

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form.

Oregon Health Authority, Division of Medical Assistance Programs (Division)	410	
Agency and Division	Administrative Rules Chapter Number	
Sandy Cafourek Sandy C	500 Summer St NE, Salem, OR 97301	503-945-6430
Rules Coordinator	Address	Telephone

RULE CAPTION

Requirements for CCO Appeal

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

June 15, 2016	10:30 a.m.	500 Summer St NE, Salem, OR 97301, Room 137B	Sandy Cafourek
Hearing Date	Time	Location	Hearings Officer

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND: OAR 410-141-3262

REPEAL:

RENUMBER:

AMEND & RENUMBER:

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

Other Auth.:

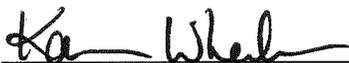
Stats. Implemented: ORS 414.610 – 414.685

RULE SUMMARY

This rule pertains to the Grievance System rules as required by 42 CR 438.420. This rule is the framework and guidance for the CCOs with which to administer the appeals process as required in CFR within the managed care delivery system. Revision of this rule provides clarification in the language for a standard appeal. An oral appeal request must be followed up by a written request. We have also provided clarification language regarding what happens should a member fail to follow up a standard oral request for an appeal with a written request. The Authority has also aligned the CCO language with the Medicare language—timelines for standard resolution of an appeal, changing from 16 days to 14 days.

The Authority requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

June 17, 2016 *by 5 p.m.* Send comments to dmap.rules@state.or.us
Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

	<i>Karen Wheeler</i>	<i>4/7/16</i>
Signature	Printed name	Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Health Authority, Division of Medical Assistant Programs (Division)

410

Agency and Division

Administrative Rules Chapter Number

Requirements for CCO Appeal

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: The amendment of OAR 410-141-3262

Statutory Authority: ORS 413.042, 414.615, 414.625, 414.635, 414.651

Other Authority:

Stats. Implemented: ORS 414.610 – 414.685

Need for the Rule(s): This rule pertains to the Grievance System rules as required by 42 CR 438.420. This rule is the framework and guidance for the CCOs with which to administer the appeals process as required in CFR within the managed care delivery system. Clarification has been provided in the language for a standard appeal request. An oral appeal request must be followed up by a written request. We have also provided clarification language regarding what happens should a member fail to follow up a standard oral request for an appeal with a written request. The Authority has also aligned the CCO language with the Medicare language—timelines for standard resolution of an appeal, changing from 16 days to 14 days.

Documents Relied Upon, and where they are available: None

Fiscal and Economic Impact: The Authority does not anticipate additional fiscal impact on the Authority, other state agencies, local government, clients, the public, or small businesses.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government, and the public (ORS 183.335(2)(b)(E)): None anticipated.
- 2. Cost of compliance effect on small business (ORS 183.336):
 - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: None anticipated
 - b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: None anticipated
 - c. Equipment, supplies, labor and increased administration required for compliance: Amending these rules will not add additional reporting, record keeping or other administrative activities.

How were small businesses involved in the development of this rule? Small businesses were invited to participate in the RAC

Administrative Rule Advisory Committee consulted?: Yes, 3/10/16. If not, why?:


Signature

Karen Wheeler
Printed name

4/7/16
Date

410-141-3262

Requirements for CCO Appeal

(1) A member, their representative, or a subcontractor/provider with the member's consent, who disagrees with a notice of action (notice), has the authority to file an appeal with their CCO.

(2) For purposes of this rule, an appeal includes a request from the Division to the CCO for review of action.

(3) The member may request an appeal either orally or in writing directly to their CCO for any action by the CCO. Unless the member requests an expedited resolution, the member must follow an oral filing with a written, signed, and dated appeal. If the member files an oral appeal, the CCO must send the member an appeal request form.

(4) The member must file the appeal no later than 45 calendar days from the date on the notice.

(5) If after filing an oral appeal, a member does not submit a written appeal request within the appeals timeframe, the appeal will expire.

(6) The CCO does not need to notify the member if the CCO has already made attempts to assist the member in filling out the necessary forms to file a written appeal as required by rule.

(57) The CCO ~~must~~ shall have written policies and procedures for handling appeals that:

(a) Address how the CCO will accept, process, and respond to such appeals, including how the CCO will acknowledge receipt of each appeal;

(b) Ensure that members who receive a notice are informed of their right to file an appeal and how to do so;

(c) Ensure that each appeal is transmitted timely to staff having authority to act on it;

(d) Consistent with confidentiality requirements, ensure that the CCO's staff person who is designated to receive appeals begins to obtain documentation of the facts concerning the appeal upon receipt of the appeal;

(e) Ensure that each appeal is investigated and resolved in accordance with these rules; and

(f) Ensure that the individuals who make decisions on appeals are:

(A) Not involved in any previous level of review or decision making; and

(B) Health care professionals who have the appropriate clinical expertise in treating the member's condition or disease if an appeal of a denial is based on lack of medical appropriateness or if an appeal involves clinical issues;

(g) Include a provision that the CCO must document appeals in an appeals log maintained by the CCO that complies with OAR 410-141-3260 and consistent with contractual requirements;

(h) Ensure oral requests for appeal of an action are treated as appeals to establish the earliest possible filing date for the appeal; and

(i) Ensure the member is informed that they ~~member must~~ file in writing unless the person filing the appeal requests expedited resolution;

(j) Provide the member a reasonable opportunity to present evidence and allegations of fact or law in person as well as in writing;

(k) Provide the member an opportunity before and during the appeals process to examine the member's file, including medical records and any other documents or records to be considered during the appeals process.

(68) Parties to the appeal ~~Include~~include:

(a) The CCO;

(b) The member and the member's representative, if applicable;

(c) The legal representative of a deceased member's estate.

(79) The CCO ~~must~~ shall resolve each appeal and provide the member and their representative with a notice of appeal resolution as expeditiously as the member's health condition requires and within the following periods for:

(a) Standard resolution of appeal: No later than ~~46~~14 calendar days from the day the CCO receives the appeal;

(b) Expedited resolution of appeal (when granted by the CCO): No later than three working days from the date the CCO receives the appeal. In addition, the CCO must:

(A) Inform the member and their representative of the limited time available;

(B) Make reasonable efforts to call the member to tell them of the resolution within three calendar days after receiving the request; and

(C) Mail written confirmation of the resolution to the member within three calendar days;

(c) In accordance with 42 CFR 438.408, the CCO may extend these timeframes from subsections (a) or (b) of this section up to 14 calendar days if:

(A) The member or their representative requests the extension; or

(B) The CCO shows (to the satisfaction of the Division's Hearing Unit, upon its request) that there is need for additional information and how the delay is in the member's interest;

(C) If the CCO extends the timeframes, it must for any extension not requested by the member, give the member or their representative written notice of the reason for the delay.

(810) For all appeals, the CCO must provide written notice of appeal resolution to the member and also to their representative when the CCO knows there is a representative for the member.

(911) The written notice of appeal resolution must include the following information:

(a) The results of the resolution process and the date the CCO 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) Unless the appeal was referred to the CCO from the Division as part of a contested case hearing process, the right to request a hearing and how to do so;

(C) The right to request to receive benefits while the hearing is pending and how to do so; and

(D) That the member may be held liable for the cost of those benefits if the hearing decision upholds the CCO's Action.

(1012) Unless the appeal was referred to the CCO as part of a contested case hearing process, a member may request a hearing not later than 45 calendar days from the date on the Notice of Appeal Resolution.

(1113) If the appeal was referred to the CCO from the Division as part of a contested case hearing process, within two business days from the date of the appeal resolution, the CCO must transmit the:

- (a) Notice of Appeal Resolution; and
- (b) Complete record of the appeal to the Division's Hearings Unit.

(1214) If the appeal was made directly by the member or their representative, and the Notice of Appeal Resolution was not favorable to the member, the CCO must, if a contested case hearing is requested, submit the record to the Division's Hearings Unit within two business days of the Division's request.

(1315) Documentation:

(a) The CCO's records must include, at a minimum, a log of all appeals received by the CCO and contain the following information:

- (A) Member's name and Medical Care ID number;
- (B) Date of the Notice;
- (C) Date and nature of the appeal;
- (D) Whether continuing benefits were requested and provided; and
- (E) Resolution and resolution date of the appeal;

(b) The CCO ~~must~~ shall maintain a complete record for each appeal included in the log for no less than 45 days to include:

- (A) Records of the review or investigation; and
- (B) Resolution, including all written decisions and copies of correspondence with the member;

(c) The CCO ~~must~~ shall review the written appeals log on a monthly basis for:

- (A) Completeness;
- (B) Accuracy;
- (C) Timeliness of documentation;
- (D) Compliance with written procedures for receipt, disposition, and documentation of appeals; and

(E) Compliance with OHP rules.

(d) The CCO ~~must~~ shall address the analysis of appeals in the context of quality improvement activity consistent with OAR 410-141-3200—Outcome and Quality Measures ~~OHP CCO Quality Improvement System~~ and 410-141-3260—Grievance System: Grievances, Appeals and Contested Case Hearings ~~General Requirements for CCO Grievance System~~;

(e) The CCO ~~must~~ shall have written policies and procedures for the review and analysis of all appeals received by the CCO. The analysis of the grievance system must be reviewed by the CCO's Quality Improvement Committee consistent with contractual requirements and comply with the quality improvement standards.

Stat. Auth.: ORS 413.032

Stats. Implemented: ORS 414.065