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| ST. JOSEPH'S HEALTH A Member of Trinity Health<br>ST PETER'S HEALTH PARTNERS A Member of Trinity Health | **Effective Date:** September 1, 2026 |

**Category:** **C. Care Coordination**

**Title:** **7. Notice of Determination and Fair Hearing**

**Applies to:**

☐ St. Peter's Health Partners (SPHP)

☐ All SPHP Component Corporations **OR** ☐ Only the following Component Corporations: (Click here for a list)
☐ _____

☐ All SPHP Affiliates **OR** only the following Affiliates: (Click here for a list)
☒ **All Community Health Connections Care Management Agencies**

☐ St. Peter's Health Partners Medical Associates (SPHPMA)

## Contents

## PURPOSE

This policy seeks to ensure that Health Home Candidates and Members are provided with timely notifications of decisions regarding enrollment in the program, denial of enrollment and disenrollment as well as the Candidate or Member's right to seek a Fair Hearing to dispute the decision, if desired.

## POLICY STATEMENTS

In accordance with New York State Department of Health (NYSDOH) policies, Candidates and Members must be notified when decisions are made regarding their enrollment status in the program. Candidates and Members must be provided timely notification of these decisions that includes their rights to challenge any decisions made regarding enrollment status via a Fair Hearing.

## SCOPE OF AUTHORITY / COMPETENCY

All Care Management Agencies that comprise the Community Health Connections Health Home program.

## DEFINITIONS

***DOH 5234:*** Notice of Determination for Enrollment in the New York State Health Home Program; used when a Member is newly enrolled in the Health Home program; should be reviewed with the Member with the Welcome Letter/Member Bill of Rights

***DOH 5235:*** Notification of Disenrollment in the Health Home Program; the State developed form that must be completed and sent to a Member prior to his or her case closing due to Health Home ineligibility or inappropriateness or the Member being lost to contact

***DOH 5236:*** Notice of Determination for Denial of Enrollment in the New York State Health Home Program; used when a Candidate is found to be ineligible or inappropriate for Health Home services

***Health Home Candidate:*** An individual who is in active Client Search (Outreach) status, but who has not yet been enrolled in Health Home services

***Health Home Member:*** An individual who is enrolled in Health Home services

***NYSDOH:*** New York State Department of Health; the regulating State entity for Health Homes

# PROCEDURE

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

1. When engagement efforts are ceased, eligibility and appropriateness have been verified and a Health Home Member moves to enrolled status, the Member must be provided the DOH 5234 within five (5) calendar days of the determination of enrollment.

2. Prior to providing the DOH 5234, the Care Coordinator or another CMA representative must:
   a. fill in all of the information needed on page one (1) of the form (Member information, Health Home information and dates),
   b. sign the bottom of the of page one (1) and
   c. upload a completed copy to the Candidate's chart in CareManager.

3. It is recommended that this notice be provided along with the initial Welcome Letter and Member Bill of Rights. (For more on the Welcome Letter and Bill of Rights, see Policy B3. Health Home Engagement and Enrollment)

4. Upon provision of the DOH 5234 to the Member, the Care Coordinator will educate the Member on their Fair Hearing rights, confirming the mailing address is correct do that future notices and correspondences are received by the Member. In the event that a notice provided via mail is returned with a forwarding address, it must be forwarded to that address provided.

5. If the Candidate chooses to dispute the enrollment and exercise their right to a Fair Hearing, the Member will complete page two (2) of the form and submit it per the instruction on page two (2) within 60 days of the notice date on page one (1). *See Section D of this policy for more on Fair Hearings.*

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

1. When a Candidate has been located and contacted regarding the Health Home program and expresses an interest in enrolling, but is found to be ineligible for the program, the DOH 5236 must be provided within five (5) calendar days of the discovery that the Candidate is ineligible.

2. Prior to providing the DOH 5236, the Care Coordinator or another CMA representative must:
   a. fill in all of the information needed on page one (1) of the form (Member information, Health Home information and dates),

b. indicate the reason the Candidate was determined ineligible by selecting the corresponding checkbox,
c. sign the bottom of the of page one (1) and
d. upload a completed copy to the Candidate's chart in CareManager.

3. Upon provision of the DOH 5236 to the Member, the Care Coordinator will educate the Member on their Fair Hearing rights, confirming the mailing address is correct do that future notices and correspondences are received by the Member. In the event that a notice provided via mail is returned with a forwarding address, it must be forwarded to that address provided.

4. If the Candidate chooses to dispute the denial of enrollment and exercise their right to a Fair Hearing, the Candidate will complete page two (2) of the form and submit it per the instruction on page two (2) within 60 days of the notice date on page one (1). *See Section D of this policy for more on Fair Hearings.*

5. When a Candidate has been located and contacted regarding the Health Home program and is not interested in enrolling in the program, the DOH 5236 is <u>not</u> provided, as the Candidate does not have the right to dispute the decision if s/he made the decision not to enroll.

## *C. Notice of Determination for Disenrollment in the NYS Health Home Program (DOH 5235)*

1. When a Member is disenrolled from the Health Home program due to ineligibility, inappropriateness or loss of contact, the Member must be provided the DOH 5235 at least ten (10) calendar days prior to disenrollment from the program.

2. This notice via the DOH 5235 must be provided to the Member within five calendar days of the CMA's determination that the Member requires disenrollment.

3. Prior to providing the DOH 5235, the Care Coordinator or another CMA representative must:
   a. fill in all of the information needed on page one (1) of the form (Member information, Health Home information and dates),
   b. indicate the reason the Member is being disenrolled by selecting the corresponding checkbox,
   c. sign the bottom of the of page one (1) and
   d. upload a completed copy to the Member's chart in CareManager.

4. Upon provision of the DOH 5235 to the Member, the Care Coordinator will educate the Member on their Fair Hearing rights, confirming the mailing address is correct do that future notices and correspondences are received by the Member. In the event

that a notice provided via mail is returned with a forwarding address, it must be forwarded to that address provided.

5. If the Member chooses to dispute the disenrollment and exercise their right to a Fair Hearing, the Member will complete page two (2) of the form and submit it per the instruction on page two (2) within 60 days of the notice date on page one (1). *See Section D of this policy for more on Fair Hearings.*

6. When a Member's case is being closed and s/he agrees with the closure, the DOH 5235 is not provided, as the Member does not have the right to dispute the decision if s/he made the decision to disenroll from the program.

*Please see Policy C6. Case Closure and Re-engagement for additional case closure requirements.*

## *D. Fair Hearing Procedures*

### Fair Hearing and Notification of Hearing

1. The Fair Hearing process provides Candidates and Members with the opportunity to present evidence in support of reversing a Health Home determination provided via the DOH 5234, DOH 5235 or DOH 5236.

2. Members have sixty (60) calendar days from the date of the Notice of Determination to request a Fair Hearing.

3. If a Fair Hearing is requested and issued, the Health Home and Candidate/Member will receive a Notice of Fair Hearing (OAH-457) from the Office of Temporary and Disability Assistance.

4. The Notice of Fair Hearing will include the Aid status, and if the Health Home / Care Management Agency (CMA) is required to continue providing services unchanged until the Decision After Fair Hearing Notice is issued (Aid Continuing)

5. The Health Home and CMA representatives will attend the Fair Hearing on the scheduled date, time and location as directed on the OAH-457 form.

### Continuing Aid

6. Upon receipt of the OAH-457, the Lead will notify the CMA within 24 business hours. The OAH-457 will provide details including:
   a. the date, time and location of the hearing
   b. the aid status, which will indicate if the Health Home and CMA are being directed to continue providing services until after the hearing and final decision of the hearing is issued.

7. If the requirement in the OAH-457 is for Aid Continuing, the Lead Health Home will make any needed adjustments in MAPP and CareManager so that Health Home services can continue. If Aid Continuing is not granted, the Lead Health Home will ensure the segment in MAPP is pended.

8. The status of Aid Continuing means that services will continue to be provided in the same frequency, scope and duration as prior to the Fair Hearing filing. All Members with Aid Continuing are subjected to all programmatic requirements including but not limited to, annual Assessments and Plan of Care updates, CES Tools and Initial Appropriateness Screenings, as needed.

9. If the Member is found eligible via the CES Tool while waiting for the Fair Hearing (i.e., an outcome of Recommend Continued Services is yielded), a new Notice of Determination is provided and services continue. In these instances, a Pre-Hearing Determination can be filed indicating the Member has received a year of Aid Continuing services and is once again deemed eligible for services. The Member can also withdraw the Fair Hearing request via the Request to Withdraw a Fair Hearing form.

10. If the Member is found to be ineligible at the time of the next CES Tool, (i.e., an outcome of Recommend Disenrollment is yielded), a new Notice of Determination is provided and services continue.

### Requests to Change Health Homes While Awaiting a Fair Hearing

11. If during the time the Member is awaiting a Fair Hearing with Aid Continuing in one Health Home they request enrollment in another Health Home, the receiving Health Home may decide to assess whether the Member is eligible and appropriate for Health Home enrollment. If they choose to proceed and deem the Member eligible and appropriate, they may enroll the Member. If the Member remains enrolled in their current Health Home while awaiting the Fair Hearing with Aid Continuing, they cannot be disenrolled.

12. If the member requests a change in their CMA, the receiving CMA may decide whether to assess the Member's eligibility and appropriateness. If they choose to proceed, and deem the Member eligible and appropriate, the CMA will initiate the Case Transfer process as outlined in Policy C5. Case Transfers.

### Agency Conference

13. If requested by the Candidate/Member, the Lead Health Home will arrange for an agency meeting with the Candidate/Member and any providers or supports the Member wishes to include. During this time, the Candidate/Member will be

permitted to submit information on the dispute and review the rationale for the CMAs decision being disputed.

14. Following the Agency Conference, the Health Home and CMA can withdraw its determination and enroll or re-enroll the Candidate/Member.

15. If the Health Home and CMA decide to uphold the initial determination, the member will still be entitled to have the initial determination reviewed through the Fair Hearing process.

## Pre-hearing Determination

16. If prior to the Fair Hearing being scheduled or held, the Health Home / CMA determines the reason for issuing the NOD to the Member is no longer appropriate or the timeframe for the eligibility determination is expired, the Health Home submits written explanation, including the Fair Hearing number, to the NYS Office of Temporary and Disability Assistance (OTDA) requesting a Pre-Hearing Determination (PHD) to withdraw the action. OTDA notifies the Member and the Health Home advising both parties of the outcome of the Pre-Hearing Determination request. The Health Home is responsible for relaying that information to the Department of Health.

## Examination of Record / Documentation Requests and Requirements

17. Health Homes provide complete copies of its documentary evidence (Evidence Packet) to the Administrative Law Judge (ALJ) at least two (2) business days in advance of the Fair Hearing. The Evidence Packet includes substantiation to support enrollment/disenrollment determinations made by the Health Home (HH)/Children and Youth Evaluation Service (C-YES)/Qualified Individual Identified by the State (QIIS) for success in defending its actions (refer to Definition section for the *Evidence Packet*).

18. Evidence Packets are sent via the Office of Temporary Disability Assistance's (OTDA) secure portal, Upload.NY.gov. Information related to submitting the Evidence Packet to Office of Administrative Hearings (OAH) can be found in the General Information System (GIS) Messages listed in the *Policy and Resource Section*), which can be accessed on the Office of Temporary and Disability Assistance webpage.

19. At any time prior to the conference, the Candidate/Member or his or her authorized representatives have the right to examine the content of the case as documented in CareManager.

20. The Health Home and Care Management Agency must also provide complete copies of documentary evidence to the Candidate/Member the authorized representative within two (2) business days of the Fair Hearing notice.

21. If the Candidate/Member or his/her authorized representative needs additional documentation to prepare for the Fair Hearing, the documentation will be provided by the Lead Health Home within a reasonable timeframe prior to the hearing date.

## Diligent Search

22. If a Member who is awaiting a Fair Hearing disengages from Health Home services, the Member will be placed in Diligent Search Efforts status, in compliance with Policy C6. Case Closure and Re-engagement.

23. If at the end of the DSE period the Member cannot be located, all diligent search efforts must cease per the DSE policy. A new Notice of Determination is not issued. The Member's segment remains pended for Fair Hearing with Aid Continuing based on the reason of the original Notice of Determination until the Fair Hearing is held. The reason for initiating Diligent Search Efforts (DSE), all activities conducted and the outcome are documented in the member's record.

24. The Health Home has the option to submit an Aid Continuing (AC) Challenge request to the NYS Office of Temporary and Disability Assistance (OTDA) in these situations.

## Adjournment and Waiver of Appearance

25. With valid reason, the Lead Health Home will request an adjournment to a hearing by contacting OTDA at 877-209-1134, or online at http://otda.ny.gov/hearings.

26. Under certain circumstances and no later than five (5) calendar days before the hearing date, the Health Home may request a waiver of appearance from OTDA. For example, if the Fair Hearing is called in person and the appearance of the agency (Health Home representative) is neither feasible (location is too distant to attend) nor necessary, they may request a Personal Appearance Waiver.
    a. If OTDA grants this request, the Health Home can submit a written Evidence Packet instead of appearing at the hearing location. Waiver requests will be reviewed and granted on a case-by-case basis. Blanket waivers of appearance are not granted; however, if the agency contact does not receive a telephone call from the Office of Administrative Hearings (OAH) prior to the hearing date indicating otherwise, it is presumed that a waiver has been granted. Even in situations where a waiver of appearance has been granted, the Hearing Officer may require an agency representative to appear or testify during the hearing to protect the due process rights of the Appellant.
    b. The waiver request contains the primary and back-up contact person's names and telephone number/s. The waiver request also contains the Fair Hearing number, date of hearing, and a summary of the specific facts relevant to the issue under review at the hearing.

27. The Health Home will comply with the Fair Hearing Decisions regarding Health Home denials and disenrollment.

28. If the decision is in favor of the Candidate/Member with Aid Continuing, then services continue to be provided to the Member, following all programmatic policies. If the Fair Hearing was heard after the eligibility period, and a new eligibility was conducted with the determination of ineligible, AND the member did not also file a new Fair Hearing with Aid Continuing regarding the new eligibility determination, the member's case is closed.

29. If the decision is in favor of the disenrolled member, the Department notifies the Health Home to open a new enrolled segment effective the first day of the month after which the Decision After Fair Hearing is received, and resume serving the Member. In these instances, the existing consent remains valid.
    a. If the previous Plan of Care was completed within the last three hundred and sixty-five (365) days, it is still active.
    b. Initial appropriateness must be recorded within twenty-eight calendar (28) days of the new active segment.
    c. A new Continued Eligibility for Services (CES) Tool is required three hundred and sixty-five (365) days after opening the new segment.

30. If the decision is not in favor of the Member, then the Member will be disenrolled in accordance with Policy C6. Case Closure and Re-engagement.

31. Health Homes are required to review each Decision After Fair Hearing notification. If the Health Home identifies an error in law or fact, they file a formal request for reconsideration to the NYS Office of Temporary and Disability Assistance (OTDA), with the following:
    a. Identifying Information: Submitter's Name, Health Home (HH) contact information
    b.
    c. Fair Hearing case number
    d. Fair Hearing decision date
    e. Clearly state that the submission is for reconsideration of the Decision After Fair Hearing
    f. Specify the point(s) of law or fact believed to be in error.
    g. Provide and explain all evidence e.g. HH policy, etc. supporting this contention.

32. The Health Home submits their prepared request for reconsideration to the Office of Temporary and Disability Assistance's Litigation Mailbox at: litigationmail.hearings@OTDA.NY.GOV or, fax it to: (518) 473-6735. A copy of the request for reconsideration is also provided the Department via the Department's Fair Hearing Bureau Mail Log (BML).

33. While the reconsideration is under review, the Decision After Fair Hearing remains in effect. The Office of Temporary and Disability Assistance (OTDA) will notify the party of the result of its review, and if applicable, that it is correcting an error of law or fact in the decision, and/or reopening the hearing.

## *E. Tracking and Compliance*

1. During audits, CHC will check for the presence of each of the three DOH required notification forms, as appropriate, and provide feedback via the Annual QMP Report or monthly calls with CMAs.

2. CHC will utilize the Fair Hearing Checklist (Attachment B) to ensure that all required steps are satisfied should a Fair Hearing be requested by any Candidates or Members.

## REFERENCES

New York State Department of Health (November 10, 2017). Health Home Notices of Determination and Fair Hearing Process. (https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/docs/hh0004_fair_hearing_nod_policy.pdf)

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| **Approving Official: Senior Vice President, Population Health, Advocacy** | | **Effective Date: September 1, 2026** |
| **Key Sponsor: Regional Health Home Director** | | |
| **Reviewed By: Regional Health Home Operations Manager** | | **Original Date: May 3, 2021**<br>**Reviewed/Revised Date: September 1, 2026** |
| **Search Terms:** | | ***Reviewed, No Revisions**<br>****Revised without Full Review** |
| **Replaces: Notice of Determination and Fair Hearing (May 3, 2021)**<br>**Notice of Determination and Fair Hearing (January 1, 2024)**<br>**Notice of Determination and Fair Hearing (January 1, 2025)** | | |

# ATTACHMENT A: DOH Required Forms Matrix

| Form | Use of Form | Completion |
|---|---|---|
| **Forms that are signed by Members because THEY are making decisions about their case.** | | |
| DOH 5055: Health Home Patient Information Sharing Consent | Required for enrollment; no exceptions | Page 1 – Member signature, date and date of birth<br>Page 2 – CMA phone number (#2 and #7) and CHC phone number (#5)<br>Page 3 – Member initials and date at the top and each specific provider line completed, initialed and dated |
| **Notification forms signed by Care Coordinator because WE are deciding on their case status based on eligibility/appropriateness. These forms tell Members of their rights to contest the decision (Fair Hearings)** | | |
| DOH 5236: Notification of Denial of Enrollment | Candidate is interested in services and it is determined that they are not eligible or appropriate for the program | • All of page one gets filled out – date, CIN, Member information, reason ineligible (checkbox)<br>• Staff sign this form and send to Candidate – no Candidate signature required! |
| DOH 5234: Notification of Enrollment | When someone is enrolled in the Health Home program; often given with Member Bill of Rights | • All of page one gets filled out – Health Home information (pre-populated), Member information, date enrolled<br>• Staff sign this form and give to Member – Member does not sign! |
| DOH 5235: Notification of Disenrollment | When case is being closed because Member is not eligible or appropriate; Not sent if Member requests the discharge! | • All of page one gets filled out – date, CIN, Member information, reason for closure (checkbox). If the reason for closure is not on the form – this form is likely not appropriate!<br>• Staff sign this form and give to Member TEN DAYS prior to closing case – Member does not sign! |