

**Authorization Page**  
Generated on May 23, 2014 8:52AM  
**PERMANENT ADMINISTRATIVE RULES**

Oregon Health Authority, Division of Medical Assistance Programs	410
Agency and Division	Administrative Rules Chapter Number
Sandy Cafourek	dmap.rules@state.or.us
Rules Coordinator	Email Address
500 Summer St. NE, Salem, OR 97301	503-945-6430
Address	Telephone
Upon filing.	
Adopted on	
06/01/2014	
Effective date	

**RULE CAPTION**

Add "Without Cause" to CCO, FCHP, PCP and DCO Disenrollment Criteria Pursuant to Federal Regulations

Not more than 15 words

**RULEMAKING ACTION**

**ADOPT:**

**AMEND:** 410-141-0080, 410-141-3080

**REPEAL:** 410-141-0080 (T), 410-141-3080 (T)

**RENUMBER:**

**AMEND & RENUMBER:**

**Stat. Auth.:** ORS 413.032, 413.042, 414.615, 414.625, 414.635, 414.651

**Other Auth.:**

**Stats. Implemented:** ORS 414.065 & 414.610 through 414.685

**RULE SUMMARY**

The Division needs to amend these rules to modify the Oregon Health Plan member 'without cause' disenrollment language. This change will align with federal regulations, 42 CFR 438.56(c)(2), which allows flexibility and choice for

members.

This rule revision is needed immediately to assist the Coordinated Care Organizations (CCO), the Physician Care Organizations (PCO), the Fully Capitated Health Plans (FCHP) and the Dental Care Organizations (DCO) with facilitation of disenrollment requests made to the Authority. The Division is amending these rules to comply with federal requirements and allow members to disenroll from a CCO, FCHP, PCO or DCO based on a 'without cause' criteria.



Authorized Signer



Printed Name



Date

Authorization Page replaces the ink signature on paper filings. Have your authorized signer sign and date, then scan and attach it to your filing. You must complete this step before submitting your Permanent and Temporary filings.

**410-141-0080**

**Managed Care Disenrollment from Prepaid Health Plans**

For purposes of this rule, "Managed Care Prepaid Health Plan" means Fully Capitated Health Plan, Dental Care Organization, Physician Care Organization, and Mental Health Organization.

(1) All Oregon Health Plan (OHP) member-initiated requests for disenrollment from a Prepaid Health Plan (PHP) shall be initiated, orally or in writing, by the primary person in the benefit group enrolled with a PHP, where primary person and benefit group are defined in OAR 461-001-0000, 461-001-0035, and 461-110-0750, respectively. For members who are not able to request disenrollment on their own, the request may be initiated by the member's representative.

(2) In accordance with 42 CFR 438.56(c)(2), the Authority and PHP shall honor a member or representative request for disenrollment for the following:

(a) Without cause:

(A) Newly eligible members may change their PHP assignment within 12 months following the date of initial enrollment. The effective date of disenrollment shall be the first of the month following the Division's approval of disenrollment;

(B) At least once every 12 months;

(C) Existing members may change their PHP assignment within 30 days of the Authority's automatic assignment or reenrollment in a PHP;

(D) In accordance with ORS 414.645, members may disenroll from a PHP during their redetermination (enrollment period) or one additional time during their enrollment period based on the members choice and with Authority approval. The disenrollment shall be considered "recipient choice."

(b) With cause:

(A) At any time;

(B) Division members who disenroll from a Medicare Advantage plan shall also be disenrolled from the corresponding PHP. The effective date of disenrollment shall be the first of the month that the member's Medicare Advantage plan disenrollment is effective;

(C) Members who are receiving Medicare (dual eligible) and who are enrolled in a PHP that has a corresponding Medicare Advantage component shall be disenrolled from the PHP if the contractor has declared its decision to disenroll members in accordance with OAR 410-141-0060 in the annual Dual Eligible Clients with Medicare Advantage Plans (Schedule 5) form. The effective date of disenrollment from the PHP shall be the first of the month following the date of request for disenrollment. Dual eligible shall receive choice counseling prior to reassignment;

- (D) PHP does not, because of moral or religious objections, cover the service the member seeks;
- (E) The member needs related services (for example a cesarean section and a tubal ligation) to be performed at the same time, not all related services are available within the network, and the member's primary care provider or another provider determines that receiving the services separately would subject the member to unnecessary risk; or
- (F) Other reasons including, but not limited to, poor quality of care, lack of access to services covered under the contract, or lack of access to participating providers experienced in dealing with the member's health care needs. Examples of sufficient cause include, but are not limited to:
- (i) The member moves out of the PHP's service area;
  - (ii) The member is a Native American or Alaskan Native with Proof of Indian Heritage who wishes to obtain primary care services from his or her Indian Health Service facility, tribal health clinic/program, or urban clinic and the Fee-For-Service (FFS) delivery system;
  - (iii) Continuity of care that is not in conflict with any section of 410-141-0060 or this rule. Participation in the Oregon Health Plan, including managed care, does not guarantee that any Oregon Health Plan member has a right to continued care or treatment by a specific provider. A request for disenrollment based on continuity of care shall be denied if the basis for this request is primarily for the convenience of an Oregon Health Plan member or a provider of a treatment, service, or supply, including, but not limited to, a decision of a provider to participate or decline to participate in a PHP;
  - (iv) As specified in ORS 414.645, the Authority may approve the transfer of 500 or more members from one PHP to another PHP if:
    - (I) The members' provider has contracted with the receiving PHP and has stopped accepting patients from or has terminated providing services to members in the transferring PHP; and
    - (II) Members are offered the choice of remaining enrolled in the transferring PHP; and
    - (III) The member and all family (case) members shall be transferred to the provider's new PHP;
    - (IV) The transfer shall take effect when the provider's contract with their current PHP contractual relationship ends, or on a date approved by the Division.
    - (V) Members may not be transferred under section 2(E)(vi) until the Division has evaluated the receiving PHP and determined that the PHP meets criteria established by the Division as stated in rule, including, but not limited to, ensuring that the PHP maintains a network of providers sufficient in numbers, areas of practice, and geographically distributed in a manner to ensure that the health services provided under the contract are reasonably accessible to members; and
    - (VI) The Division shall provide notice of a transfer to members that will be affected by the transfer at least 90 days before the scheduled date of the transfer.

(G) Members whose request for disenrollment is denied shall receive notice in accordance with OAR 410-141-0263 and 410-141-3263 of their right to file a grievance or request a hearing over the denial.

(c) If the following conditions are met:

(A) The applicant is in the third trimester of her pregnancy and has just been determined eligible for OHP, or the OHP client has just been re-determined eligible and was not enrolled in a PHP within the past 3 months; and

(B) The new PHP the member is enrolled with does not contract with the member's current OB provider, and the member wishes to continue obtaining maternity services from that non-participating OB provider; and

(C) The request to change PHP or return to FFS is made prior to the date of delivery.

(d) For purposes of a member's right to file a grievance or request a hearing, disenrollment does not include the following:

(A) Transfer of a member from a PHP to a CCO or DCO.

(B) Involuntary transfer of a member from a PHP to another PHP; or

(C) Automatic enrollment of a member in a PHP.

(e) Member disenrollment requests are subject to the following requirements:

(A) The member shall join another PHP unless the member resides in a service area where enrollment is voluntary, or the member meets the exemptions to enrollment as stated in 410-141-0060(4), and the member meets disenrollment criteria state in 42 CFR 438.56(c)(2), or there isn't another PHP in the service area;

(B) The effective date of disenrollment shall be the end of the month in which disenrollment was requested unless the Division approves retroactively;

(C) If the Division fails to make a disenrollment determination by the first day of the second month following the month in which the member files a request for disenrollment, the disenrollment is considered approved.

(3) The PHP may not disenroll members solely for the following reasons:

(a) Because of a physical, intellectual, developmental, or mental disability;

(b) Because of an adverse change in the member's health;

(c) Because of the member's utilization of services, either excessive or lack thereof;

- (d) Because the member requests a hearing;
  - (e) Because the member exercises their option to make decisions regarding their medical care with which the PHP disagrees;
  - (f) Because of uncooperative or disruptive behavior resulting from the member's special needs.
- (4) Subject to applicable disability discrimination laws, the Division may disenroll members for cause when the PHP requests it for cause, which includes, but is not limited to, the following:
- (a) Member commits fraudulent or illegal acts related to the member's participation in the OHP such as: permitting the use of their medical ID card by others, altering a prescription, theft, or other criminal acts. The PHP shall report any illegal acts to law enforcement authorities and, if appropriate, to DHS Fraud Investigations Unit at 1-888-Fraud01 (1-888-372-8301) or <http://www.oregon.gov/DHS/aboutdhs/fraud/> as appropriate, consistent with 42 CFR 455.13;
  - (b) Member became eligible through a hospital hold process and placed in the Adults and Couples category as required under 410-141-0060(4).
  - (c) Requests by the PHP for routine disenrollment of specific members shall include the following procedures to be followed and documented prior to requesting disenrollment of a member:
    - (A) A request shall be submitted in writing to the Coordinated Account Representative (CAR). The PHP shall document the reasons for the request, provide written evidence to support the basis for the request, and document that attempts at intervention were made.
    - (B) There shall be notification from the provider to the PHP at the time the problem is identified. The notification shall describe the problem and allow time for appropriate resolution by the PHP. Such notification shall be documented in the member's clinical record. The PHP shall conduct provider education or training regarding the need for early intervention, disability accommodation, and the services available to the provider;
    - (C) The PHP shall contact the member either verbally or in writing if it is a severe problem to inform the member of the problem that has been identified and attempt to develop an agreement with the member regarding the issue(s). Any contact with the member shall be documented in the member's clinical record. The PHP shall inform the member that their continued behavior may result in disenrollment from the PHP;
    - (D) The PHP shall provide individual education, disability accommodation, counseling, and other interventions with the member in a serious effort to resolve the problem;
    - (E) The PHP shall contact the member's care team regarding the problem and, if needed and with the agreement of the member, involve the care team and other appropriate individuals working with the member in the resolution within the laws governing confidentiality;

(F) If the severity of the problem warrants, the PHP shall develop a care plan that details how the problem is going to be addressed and coordinate a care conference with the member, their care team, and other individuals chosen by the member. If necessary, the PHP shall obtain an authorization for release of information from the member for the providers and agencies in order to involve them in the resolution of the problem. If the release is verbal, it shall be documented in the member's record;

(G) The PHP shall submit any additional information or assessments requested by the Division CAR;

(H) The Authority shall notify the member in writing of a disenrollment made as defined in the section above;

(I) If the member's behavior is uncooperative or disruptive including, but not limited to, threats or acts of physical violence, as the result of his or her special needs or disability, the PHP shall also document each of the following:

(i) A written description of the relationship of the behavior to the special needs or disability of the individual and whether the individual's behavior poses a direct threat to the health or safety of others. Direct threat means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures. In determining whether a member poses a direct threat to the health or safety of others, the PHP shall make an individualized assessment based on reasonable judgment that relies on current medical knowledge or best available objective evidence to ascertain the nature, duration, and severity of the risk to the health or safety of others; the probability that potential injury to others shall actually occur; and whether reasonable modifications of policies, practices, or procedures shall mitigate the risk to others;

(ii) A PHP-staffed interdisciplinary team review that includes a mental health professional or behavioral specialist and other health care professionals who have the appropriate clinical expertise in treating the member's condition to assess the behavior, the behavioral history, and previous history of efforts to manage behavior;

(iii) If warranted, a clinical assessment of whether the behavior will respond to reasonable clinical or social interventions;

(iv) Documentation of any accommodations that have been attempted and why the accommodations haven't worked;

(v) Documentation of the PHP's rationale for concluding that the member's continued enrollment in the PHP seriously impairs the PHP's ability to furnish services to either this particular member or other members.

(vi) If a Primary Care Provider (PCP) terminates the member as a patient, the PHP shall attempt to locate another PCP on their panel who will accept the member as their patient. If needed, the PHP shall obtain an authorization for release of information from the member in order to share

the information necessary for a new provider to evaluate whether they can treat the member. All terminations of members as patients shall be according to the PHP's policies and shall be consistent with PHP or PCP's policies for commercial members and with applicable disability discrimination laws. The PHP shall determine whether the PCP's termination of the member as a patient is based on behavior related to the member's disability and shall provide education to the PCP about disability discrimination laws.

(d) In addition to the requirements as stated above, requests by the PHP for an exception to the routine disenrollment process shall include the following:

(A) In accordance with 42 CFR 438.56, the PHP shall submit a request in writing to the CAR for approval. An exception to the disenrollment process may only be requested for members who have committed an act of or made a credible threat of physical violence directed at a health care provider, the provider's staff, other patients, or the PHP's staff so that it seriously impairs the PHP's ability to furnish services to either this particular member or other members. A credible threat means that there is a significant risk that the member will cause grievous physical injury to others (including, but not limited to, death) in the near future, and that risk cannot be eliminated by a modification of policies, practices, or procedures. The PHP shall document the reasons for the request and provide written evidence to support the basis for the request prior to requesting an Exception to the Disenrollment Process of a Member:

(B) The provider shall immediately notify the PHP about the incident with the member. The notification shall describe the problem and shall be maintained for documentation purposes;

(C) The PHP shall attempt and document contact with the member and their care team regarding the problem and, if needed, involve the care team and other appropriate individuals in the resolution within the laws governing confidentiality;

(D) The PHP shall provide any additional information requested by the CAR, the Authority, or Department of Human Services assessment team;

(E) If the member's behavior could reasonably be perceived as the result of his or her special needs or disability, the PHP shall also document each of the following:

(i) A written description of the relationship between the behavior to the special needs or disability of the individual and whether the individual's behavior poses a credible threat of physical violence as defined above;

(ii) In determining whether an member poses a credible threat to the health or safety of others, the PHP shall make an individualized assessment based on reasonable judgment that relies on current medical knowledge or best available objective evidence to ascertain the nature, duration, and severity of the risk to the health or safety of others; the probability that potential injury to others will actually occur; and whether reasonable modifications of policies, practices, or procedures will mitigate the risk to others;

(F) Documentation shall exist that verifies the provider or PHP immediately reported the incident to law enforcement. The PHP shall submit a copy of the police report or case number. If a report

is not available, submit a signed entry in the OHP member's clinic record documenting the report to law enforcement or other reasonable evidence;

(G) Documentation shall exist that verifies what reasonable modifications were considered and why reasonable modifications of policies, practices, or procedures will not mitigate the risk to others;

(H) Documentation shall exist that verifies any past incidents and attempts to accommodate similar problems with this member;

(I) Documentation shall exist that verifies the PHP's rationale for concluding that the member's continued enrollment in the PHP seriously impairs the PHP's ability to furnish services to either this particular member or other members.

(e) Approval or denial of disenrollment requests shall include the following:

(A) If there is sufficient documentation, the request shall be evaluated by the PHP's CAR, or a team of CARs who may request additional information from Ombudsman Services, AMH, or other agencies as needed. If the request involves the member's mental health condition or behaviors related to substance abuse, the CAR shall also confer with the AMH's substance use disorder specialist;

(B) In cases where the member is also enrolled in the PHP's Medicare Advantage plan, the PHP shall provide proof to the Division of CMS' approval to disenroll the member. If approved by the Division, the date of disenrollment from both plans shall be the disenrollment date approved by CMS;

(C) If there is not sufficient documentation, the CAR shall notify the PHP within two (2) business days of initial receipt what supporting documentation is needed for final consideration of the request;

(D) The CARs shall review the request and notify the PHP of the decision within ten working days of receipt of sufficient documentation from the PHP.

(E) Written decisions, including reasons for denials, shall be sent to the PHP within 15 working days from receipt of request and sufficient documentation from the CAR.

(5) The following procedures apply to all denied disenrollment requests:

(a) The CAR shall send the member a notice within five (5) days after the decision for denial with a copy to the PHP and the member's care team.

(b) The notice shall give the reason for the denial of the disenrollment request, and the notice of a member's right to file a complaint (as specified in 410-141-0260 through 410-141-0266) and to request an administrative hearing in accordance with 42 CFR 438.56.

(c) Written decisions, including the reason for denials, shall be sent to the PHP within 15 working days from receipt of request and sufficient documentation from the CAR.

(6) The following procedures apply to all approved disenrollment requests:

(a) The CAR shall send the member a notice within five days after the request was approved with a copy to the PHP and the member's care team.

(b) The notice shall give the disenrollment date, the reason for disenrollment, and the notice of the member's right to file a complaint (as specified in 410-141-0260 through 410-141-0266) and to request an administrative hearing and the option to continue enrollment in the PHP pending the outcome of the hearing, in accordance with 42 CFR 438.420. If the member requests a hearing, the disenrollment will proceed unless the member requests continued enrollment, pending a decision:

(c) The disenrollment effective date will be ten calendar days after the disenrollment notice is sent to the member, unless the member requests a hearing and ongoing enrollment, pending a hearing decision. The disenrollment will take effect immediately upon the issuing of a hearing officer's decision to uphold disenrollment.

(d) If disenrollment is approved, the CAR shall contact the member's care team to arrange enrollment in a different plan. The Division may require the member to obtain services from FFS providers or a PCM until such time as they can be enrolled with another PHP;

(e) If no other PHP is available to the member, the member will be exempt from enrollment in that type of managed care plan for 12 months. If a member who has been disenrolled for cause is re-enrolled in the PHP, the PHP may request a disenrollment review by the CAR. A member may not be involuntarily disenrolled from the same PHP for a period of more than 12 months. If the member is re-enrolled after the 12-month period and the PHP again requests disenrollment for cause, the request shall be referred to the OHA assessment team for review.

(7) Other reasons for the PHP's request for disenrollment shall include the following:

(a) If the member is enrolled in the PHP on the same day the member is admitted to the hospital, the PHP shall be responsible for said hospitalization. If the member is enrolled after the first day of the inpatient stay, the member shall be disenrolled and enrolled on the next available enrollment date following discharge from inpatient hospital services;

(b) The member has surgery scheduled at the time their enrollment is effective with the PHP, the provider is not on the PHP's provider panel, and the member wishes to have the services performed by that provider;

(c) The Medicare member is enrolled in a Medicare Advantage plan and was receiving hospice services at the time of enrollment in the PHP;

(d) The member had End Stage Renal Disease at the time of enrollment in the PHP;

(e) Excluding the DCOs, if the PHP determines that the member has Third Party Liability (TPL), the PHP will contact the Health Insurance Group (HIG) to request disenrollment;

(f) If a PHP has knowledge of a member's change of address, the PHP shall notify the member's care team. The care team shall verify the address information and disenroll the member from the PHP, if the member no longer resides in the PHP's service area. Members shall be disenrolled if out of the PHP's service area for more than three (3) months, unless previously arranged with the PHP. The effective date of disenrollment shall be the date specified by the Division and if a partial month remains, the Division shall recoup the balance of that month's capitation payment from the PHP;

(g) The member is an inmate who is serving time for a criminal offense or confined involuntarily in a state or federal prison, jail, detention facility, or other penal institution. This does not include members on probation, house arrest, living voluntarily in a facility after their case has been adjudicated, infants living with an inmate, or inmates who become inpatients. The PHP is responsible for identifying the members and providing sufficient proof of incarceration to the Division for review of the disenrollment request. The Division shall approve requests for disenrollment from PHPs for members who have been taken into custody; [k1]

(h) The member is in a state psychiatric institution.

(8) The Division has authority to initiate and disenroll members as follows:

(a) If informed that a member has a third party insurer (TPL), the Division shall refer the case to the HIG for investigation and possible exemption from PHP enrollment. The Division shall disenroll members who have TPL effective the end of the month in which HIG makes such a determination. In some situations, the Division may approve retroactive disenrollment;

(b) If the member moves out of the PHP's service area(s), the effective date of disenrollment shall be the date specified by the Division, and the Division shall recoup the balance of that month's capitation payment from the PHP;

(c) If the member is no longer eligible for the Oregon Health Plan, the effective date of disenrollment shall be the date specified by the Division;

(d) If the member dies, the last date of enrollment shall be the date of death.

(9) Unless specified otherwise in these rules or in the Division notification of disenrollment to the PHP, all disenrollments are effective the end of the month the Authority approves the request with the following exceptions:

(a) The Authority may retroactively disenroll or suspend enrollment when the member is incarcerated. The effective date shall be the date the member is taken into custody.

(b) The Authority may retroactively disenroll enrollment if the member has TPL pursuant to this rule. The effective date shall be the end of the month in which HIG makes the determination.

Stat. Auth.: ORS 413.042, 414.645, 414.647

Stats. Implemented: ORS 414.065, 414.645, 414.647

**410-141-3080**

**REWRITTEN**

**Disenrollment from Coordinated Care Organizations**

(1) All member-initiated requests for disenrollment from a Coordinated Care Organization (CCO) or Dental Care Organization (DCO) shall be initiated orally or in writing by the primary person in the benefit group enrolled with a CCO or DCO, where primary person and benefit group are defined in OAR 461-001-0000, 461-001-0035, and 461-110-0750, respectively. For members who are not able to request disenrollment on their own, the request may be initiated by the member's representative.

(2) In accordance with 42 CFR 438.56(c)(2), the Authority, CCO, or DCO shall honor a member or representative request for disenrollment for the following:

(a) Without cause:

(A) Newly eligible members may change their CCO or DCO assignment within 12 months following the date of initial enrollment. The effective date of disenrollment shall be the first of the month following the Division's approval of disenrollment;

(B) At least once every 12 months;

(C) Existing members may change their CCO or DCO assignment within 30 days of the Authority's automatic assignment or reenrollment in a CCO or DCO;

(D) In accordance with ORS 414.645, members may disenroll from a CCO or DCO during their redetermination (enrollment period) or one additional time during their enrollment period based on the member's choice and with Authority approval. The disenrollment shall be considered "recipient choice."

(b) With cause:

(A) At any time;

(B) Due to moral or religious objections, the CCO or DCO does not cover the service the member seeks;

(C) When the member needs related services (for example a cesarean section and a tubal ligation) to be performed at the same time, not all related services are available within the network, and the member's primary care provider or another provider determines that receiving the services separately would subject the member to unnecessary risk; or

(D) Other reasons including, but not limited to, poor quality of care, lack of access to services covered under the contract, or lack of access to participating providers who are experienced in dealing with the member's health care needs. Examples of sufficient cause include, but are not limited to:

(i) The member moves out of the CCO or DCO's service area;

(ii) The member is a Native American or Alaskan Native with Proof of Indian Heritage who wishes to obtain primary care services from his or her Indian Health Service facility, tribal health clinic/program, or urban clinic and the Fee-For-Service (FFS) delivery system;

(iii) Continuity of care that is not in conflict with any section of OAR 410-141-3060 or this rule. Participation in OHP, including coordinated care or dental care, does not guarantee that any OHP member has a right to continued care or treatment by a specific provider. A request for disenrollment based on continuity of care shall be denied if the basis for this request is primarily for the convenience of an OHP member or a provider of a treatment, service, or supply, including, but not limited to, a decision of a provider to participate or decline to participate in a CCO or DCO;

(iv) As specified in ORS 414.645, the Authority may approve the transfer of 500 or more members from one CCO or DCO to another CCO or DCO if:

(I) The member's provider has contracted with the receiving CCO or DCO and has stopped accepting patients from or has terminated providing services to members in the transferring CCO or DCO; and

(II) Members are offered the choice of remaining enrolled in the transferring CCO or DCO; and

(III) The member and all family (case) members shall be transferred to the provider's new CCO or DCO; and

(IV) The transfer shall take effect when the provider's contract with their current CCO or DCO contractual relationship ends, or on a date approved by the Division; and

(V) Members may not be transferred under section 2(E)(vi) until the Division has evaluated the receiving CCO or DCO and determined that the CCO or DCO meets criteria established by the Division as stated in rule including, but not limited to, ensuring that the CCO or DCO maintains a network of providers sufficient in numbers, areas of practice and geographically distributed in a manner to ensure that the health services provided under the contract are reasonably accessible to members; and

(VI) The Division shall provide notice of a transfer to members that will be affected by the transfer at least 90 days before the scheduled date of the transfer.

(E) If a member's disenrollment is denied, notice of denial shall be sent to the member pursuant to OAR 410-141-0263 and 410-141-3263 of their right to file a grievance or request a hearing.

(c) If the following conditions are met:

(A) The applicant is in the third trimester of pregnancy and has just been determined eligible for OHP, or the OHP client has just been re-determined eligible and was not enrolled in a CCO or DCO within the past three months; and

(B) The new CCO or DCO the member is enrolled with does not contract with the member's current OB provider and the member wishes to continue obtaining maternity services from that non-participating OB provider; and

(C) The request to change CCO or DCO or return to FFS is made prior to the date of delivery.

(d) For purposes of a member's right to file a grievance or request a hearing, disenrollment does not include the following:

(A) Transfer of a member from a PHP to a CCO or DCO.

(B) Involuntary transfer of a member from a CCO or DCO to another CCO or DCO; or

(C) Automatic enrollment of a member in a CCO or DCO.

(e) Member disenrollment requests are subject to the following requirements:

(A) The member shall join another CCO or DCO, unless the member resides in a service area where enrollment is voluntary, or the member meets the exemptions to enrollment set forth in OAR 410-141-3060(4) or 410-141-0060(4), the member meets disenrollment criteria state in 42 CFR 438.56(c)(2), or there is not another CCO or DCO in the service area;

(B) The effective date of disenrollment shall be the end of the month in which disenrollment was requested unless the Division approves retroactively;

(C) If the Authority fails to make a disenrollment determination by the first day of the second month following the month in which the member files a request for disenrollment, the disenrollment is considered approved.

(3) The CCO or DCO may not disenroll members solely for the following reasons:

(a) Because of a physical, intellectual, developmental, or mental disability;

(b) Because of an adverse change in the member's health;

(c) Because of the member's utilization of services, either excessive or lack thereof;

(d) Because the member requests a hearing;

(e) Because the member exercises their option to make decisions regarding their medical care with which the CCO or DCO disagrees;

(f) Because of uncooperative or disruptive behavior resulting from the member's special needs.

(4) Subject to applicable disability discrimination laws, the Division may disenroll members for cause when the CCO or DCO requests it for cause, which includes, but is not limited to, the following:

(a) The member commits fraudulent or illegal acts related to the member's participation in the OHP, such as: permitting the use of their medical ID card by others, altering a prescription, theft, or other criminal acts. The CCO or DCO shall report any illegal acts to law enforcement authorities and, if appropriate, to DHS Fraud Investigations Unit at 888-Fraud01 (888-372-8301) or <http://www.oregon.gov/DHS/aboutdhs/fraud/> as appropriate, consistent with 42 CFR 455.13.;

(b) The member became eligible through a hospital hold process and placed in the Adults and Couples category as required under OAR 410-141-3060(4)

(c) Requests by the CCO for routine disenrollment of specific members shall include the following procedures to be followed and documented prior to requesting disenrollment of a member:

(A) A request shall be submitted in writing to the Coordinated Account Representative (CAR). The CCO or DCO shall document the reasons for the request, provide written evidence to support the basis for the request, and document that attempts at intervention were made as described below. The procedures cited below shall be followed and documented prior to requesting disenrollment of a member;

(B) There shall be notification from the provider to the CCO or DCO at the time the problem is identified. The notification shall describe the problem and allow time for appropriate resolution by the CCO or DCO. Such notification shall be documented in the member's clinical record. The CCO or DCO shall conduct provider education or training regarding the need for early intervention, disability accommodation, and the services available to the provider;

(C) The CCO or DCO shall contact the member either verbally or in writing, if it is a severe problem, to inform the member of the problem that has been identified and attempt to develop an agreement with the member regarding the issue. Any contact with the member shall be documented in the member's clinical record. The CCO or DCO shall inform the member that their continued behavior may result in disenrollment from the CCO or DCO;

(D) The CCO or DCO shall provide individual education, disability accommodation, counseling, or other interventions with the member in a serious effort to resolve the problem;

(E) The CCO or DCO shall contact the member's care team regarding the problem and, if needed and with the agreement of the member, involve the care team and other appropriate individuals working with the member in the resolution, within the laws governing confidentiality;

(F) If the severity of the problem warrants, the CCO or DCO shall develop a care plan that details how the problem is going to be addressed and coordinate a care conference with the member, their care team, and other individuals chosen by the member. If necessary, the CCO or DCO shall obtain an authorization for release of information from the member for the providers and agencies in order to involve them in the resolution of the problem. If the release is verbal, it shall be documented in the member's record;

(G) The CCO or DCO shall submit any additional information or assessments requested by the Division CAR;

(H) The Authority shall notify the member in writing of a disenrollment made as defined in the section above;

(I) If the member's behavior is uncooperative or disruptive including, but not limited to, threats or acts of physical violence as the result of his or her special needs or disability, the CCO or DCO shall also document each of the following:

(i) A written description of the relationship of the behavior to the special needs or disability of the individual and whether the individual's behavior poses a direct threat to the health or safety of others. Direct threat means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures. In determining whether a member poses a direct threat to the health or safety of others, the CCO or DCO shall make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or best available objective evidence to ascertain the nature, duration, and severity of the risk to the health or safety of others; the probability that potential injury to others shall actually occur; and whether reasonable modifications of policies, practices, or procedures shall mitigate the risk to others;

(ii) A CCO or DCO-staffed interdisciplinary team review that includes a mental health professional or behavioral specialist and other health care professionals who have the appropriate clinical expertise in treating the member's condition to assess the behavior, the behavioral history, and previous history of efforts to manage behavior;

(iii) If warranted, a clinical assessment of whether the behavior will respond to reasonable clinical or social interventions;

(iv) Documentation of any accommodations that have been attempted and why the accommodations haven't worked;

(v) Documentation of the CCO or DCO's rationale for concluding that the member's continued enrollment in the CCO or DCO seriously impairs the CCO's or DCO's ability to furnish services to either this particular member or other members.

(vi) If a Primary Care Provider (PCP) terminates the provider/patient relationship, the CCO or DCO shall attempt to locate another PCP on their panel who will accept the member as their patient. If needed, the CCO or DCO shall obtain an authorization for release of information from the member in order to share the information necessary for a new provider to evaluate whether they can treat the member. All terminations of provider/patient relationships shall be according to the CCO or DCO's policies and shall be consistent with CCO or DCO or PCP's policies for commercial members and with applicable disability discrimination laws. The CCO or DCO shall determine whether the PCP's termination of the provider/patient relationship is based on behavior related to the member's disability and shall provide education to the PCP about disability discrimination laws.

(d) In addition to the requirements in subsection (c), requests by the CCO or DCO for an exception to the routine disenrollment process shall include the following:

(A) In accordance with 42 CFR 438.56 the CCO or DCO shall submit a request in writing to the CAR for approval. An exception to the disenrollment process may only be requested for members who have committed an act of or made a credible threat of physical violence directed at a health care provider, the provider's staff, other patients, or the CCO or DCO's staff so that it seriously impairs the CCO or DCO's ability to furnish services to either this particular member or other members. A credible threat means that there is a significant risk that the member will cause grievous physical injury to others (including but not limited to death) in the near future, and that risk cannot be eliminated by a modification of policies, practices, or procedures. The CCO or DCO shall document the reasons for the request and provide written evidence to support the basis for the request prior to requesting an exception to the disenrollment process of a member;

(B) Providers shall immediately notify the CCO or DCO about the incident with the member. The notification shall describe the problem and be maintained for documentation purposes;

(C) The CCO or DCO shall attempt and document contact with the member and their care team regarding the problem and, if needed, involve the care team and other appropriate individuals in the resolution, within the laws governing confidentiality;

(D) The CCO or DCO shall provide any additional information requested by the CAR, the Authority, or Department of Human Services assessment team;

(E) If the member's behavior could reasonably be perceived as the result of their special needs or disability, the CCO or DCO shall also document each of the following:

(i) A written description of the relationship between the behavior to the special needs or disability of the individual and whether the individual's behavior poses a credible threat of physical violence as defined in section (2)(b)(C)(i) of this rule;

(ii) In determining whether a member poses a credible threat to the health or safety of others, the CCO or DCO shall make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or best available objective evidence to ascertain the nature, duration, and severity of the risk to the health or safety of others; the probability that potential

injury to others will actually occur; and whether reasonable modifications of policies, practices, or procedures will mitigate the risk to others;

(F) Documentation shall exist that verifies the provider or CCO or DCO immediately reported the incident to law enforcement. The CCO or DCO shall submit a copy of the police report or case number. If a report is not available, submit a signed entry in the member's clinical record documenting the report to law enforcement or other reasonable evidence;

(G) Documentation shall exist that verifies what reasonable modifications were considered and why reasonable modifications of policies, practices, or procedures will not mitigate the risk to others;

(H) Documentation shall exist that verifies any past incidents and attempts to accommodate similar problems with this member;

(I) Documentation shall exist that verifies the CCO or DCO's rationale for concluding that the member's continued enrollment in the CCO or DCO seriously impairs the CCO or DCO's ability to furnish services to either this particular member or other members.

(e) Approval or denial of disenrollment requests shall include the following:

(A) If there is sufficient documentation, the request shall be evaluated by the CCO or DCO's CAR or a team of CARs who may request additional information from Ombudsman Services, AMH, or other agencies as needed. If the request involves the member's mental health condition or behaviors related to substance abuse, the CAR shall also confer with the AMH's substance use disorder specialist;

(B) In cases where the member is also enrolled in the CCO or DCO's Medicare Advantage plan, the CCO or DCO shall provide proof to the Division of CMS' approval to disenroll the member. If approved by the Division, the date of disenrollment from both plans shall be the disenrollment date approved by CMS;

(C) If there is insufficient documentation, the CAR shall notify the CCO or DCO within two business days of initial receipt what supporting documentation is needed for final consideration of the request;

(D) The CARs shall review the request and notify the CCO or DCO of the decision within ten working days of receipt of sufficient documentation from the CCO or DCO.

(E) Written decisions shall be sent to the CCO or DCO within 15 working days from receipt of request and sufficient documentation from the CAR.

(5) The following procedures apply to all denied disenrollment requests:

(a) The CAR shall send the member a notice within five days after the decision for denial with a copy to the CCO or DCO and the member's care team.

(b) The notice shall give the disenrollment date, the reason for disenrollment, and the notice of the member's right to file a complaint (as specified in 410-141-0260 through 410-141-0266) and to request an administrative hearing and the option to continue enrollment in the PHP pending the outcome of the hearing, in accordance with 42 CFR 438.420. If the member requests a hearing, the disenrollment will proceed unless the member requests continued enrollment, pending a decision:

(c) If disenrollment is approved, the CAR shall contact the member's care team to arrange enrollment in a different plan. The Division may require the member to obtain services from FFS providers or a PCM until such time as they can be enrolled with another CCO or DCO;

(d) If no other CCO or DCO is available to the member, the member will be exempt from enrollment in that type of managed care plan for 12 months. If a member who has been disenrolled for cause is re-enrolled in the CCO or DCO, the CCO or DCO may request a disenrollment review by the CAR. A member may not be involuntarily disenrolled from the same CCO or DCO for a period of more than 12 months. If the member is re-enrolled after the 12-month period and the CCO or DCO again requests disenrollment for cause, the request shall be referred to the OHA assessment team for review.

(6) The following procedures apply to all approved disenrollment requests:

(a) The CAR shall send the member a notice within five days after the request was approved with a copy to the CCO or DCO and the member's care team.

(b) The notice shall give the disenrollment date, the reason for disenrollment, and the notice of member's right to file a complaint (as specified in OAR 410-141-3260 through 410-141-3266) and to request an administrative hearing and the option to continue enrollment in the CCO or DCO pending the outcome of the hearing, in accordance with 42 CFR 438.420. If the member requests a hearing, the disenrollment shall proceed unless the member requests continued enrollment pending a decision:

(c) The disenrollment effective date will be ten calendar days after the disenrollment notice is sent to the member, unless the member requests a hearing and ongoing enrollment pending a hearing decision. The disenrollment shall become effective immediately upon the issuing of an Administrative Law Judge's decision to uphold disenrollment.

(d) If disenrollment is approved, the CAR shall contact the member's care team to arrange enrollment in a different plan. The Division may require the member to obtain services from FFS providers or a PCM until such time as they can be enrolled with another CCO or DCO;

(e) If no other CCO or DCO is available to the member, the member shall be exempt from enrollment in that type of managed care plan for 12 months. If a member who has been disenrolled for cause is re-enrolled in the CCO or DCO, the CCO or DCO may request a disenrollment review by the CAR. A member may not be involuntarily disenrolled from the same CCO or DCO for a period of more than 12 months. If the member is re-enrolled after the

12-month period and the CCO or DCO or the member again requests disenrollment for cause, the request shall be referred to the Authority's assessment team for review.

(7) Other reasons for the CCO or DCO's requests for disenrollment may include the following:

(a) If the member is enrolled in the CCO or DCO on the same day the member is admitted to the hospital, the CCO or DCO shall be responsible for the hospitalization. If the member is enrolled after the first day of the inpatient stay, the member shall be disenrolled and enrolled on the next available enrollment date following discharge from inpatient hospital services;

(b) The member has surgery scheduled at the time their enrollment is effective with the CCO or DCO, the provider is not on the CCO or DCO's provider panel, and the member wishes to have the services performed by that provider;

(c) The Medicare member is enrolled in a Medicare Advantage plan and was receiving hospice services at the time of enrollment in the CCO or DCO;

(d) Excluding the DCOs, if the CCO determines that the member or MHO member has Third Party Liability (TPL), the CCO will contact the Health Insurance Group (HIG) to request disenrollment;

(e) If a CCO or DCO has knowledge of a member's change of address, the CCO or DCO shall notify the member's care team. The care team shall verify the address information and disenroll the member from the CCO or DCO, if the member no longer resides in the CCO or DCO's service area. Members shall be disenrolled if out of the CCO or DCO's service area for more than three months, unless previously arranged with the CCO or DCO. The effective date of disenrollment shall be the date specified by the Division, and if a partial month remains, the Division shall recoup the balance of that month's capitation payment from the CCO or DCO;

(f) The member is an inmate who is serving time for a criminal offense or confined involuntarily in a state or federal prison, jail, detention facility, or other penal institution. This does not include members on probation, house arrest, living voluntarily in a facility after their case has been adjudicated, infants living with an inmate, or inmates who become inpatients. The CCO or DCO shall identify the members and provide sufficient proof of incarceration to the Division for review of the disenrollment request. The Division shall approve requests for disenrollment from CCO or DCOs for members who have been taken into custody;

(g) The member is in a state psychiatric institution.

(8) The Division may initiate and disenroll members as follows:

(a) If informed that a member has TPL, the Division shall refer the case to the HIG for investigation and possible exemption from CCO or DCO enrollment. The Division shall disenroll members who have TPL effective the end of the month in which HIG makes such a determination. In some situations, the Division may approve retroactive disenrollment;

(b) If the member moves out of the CCO or DCO's service area, the effective date of disenrollment shall be the date specified by the Division, and the Division shall recoup the balance of that month's capitation payment from the CCO or DCO;

(c) If the member is no longer eligible for OHP, the effective date of disenrollment shall be the date specified by the Division;

(d) If the member dies, the last date of enrollment shall be the date of death.

(9) Unless specified otherwise in these rules or in the Division notification of disenrollment to the CCO or DCO, all disenrollments are effective the end of the month the Authority approves the disenrollment with the following exceptions;

(a) The Authority may retroactively disenroll or suspend enrollment when the member is incarcerated. The effective date shall be the date the member is taken into custody.

(b) The Authority may retroactively disenroll enrollment if the member has TPL pursuant to this rule. The effective date shall be the end of the month in which HIG makes the determination.

Stat. Auth.: ORS 413.042, 414.645, 414.647

Stats. Implemented: ORS 414.065, 414.645, 414.647