



Effective Date: January 1, 2024

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 (SHPMA)

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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) business days of the 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. 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) business 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. 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.*

4. 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 not 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) business days prior to disenrollment from the program.
2. 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.
3. 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.*
4. 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.

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 within 60 days of the notice provided via the DOH 5234, DOH 5235 or DOH 5236.
2. 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.

3. 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

4. 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.
5. 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.

Examination of Record / Documentation Requests and Requirements

6. 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.
7. The Health Home and Care Management Agency must also provide complete copies of documentary evidence to the Administrative Law Judge, the Candidate/Member the authorized representative within ten (10) business days of the Fair Hearing notice. This may include but is not limited to the following.
 - a. Signed DOH 5055
 - b. Updated Plan of Care
 - c. Care Note Documentation
 - d. Medical Documentation
 - e. Written Summary of the Case
 - f. Applicable Policy Governing the Programmatic Decision
 - g. Notification Form being Disputed
 - h. Written Explanation for Action Taken
8. 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.
 - a. If the request for documentation is made less than five (5) business days before the hearing, the Health Home must provide copies no later than the at the time of the hearing.

Agency Conference

9. 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.
10. Following the Agency Conference, the Health Home and CMA can withdraw its determination and enroll or re-enroll the Candidate/Member.
11. 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.

Adjournment and Waiver of Appearance

12. 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>.
13. If the Health Home cannot attend the Hearing, due to a valid reason, the Health Home will submit a Waiver of Appearance to OTDA at least five (5) calendar days before the scheduled Hearing date.
 - a. The request will include primary and back-up contact information; the fair Hearing number; date of hearing; and a summary of the relevant facts in question.
 - b. If the request is accepted, The Health Home will submit for review, a written evidence packet to support the Health Homes initial determination.

Decision After Fair Hearing

14. The Health Home will comply with the Fair Hearing Decisions regarding Health Home denials and disenrollment.
 - a. If the decision is in favor of the Candidate/Member, the Health Home will end the pended segment, and will begin a new enrollment segment the first of the month following disenrollment.
 - b. If the decision is in favor of the Health Home, the denial or dis-enrollment will proceed.
15. If the Candidate/Member or their authorized representative feel that the Health Home has not complied sufficiently with the Fair Hearing decision, they may submit a Compliance Complaint to OTDA for investigation.

16. Both the Health Home and CMA may request OTDA to reconsider the decision if it is felt there has been an error in law or facts via litigationmail.hearings@OTDA.NY.GOV or fax (518-473-6735).
17. During the period of reconsideration, the original Decision After Fair Hearing will be in effect until OTDA provides notification to both parties of the reconsideration decision, and if applicable, will re-open the Fair Hearing process.

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/hh_0004_fair_hearing_nod_policy.pdf).
(https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/docs/hh_0004_fair_hearing_nod_policy.pdf)

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Replaces: Notice of Determination and Fair Hearing (May 3, 2021)		

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 Page 2 – CMA phone number (#2 and #7) and CHC phone number (#5) 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	<ul style="list-style-type: none"> All of page one gets filled out – date, CIN, Member information, reason ineligible (checkbox) Staff sign this form and send to Candidate – <u>no Candidate signature required!</u>
DOH 5234: Notification of Enrollment	When someone is enrolled in the Health Home program; often given with Member Bill of Rights	<ul style="list-style-type: none"> All of page one gets filled out – Health Home information (pre-populated), Member information, date enrolled Staff sign this form and give to Member – <u>Member does not sign!</u>
DOH 5235: Notification of Disenrollment	When case is being closed because Member is not eligible or appropriate; Not sent if Member requests the discharge!	<ul style="list-style-type: none"> 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! Staff sign this form and give to Member TEN DAYS prior to closing case – <u>Member does not sign!</u>

ATTACHMENT B: Fair Hearing Checklist



Fair Hearing and Notification of Hearing

Agency: _____

Type of Hearing: Denial of Enrollment Enrollment Discharge

Date of Notice of Fair Hearing (OAH-5457) from OTDA: _____

Date / Time of Hearing: _____

Continuing Aid

- 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.

- 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 pending.

Examination of Record / Documentation Requests and Requirements

- The Health Home and Care Management Agency will provide complete copies of documentary evidence to the Administrative Law Judge, the Candidate/Member the authorized representative within ten (10) business days of the Fair Hearing notice.
**Note if the request is made less than five (5) business days before the hearing, copies must be provided no later than the at the time of the hearing.*

Documentation Provided	Date Provided
<input type="checkbox"/> Signed DOH 5055	
<input type="checkbox"/> Updated Plan of Care	
<input type="checkbox"/> Care Note Documentation	
<input type="checkbox"/> Medical Documentation	

Documentation Provided	Date Provided
<input type="checkbox"/> Written Summary of the Case	
<input type="checkbox"/> Applicable Policy Governing the Programmatic Decision	
<input type="checkbox"/> Notification Form being Disputed	
<input type="checkbox"/> Written Explanation for Action Taken	
<input type="checkbox"/> Other, specify: _____	

Agency Conference

- 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.

Adjournment and Waiver of Appearance

- 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>.
- If the Health Home cannot attend the Hearing, due to a valid reason, the Health Home will submit a Waiver of Appearance to OTDA at least five (5) calendar days before the scheduled Hearing date.
 - a. The request will include primary and back-up contact information; the fair Hearing number; date of hearing; and a summary of the relevant facts in question.
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Decision After Fair Hearing

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