, as permitted in OAR 410-141-3890, the provider may subsequently request a contested case hearing on behalf of the member in accordance with the procedures in this rule.;
- (c) A provider that filed an appeal on the provider's own behalf for reasons set forth in OAR 410-120-1560 shall file a hearing request with the Authority no later than 30 days from the date of PacificSource's notice of appeal resolution. Appeals brought on the provider's own behalf are not subject to this rule, which governs appeals brought by member or by a provider on the member's behalf but are governed by OAR 410-120-1560.

(2) The member may not proceed to a hearing without first completing an appeal with their MCE and receiving written notice that PacificSource adverse benefit determination is upheld, subject to the exception under section (3), below:

- (a) The member shall file a hearing request with the Authority using form MSC 0443 or any other Authority-approved appeal or hearing request form no later than 120 days from the date of PacificSource's notice of appeal resolution. The Authority shall consider the request timely with the exception as noted for expedited hearing requests in OAR 410-141-3905;
- (b) If the member sends a contested case hearing request directly to the Authority and the Authority determines that the member qualifies for a contested case hearing, PacificSource shall immediately submit the required documentation to the Authority's Hearings Unit following their request;
- (c) If the member files a request for an appeal or contested case hearing with the Authority prior to the member filing an appeal with PacificSource, and if the request does not satisfy section (3) below, the Authority shall transfer the request to PacificSource and provide notice of the transfer to the member. PacificSource shall:
 - (A) Review the request immediately as an appeal of PacificSource's notice of adverse benefit determination;
 - (B) Respond to the request for the appeal within 16 days and provide the member with a notice of appeal resolution.

(d) If a member sends the contested case hearing request to PacificSource after PacificSource has already completed the initial plan appeal, PacificSource shall:

- (A) Date-stamp the hearing request with the date of receipt; and
- (B) Immediately submit the following required documentation to the Authority:

- (i) A copy of the hearing request adverse benefit determination, and notice of appeal resolution;
- (ii) All documents and records PacificSource relied upon to take its action, including those used as the basis for the initial action or the notice of appeal resolution, if applicable, and all other relevant documents and records the Authority requests as outlined in detail in OAR 141-410-3890.

(3) If, after a member properly files an appeal, PacificSource fails to adhere to the notice and timing requirements in 42 CFR § 438.408, the Authority may consider the member to have exhausted PacificSource's appeals process for purposes of requesting a contested case hearing, as provided in OAR 410-141-3890(3). The Authority shall notify PacificSource of the Authority's decision to allow the member access to a contested case hearing.

(4) Effective February 1, 2012, the method described in OAR 137-003-0520(8)-(10) is used in computing any period of time prescribed in OAR chapter 410, divisions 120 and 141 applicable to timely filing of requests for hearing. However, due to operational conflicts, the procedures needing revision, and the expense of doing so, the provisions in OAR 137-003-0520(9) and 137-003-0528(2) that allow hearing requests to be treated as timely based on the date of postmark do not apply to MCE member contested case hearing requests.

(5) The parties to a contested case hearing include the following:

- (a) The member;
- (b) Member's authorized representative; or
- (c) Legal representative of a deceased member's estate; and
- (d) PacificSource

(6) The Authority shall refer the hearing request along with the adverse benefit determination or notice of appeal resolution to the Office of Administrative Hearings (OAH) for hearing. Contested case hearings are requested using Authority form MSC 443 or other Authority-approved appeal or hearing request forms.

(7) The Authority shall issue a final order, or the Authority shall resolve the case ordinarily within 90 days from the date PacificSource receives the member's request for appeal. The 90-day count does not include the days between the date PacificSource issued a notice of appeal resolution and the date the member filed a contested case hearing request.

(8) For reversed appeal and hearing resolution services:

- (a) For services not furnished while the appeal or hearing is pending. If PacificSource or the Administrative Law Judge reverses a decision to deny, limit, or delay services that were not furnished while the appeal was pending, PacificSource shall authorize or provide the disputed services promptly and as expeditiously as the member's health condition requires but no later than 72 hours from the date it receives notice reversing the determination;
- (b) For services furnished while the appeal or hearing is pending. If PacificSource or the Administrative Law Judge reverses a decision to deny authorization of services, and the

member received the disputed services while the appeal was pending, PacificSource or the state shall pay for those services in accordance with the Authority policy and regulations

Expedited Contested Case Hearings

(1) PacificSource shall have a system in place to ensure its members and providers have access to expedited review for PacificSource's action by requesting an expedited contested case hearing. Contested case hearings are conducted pursuant to ORS 183.411 to 183.497 and the Attorney General's Uniform and Model Rules of Procedure for the Office of Administrative Hearings, OAR 137-003-0501 to 137-003-0700. Processes for expedited contested case hearings are provided in OAR 410-120-1860 Contested Case Hearing Procedures.

(2) A member or provider who believes that taking the time for a standard resolution of a request for a contested case hearing could seriously jeopardize the member's life or health or ability to attain, maintain, or regain maximum function may request an expedited contested case hearing.

(3) The member may not request an expedited contested case hearing without first completing an appeal or expedited appeal with PacificSource, subject to the exception in OAR 410-141-3900(3). When a member files a hearing request prior to completion of a PacificSource appeal or expedited appeal, the Authority shall follow procedures set forth in OAR 410-141-3900.

(4) Expedited hearings are requested using Authority form MSC 443 or other Authority-approved appeal or hearing request forms.

(5) PacificSource shall submit relevant documentation to the Authority immediately following their request. The Authority shall decide from the date of receiving the relevant documentation whether the member is entitled to an expedited contested case hearing.

(6) If the Authority denies a request for an expedited contested case hearing, the Authority shall:

- (a) Handle the request for a contested case hearing in accordance with OAR 410-120-1860; and
- (b) Make reasonable efforts to give the member prompt oral notice of the denial and follow up within two days with a written notice.

(7) If a member requests an expedited hearing, the Authority shall request documentation from PacificSource, and PacificSource shall submit relevant documentation including clinical documentation to the Authority within two working days.

Continuation of Benefits

(1) A member who may be entitled to continuing benefits may request and receive continuing benefits in the same manner and same amount while an appeal or contested case hearing is pending:

(a) To be entitled to continuing benefits, the member or member's representative shall complete a PacificSource appeal request or an Authority contested case hearing request form and check the box requesting continuing benefits before the sooner of by:

- (A) The tenth day following the date of the adverse benefit determination or the notice of appeal resolution; or
- (B) The effective date of the action proposed in the notice, if applicable, whichever is later.

(b) PacificSource must continue the member's benefits if all of the following occur:

- (A) The appeal involves the termination, suspension, or reduction of previously authorized services;
- (B) The services were ordered by an authorized provider;
- (C) The period covered by the original authorization has not expired; and
- (D) Timely files for continuation of benefits. Timely files means filing on or before the later of the following:
 - (i) Within 10 days after the date of the NOABD; or
 - (ii) The intended effective date of the Action proposed in the NOABD.

(c) In determining timeliness, delay for good cause as defined in OAR 137-003-0528 is not counted;

(d) If at the member's request PacificSource continues or reinstates the member's benefits while the appeal or contested case hearing is pending, the benefits shall continue pending contested case hearing pursuant to OAR 410-141-3910. The benefits shall continue until:

- (A) Unless the member or authorized representative requests a contested case hearing with continuing benefits, no later than 10 days following the date of PacificSource notice of appeal resolution, a final appeal resolution resolves PacificSource appeal;
- (B) A final order resolves the contested case;
- (C) The member withdraws the request for a hearing.

(2) For reversed appeal and hearing resolution services:

- (a) Benefits not furnished while the appeal or hearing is pending. If PacificSource or the Administrative Law Judge reverses a decision to deny, limit, or delay services that were not furnished while the appeal was pending, PacificSource shall authorize or provide the disputed services promptly and as expeditiously as the member's health condition requires but no later than 72 hours from the date it receives notice reversing the determination;
- (b) Benefits furnished while the appeal or hearing is pending. If PacificSource or the Administrative Law Judge reverses a decision to deny authorization of services, and the member received the disputed services while the appeal was pending, PacificSource or the Authority shall pay for those services in accordance with the Authority policy and regulations.

(3) PacificSource may, consistent with the state's usual policy on recoveries and as specified in the MCE contract, recover the cost of continued services furnished to the member while the appeal or state fair hearing was pending if the final resolution of the appeal or state fair hearing upholds the MCE's adverse benefit determination.

Grievance and Appeals System Recordkeeping

- (1) PacificSource shall maintain records of grievances and appeals and shall review the information as part of its ongoing monitoring procedures, as well as for updates and revisions to the state quality strategy as stated in 42 CFR 438.416 and in alignment with contractual requirements.
- (2) PacificSource shall document and maintain a record, in a central location for each grievance and appeal. The MCE's record of each grievance and appeal must be accurately maintained in a manner accessible to the state and available upon request to CMS. The record shall include, at a minimum: A general description of the reason for the grievance or appeal;
 - (a) The members name, ID;
 - (b) The date the member, or members representative, or provider filed the grievance;
 - (c) Notice of Adverse Benefit Determination;
 - (d) If filed in writing, the grievance;
 - (e) If an oral filing was received, documentation that the grievance was received orally;
 - (f) Records of the review or investigation at each level of the grievance;
 - (g) Notice of resolution of the grievance, including dates of each level;
 - (h) Copies of correspondence with the member and all documentation provided by the member, the member representative, or the member's provider; and
 - (i) All written decisions and copies of all correspondence with all parties to the grievance.
- (3) PacificSource must maintain yearly logs of all appeals and grievances for ten (10) years, which must include information about the reasons for each grievance or appeal, as well as the resolution and supporting reasoning.
- (4) PacificSource must review the log monthly for completeness, accuracy, and compliance with required procedures.
- (5) PacificSource shall submit for the Authority's review the Grievance and Appeals Log, samples of Notices of Adverse Benefit Determination, and other reports as required under PacificSource contract.
- (6) The PacificSource shall conduct analysis of its Grievances in the context of quality improvement activity and incorporate the analysis into the quarterly data provided to OHA. The Grievance System Report and Grievance and Appeals Log shall be forwarded to the PacificSource Quality Improvement committee to comply with the Quality Improvement standards as follows:
 - (a) Review of completeness, accuracy, and timeliness of documentation;
 - (b) Compliance with written procedures for receipt, disposition, and documentation; and
 - (c) Compliance with applicable OHP rules

Participating Providers and Subcontractors

PacificSource must cause its participating providers and subcontractors to comply with the Grievance and Appeal System requirements set forth.

PacificSource must provide to all participating providers and subcontractors, at the time they enter into a subcontract, written notification of procedures and timeframes for notices of adverse benefit determination, grievances, appeals, and contested case hearings as set forth in Exhibit I and must provide all of its participating providers and other subcontractors written notification of updates to these procedures and timeframes within five (5) business days after approval of such updates by OHA.

Appointment of Representative

A member may appoint any individual to act as his or her representative during the grievance process. An Appointment of Representative form is available and provided to plan members upon notification to the plan that someone else is filing on their behalf. Both the member and the appointed representative must sign the form. Alternatively, if the member has appointed a Power of Attorney for Healthcare or a legal guardian, that individual may act as the authorized representative in the grievance process.

Supporting documentation to validate the basis in which an individual acts as a member representative in the grievance process will be maintained in the case record.

Parents/legal guardians may submit a grievance in the matter of a minor child without requiring an Appointment of Representative form.

Confidentiality

The plan maintains all grievance information confidential in accordance with HIPAA Privacy Rules. The plan and any provider whose authorizations, treatments, services, items, quality or care, or requests for payment are alleged to be involved in the grievance have a right to use this information without a signed release from the member for purposes of resolving the grievance, maintaining the grievance log, and for health oversight purposes by the Division.

If the member or any other individual requests that their information be released to others, the plan will ask the member to provide a signed release of information. Except as provided in OAR 410-141-3260, or as otherwise authorized by all other applicable confidentiality laws, the plan will request an authorization for release of information from the member if the plan needs to communicate with other individuals in the resolution of the grievance. In the case of a minor, the signature should be from someone authorized to act on their behalf, such as a parent or legal guardian. This documentation will be part of the case file and maintained in the member's electronic records.