



JEFFERSON
BEHAVIORAL
HEALTH

Managed Mental Health Care Organization for Coos, Curry, Jackson, Josephine, and Klamath Counties

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Grievance and Appeal Policy & Procedure

Board Approved – 01/26/09
State Approved – 03/14/09

JBH POLICY & PROCEDURE

Grievance and Appeal

Approved by JBH Board of Directors: 01/26/09

Approved by State of Oregon – DHS/AMH: 03/14/09

PART I: JBH POLICY ON GRIEVANCES, CLIENT NOTICES, APPEALS, AND THE DHS ADMINISTRATIVE HEARING PROCESS

I. POLICY DESCRIPTION

The purpose of this policy is to establish a consistent method in which an Oregon Health Plan (OHP) Member or OHP Member Representative may file a Grievance or Complaint, Appeal or DHS Administrative Hearing either orally or in writing, and have their problems confidentially considered in a timely, fair manner without fear of interference, restraint, coercion, or retaliation.

This policy should serve as a standard for Jefferson Behavioral Health (JBH) staff, Provider agency staff, OHP Members and/or their Representatives, stakeholders, and regional and/or allied agencies in providing the most expeditious, most confidential, least formal, and least costly process for resolving specific concerns about any aspect of service provided by or through Jefferson Behavioral Health.

II. APPLICABILITY

For the purposes of this policy, the term Jefferson Behavioral Health (JBH) includes the Jefferson Behavioral Health staff and its authorized representatives. JBH shall follow this policy as it applies to the OHP mental health services governed by the Mental Health Organization Agreement between the State of Oregon and JBH. Participating Providers shall follow this policy to the extent that it applies to the mental health services that they provide to JBH Members. The responsibilities outlined in this policy shall also include, but not be limited to, the Local Mental Health Authorities (LMHA) in the JBH service area, and any agency delegated with the responsibility for managing non-inpatient mental health services for JBH members in the LMHA's county.

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PART II: POLICY DEFINITIONS

The following key terms relate to and/or support this procedure have been included in this Section.

- A. Action: A decision made by JBH or Participating Providers about a Member's mental health services that result in:
1. The denial or limited authorization of a requested Service, including the type or level of Service;
 2. Reduction, suspension, or termination of a previously authorized Service;
 3. Denial, in whole or in part, of payment for a Service;
 4. Failure to provide Services in a timely manner;
 5. Failure to act on Grievances and Appeals within specified timeframes; or
 6. Denial of a request to obtain Services outside JBH's Provider Panel, as follows:
 - a) Denial of a request to obtain Services outside JBH's Provider Panel when the equivalent to the requested services (in terms of training, experience, and specialization) are not available within the Provider Panel;
 - b) Denial of a request to obtain Services from a non-Participating Provider who is the main source of a Service to the OHP Member, provided that the provider is given the same opportunity to become a Participating Provider (and further provided that if the provider chooses not to join the Provider Panel or does not meet the qualification, the OHP Member is given a choice of Participating Providers and is transitioned to a Participating Provider with 60 days);
 - c) Denial of a request to obtain Services when a Participating Provider does not provide the Service because of moral or

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- religious objection and the Participating Provider has previously informed JBH of the policy;
- d) Denial of a request for a Service when the OHP Member's Provider determines that the OHP Member needs related Services that would subject the OHP Member to unnecessary risk if received separately and not all related Services are available within the Provider Panel; or
 - e) Denial of a request for a Service when AMH determines that other circumstances warrant out-of-network treatment.
- B. Appeal: A verbal or written request from an OHP Member or Member Representative, or Provider acting on behalf and with the written consent of the OHP Member for review of an action, i.e., the reduction, suspension, or termination of a service, the denial or limited authorization of a requested service, or the denial, in whole or in part, of a payment for a service by JBH or the Participating Provider of an Action. The term also refers to a verbal or written request for JBH's review of the resolution of a formal grievance.
- C. Community Mental Health Program (CMHP): The organization of all services for persons with mental or emotional disorders and developmental disabilities operated by, or contractually affiliated with, a LMHA, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with DHS.
- D. Grievance Process: The term used to refer to the overall system that includes Grievances, Notices of Action, Appeals and DHS Administrative Hearings.
- E. Complaint or Grievance: A verbal or written expression of dissatisfaction from Member or Member Representative about any matter other than an Action. For the purposes of this policy, Grievance and Complaint are synonymous terms. Grievances or Complaints may include the following:
- 1. Access to or accessibility of Services (e.g., physical barriers, language or other communication barriers, convenience of time or location, choice of mental health Practitioners);

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2. Interpersonal interactions with a Participating Provider or with JBH staff;
 3. Quality of Services or Member's experience as a Service recipient;
 4. Clinical care (e.g., Member not involved in treatment planning or disagrees with the plan);
 5. Inadequate quality of care (e.g. care not culturally appropriate);
or
 6. Member rights.
- F. Member: An individual found eligible by a program of the Oregon Department of Human Services (DHS) to receive health care services under the Oregon Health Plan (OHP) Medicaid Demonstration Project or State Children's Health Insurance Program (SCHIP) and who, for purposes of this policy, is assigned to JBH for mental health services.
- G. Member Representative: A person who can make OHP related decisions for a Member who is not able to make such decisions him or herself. A Member Representative may be, in the following order of priority:
1. A person who is designated as the Member's health care representative;
 2. A court-appointed guardian, a spouse, or other family member as designated by the Member;
 3. The Individual Service Plan Team (for OHP Members with developmental disabilities);
 4. The DHS case manager, or other DHS designee.
 5. For Members in the care or custody of DHS's Children, Adults and Families division or the Oregon Youth Authority (OYA), the Member Representative is DHS or OYA, as applicable.

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6. For Members placed by DHS through a Voluntary Placement Agreement (CF Form 499), the Member shall be represented by his or her parent or legal guardian.

- H. Mental Health Practitioner: An individual with current and appropriate licensure, certification, or accreditation in a mental health profession, which includes, but is not limited to: psychiatrists, psychologists, registered psychiatric nurses, Qualified Mental Health Associates, and Qualified Mental Health Professionals.

- I. Notice of Action: A written document issued to the OHP Member when a Service, benefit, request for service authorization, or request for claim payment is limited or denied. The Notice of Action includes the following elements: (a) date of the Notice of Action; (b) Contractor name; (c) Provider name; (d) OHP Member's name & ID number; (e) date service or item was requested or provided; (f) who requested or provided the item or service; (g) effective date of action; (h) planned action; (i) reasons for the action, but not limited to treatment is not a covered service, items requires pre-authorization & it wasn't preauthorized, service is not medically appropriate, service or item was received in an emergency room setting & doesn't qualify as an emergency service, person wasn't or isn't an OHP Member, or the provider is not on the contractor's panel and prior approval wasn't obtained.

- J. Participating Provider: An individual, facility, corporate entity, or other organization credentialed by JBH as a Provider of non-inpatient or inpatient mental health services and approved by JBH's Board of Directors as a sub-contractor to provide mental health services to JBH Members. Participating Providers must enter into a formal contract with JBH and agree to bill and/or submit encounter data in accordance with that contract.

For purposes of this policy, the responsibilities listed for Participating Providers shall also apply to the LMHA's in JBH's Service Area, to each of which JBH has delegated responsibility for managing non-inpatient mental health services for JBH Members in the LMHA's county. In this capacity, the LMHA may make service authorization and utilization management decisions that require issuance of a Notice of Action.

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- K. Provider: An organization, agency or individual licensed, certified and/or authorized by law to render professional health services to OHP Members.
- L. Service Authorization Request: A request from an OHP Member or Member Representative for provision of a service.

PART III: GENERAL PROCEDURE FOR GRIEVANCE, APPEALS, AND THE DHS ADMINISTRATIVE HEARING PROCESS

I. General System

- A. Providing Information to Members on the Grievance, Appeal, and DHS Administrative Hearing Process.
 - 1. At the time of formal entry into mental health services all Members shall be informed about their right to confidentially address concerns and/or denial of service, and the process for grievance procedures. Copies of the information about the grievance process and related forms (OHP 3001, DMAP 3030, DHS 0443) shall be posted in prominent locations in each waiting room, satellite, part-time and practitioner's office. Information shall be made available about how to obtain the information in alternate formats and languages. The information must be accessible without the assistance of others, as well as upon request. The JBH Member Handbook, which is mailed within 30 days of enrollment, includes information for how to file a grievance and appeal, to request a hearing, to obtain an Authorization for the Release of Information form, and how to access toll free phone numbers with TTY/TTD capabilities.
 - 2. JBH will give Members any reasonable assistance in completing the forms and other procedural steps including, but not limited to providing interpreter services and toll-free numbers with TTY/TDD and interpreter capability.
 - 3. JBH will provide information to OHP Members about the Grievance, Appeal and the Administrative Hearing

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procedures. Information provided to OHP Members shall include written material, or materials in alternative forms as required by the OHP Member's special need, including their right to select an OHP Member Representative, the Notice of Grievance and Appeal Process, the Notice of Hearing Rights at the State Level, and an Authorization for the Release of Information form.

4. JBH shall make available, in all clinics where OHP Members receive Mental Health services, information and forms concerning client notices, grievances, appeals, and administrative hearing processes.
 5. JBH will afford OHP Members and OHP Member Representatives the full use of the confidential Grievance, Appeal and Administrative Hearing Process without penalty. JBH will not request Disenrollment on the basis of implementation of an Administrative Hearing decision or an OHP Members request for an Appeal or Administrative Hearing.
 6. JBH will cooperate with AMH and the OHP Member or OHP Member Representative in seeking a remedy to the Grievance, Appeal and Administrative Hearing issues, compliance with and implementation of the hearing decision. Cooperation may include providing a written response to AMH if requested.
- B. Providing Information to JBH Providers and Sub-contractors on the Grievance and Appeals Process
1. JBH shall provide Providers and Subcontractors information regarding JBH's Grievance, Appeal and Administrative Hearing Process. The information shall include the following:
 - (a) The OHP member's right to confidentially file a grievance, appeals or administrative hearings with the procedures and time frames for filing.

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- (b) The right for JBH and the participating provider whose authorization, Treatment, Services, items, Quality of Care, or request for payment are alleged to be involved in the Appeal may to use the information without a signed Release of Information from the OHP Member to resolve the Appeal, to maintain a log, or for health oversight by AMH. If the OHP Member requests an Administrative Hearing regarding an Appeal, AMH may have access to the information without a signed authorization from the Member.
- (c) Except as listed in point (b) above or as otherwise permitted by all other applicable confidentiality laws, JBH and Participating Providers shall ask the OHP Member to authorize a release of information regarding the Appeal to other individuals. BEFORE ANY INFORMATION RELATED TO THE APPEAL IS DISCLOSED, THE CONTRACTOR SHALL HAVE AN AUTHORIZATION FOR RELEASE OF INFORMATION DOCUMENTED IN THE APPEAL FILE.
- (d) The OHP member's right to be represented by an OHP Member Representative.
- (e) The OHP member's right to a Department of Human Service administrative hearing, how to obtain a Hearing, and representation rules at a hearing.
- (f) Information regarding how the OHP member can receive assistance in filing a grievance, an appeal, or administrative hearing request. This includes, but is not limited to, providing Interpreter Services and Toll-free numbers that have adequate TTY/TTD and interpreter capacity to assist OHP members to file oral grievances and appeals.
- (g) The OHP members' right to request continuation of benefits during an appeal or administrative hearing

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filing as well as information that, if JBH's action is upheld in a hearing, the OHP member may be liable for the cost of any continued benefits.

- (h) The appeal rights of Members to challenge payment and authorization decisions made by JBH.
- (i) Participating provider and JBH staff who make decisions on Appeals were not involved in any previous level of review or decision making; and are Health Care Professionals who have the appropriate clinical expertise in treating the OHP Member's condition or disease, if an Appeal of a denial is based on lack of Medical Appropriateness or if an Appeal involves a clinical issue.

C. Contract Component

All JBH contracts with participating providers will include this information. JBH will monitor compliance with these procedures through periodic provider reviews. Should these reviews show that corrective action is needed, such actions will be detailed in writing and JBH will follow up to ensure that actions are taken.

PART IV: PROCEDURE FOR GRIEVANCES

A. Filing a Grievance

1. If an expression of dissatisfaction is communicated *verbally* to JBH or a Participating Provider, then the person receiving the information shall ask the Member or Member Representative if s/he desires a resolution to the matter. If a resolution is desired, then the person receiving the information shall describe the Grievance process to the Member or Member Representative, provide written information about the process, and request that the Grievance be put in writing.
2. A Member or Member Representative may file a Grievance verbally or in writing. JBH or a Participating Provider shall provide reasonable assistance in filling-out the Grievance form.

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3. A Provider *cannot* file a Grievance on behalf of Member.
4. An anonymous expression of dissatisfaction is an informal communication and is not subject to the procedure for Grievance.
5. Grievances relating to a Participating Provider must be filed with the Participating Provider's Clinical Director, Quality Improvement Coordinator or other designated staff person. The Participating Provider's designated staff person shall be responsible for receiving, processing, directing and responding to formal Grievances.
6. Grievances relating to JBH must be filed with and logged by the Quality Management Coordinator or the Member Services Specialist at JBH. The Quality Management Coordinator, Member Services Specialist, the Children's System Coordinator or other designated staff person shall be responsible for receiving, processing, directing and responding to grievances. All Grievances that the OHP Member chooses to resolve through another process, and that JBH is notified of, shall be noted in the JBH Grievance log.
7. For standard Grievances, the Participating Provider or JBH must investigate, develop a resolution, and share the decision with all involved individuals within 5 working days from the date of initial receipt of the Grievance by JBH or the Participating Provider.
8. If it is necessary to gather information from persons other than the Member, Member Representative or Provider, JBH or the Participating Provider first requests the OHP Member or their legal representative to sign an Authorization for the Release of Information. JBH and the Participating Provider use caution to maintain confidentiality by keeping original documents, electronic records, and copies of signed Authorization for Releases in a locked, secure location. Confidentiality practices are consistent with ORS 411.320, 42 CFR 431.300 et seq, the HIPAA Privacy Rules, ORS 192.518, and other applicable federal and state confidentiality regulations.

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B. Handling of Grievances

1. Upon receipt of the Grievance, JBH or a Participating Provider shall confirm that a Member is assigned to JBH on the relevant dates of service.
2. If Member is not assigned to JBH, JBH or a Participating Provider shall make reasonable efforts to direct the Member to the appropriate party to receive the Grievance.
3. JBH or a Participating Provider shall review the Grievance to determine if more information is needed to address the issue.
4. JBH and participating Providers ensure that each Grievance is transmitted within 2 working days from the initial receiver to the Provider's Clinical Director, the Provider Quality Improvement Coordinator, JBH's Quality Management Coordinator, the JBH Members Service Specialist or other designated individual.
5. If more information is needed from the Member, JBH or the Participating Provider shall notify the Member that additional information is needed and must be furnished within 10 calendar days or within some other mutually agreed timeframe, or the Grievance may be resolved without this information.
6. If more information is needed from a Provider who is named or otherwise involved in the Grievance, JBH or the Participating Provider shall obtain such information as quickly as possible. For standard dispositions on Grievances and Notices to affected parties, JBH or the Participating Provider makes a decision and notifies the Member or Member Representative within 5 working days from the date JBH or the Participating Providers received the Grievance.
7. If it is necessary to gather information from persons other than the OHP Member, Member Representative or Provider, JBH or the participating provider first requests the OHP Member or their legal representative to sign an Authorization for the Release of Information. JBH uses caution to maintain confidentiality by keeping the original documents and electronic records in a

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secure, locked location. Copies of the Authorization for Release of Information is also maintained in a secure, locked manner. Confidentiality must be consistent with ORS 411.320, 42 CFR 431.300 et seq, the HIPAA Privacy Rules, ORS 192.518, and other applicable federal and state confidentiality regulations.

8. If a Grievance involves a denial of an Expedited Appeal request or involves clinical issues, JBH or a Participating Provider shall ensure that the decision-makers for the Grievance:
 - (a) Include mental healthcare professionals with clinical expertise in treatment of the particular Member's mental health condition;
 - (b) Were not involved in previous levels of review or decision-making, and
 - (c) Are qualified to make denials based on lack of medical necessity.

C. Resolution of Grievances

1. JBH or the Participating Provider shall resolve each Grievance within 5 working days from JBH or the Provider's receipt of the Grievance by making a decision and notifying the OHP member. If it is not possible to meet the 5 working days timeline, JBH or the participating provider notifies the OHP member in writing that a delay of up to 30 calendar days from the date of receipt of the Grievance may be needed to collect information and come to a resolution.
 - (a) JBH or the Participating Provider promptly notifies the OHP Member in writing the following:
 - (1) Reason why the Grievance cannot be resolved within **5** working days; and
 - (2) Date by which the Grievance will be resolved.

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- D. JBH or a Participating Provider shall provide oral or written notice to the OHP Member or Member Representative of the outcome and date of the Grievance resolution.

An oral notice may be provided for Grievances made orally, shall Review and specifically address each element of the Grievance, and explain the rationale for JBH or the Provider's decision.

A written notice is provided for Grievances received in writing. The written notice shall review and specifically address each element of the Grievance, and explain the rationale for JBH or the Provider's decision.

- E. If the resolution is *not* in favor of Member, the notice shall include all elements of a Notice of Action and shall include the form to request a DHS Administrative Hearing.
- F. If the OHP Member chooses to file an Appeal in response to the unfavorable Grievance resolution, all parties shall then follow the process and time frames for standard Appeals.
- G. An OHP Member or OHP Member Representative who is dissatisfied with the disposition of a Grievance may present the issue to the OHP Ombudsman.
- H. For each resolved Grievance, a Participating Provider shall provide a copy of the filed Grievance and resolution notice to the JBH Quality Management Coordinator or the JBH Members Services Specialist within five (5) business days from the date of the Grievance resolution notice.
- I. JBH shall report all Grievances to AMH according to the requirements stated in the most current MHO Agreement.
- J. All Grievances are reviewed by the JBH Quality Management Committee for service improvement purposes.

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PART V: NOTICES OF ACTION

I. Determining the Responsible Decision-Making Authority.

- A. JBH or the Participating Provider that is delegated the responsibility for making decisions related to Notice of Actions shall also be responsible for ensuring that the procedures in this policy are followed.
- B. If a decision relates to services paid for with OHP Mental Health funds that are managed by JBH, then any required Notices are issued by JBH. JBH issues to the OHP Member or OHP Member Representative a written decision on the Grievance issue. The written decision reviews and specifically addresses each element of the Grievance and must include all elements of a Notice of Action and the Administrative Hearing Request form.
- C. If a decision relates to service authorization, utilization management and related activities performed by the Participating Provider in carrying out its delegated responsibility for managing non-inpatient mental health services in its county, the decision is typically made by the Participating Provider.

II. Notice of Action Requirements and Time Frames

- A. JBH or the Participating Provider shall issue a written Notice of Action to an OHP Member or OHP Member Representative each time a decision is made on an Action.
- B. Notices of Action shall be sent, via Certified Mail or any other method in which delivery could be verified, according to the time frames in the following chart:

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Notice of Action Requirements and Time Frames	
<p>Termination, suspension or reduction of a <i>previously authorized Service</i></p>	<p>Mailed at least 10 calendar days before the effective date of the Action. The period of advance notice may be shortened to 5 calendar days before the date of the Action if JBH has facts indicating that an Action should be taken because of probable fraud on the part of the OHP Member. (<i>Fraud facts should be verified through a secondary source.</i>)</p> <p>EXCEPTIONS TO THIS TIMEFRAME: JBH or the Participating Provider may mail a notice not later than the date of Action if they receive a clear written statement signed by the OHP member that he or she no longer wishes Services or gives information that requires termination or reduction of Services and indicates that he or she understands this must be the result of supplying information; The OHP Member has been admitted to an institution where he or she is ineligible for Covered Services from the Contractor; The OHP Member has been admitted to an institution where he or she is ineligible for Covered Services from the Contractor; The OHP Member's whereabouts are unknown and the post office returns JBH or Participating Provider's mail directed to him or her indicating no forwarding address; JBH establishes the fact that another state, territory or commonwealth has accepted the OHP Member for Medicaid services; There is a change in the level of medical care that is prescribed by the OHP Member's Provider; The date of Action will occur in less than 10 calendar days, in accordance with 42 CFR 483.12(a) (5), related to discharges or transfers and long-term care facilities; There is factual information confirming the death of the OHP Member; There is an adverse determination made with regard to the preadmission screening requirements for Nursing Facility admissions; or The safety or health of individuals in the facility would be endangered, the OHP Member's health improves sufficiently to allow a more immediate transfer or discharge, an immediate transfer or discharge is required by the OHP Member's urgent medical needs, or an OHP Member has not resided in the Nursing Facility for 30 days (applies only to adverse actions for Nursing Facility Transfers.)</p>
<p>Request to authorize a Service:</p> <ul style="list-style-type: none"> • That is denied in full; • Where the authorization is limited in amount, duration or scope to less than requested; or 	<p>Mailed as expeditiously as the Member's health condition requires but not more than 14 calendar days from when the request was received.</p> <p>EXCEPTIONS TO THIS TIMEFRAME: Member, Member Representative or Participating Provider may request an additional 14 calendar days;</p>

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Notice of Action Requirements and Time Frames	
<ul style="list-style-type: none"> • That is a denied re-authorization request where the request was submitted upon expiration of an approved number of visits (such a request is treated as a new Service Authorization Request). 	<p>or JBH or the Participating Provider may extend the timeframe by an additional 14 calendar days if there is a justifiable need and if the extension is in Member's interest.</p> <p>Member or Member Representative must be given written notice of the reason for the decision to extend the timeframe and must be informed of the right to file a Formal Complaint if she or he disagrees with that decision. For any extension, JBH or Participating Provider shall issue and carry out its authorization determination as expeditiously as Member's health condition requires but not later than the date the extension expires.</p>
<p><i>Expedited</i> request to authorize services</p> <ul style="list-style-type: none"> • That is denied in full; or • Where the authorization is limited in amount, duration or scope to less than requested. 	<p>Communicated (i.e., informed in person or by telephone and then confirmed by postal mail) as expeditiously as the Member's health condition requires but not more than 3 business days from when the request was received.</p> <p>EXCEPTIONS TO THIS TIMEFRAME: Member, Member Representative or Provider may request an additional 14 calendar days; Or JBH or Participating Provider may extend the timeframe by an additional 14 calendar days if there is a justifiable need and if the extension is in Member's interest.</p>
<p>Failure to respond to a Service Authorization Request within the timeframe specified for that type of request (e.g., not responding to an expedited request within 3 business days).</p>	<p>On the last day of the timeframe for a standard or expedited Service Authorization Request, or on the last day of the extension period if an extension was made.</p>
<p>Probable Member fraud that has been verified.</p>	<p>Mailed 5 calendar days before the effective date of the Action.</p>

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III. Required Elements for a Notice of Action

- A. The written Notice of Action must be in the AMH approved format and it must be used for all denials of a requested Covered Service(s), reductions, discontinuations or terminations of previously authorized Covered Services, denials of claims payment, or other Action. The Notice must meet language and format requirements specified in the current MHO Agreement of Exhibit B, Part III, Section 1.
- B. A Notice of Action shall inform a Member or Member Representative of the following:
1. Date of Notice of Action;
 2. JBH name;
 3. Provider's name;
 4. OHP Member's name and ID number;
 5. Date of Service or item requested or provided;
 6. Who requested or provided the item or Service;
 7. Effective date of the Action;
 8. The Action JBH or the Participating Provider has taken or intends to take;
 9. Reason(s) for the Action, including any citations of applicable State of Oregon rules and/or statutes. Include, but are not limited to:
 - (a) Treatment is not a covered service;
 - (b) The item requires pre-authorization and it was not pre-authorized;
 - (c) The service is not Medically Appropriate;

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- (d) The Service or item is received in an emergency care setting and does not qualify as an Emergency Service;
 - (e) The person was not an OHP Member at the time of Service or is not an OHP Member at the time of a requested Service; or
 - (f) The Provider is not on JBH's panel and prior approval was not obtained (if such prior authorization would be required under the OHP Rules).
10. The OHP Member's right to file an Appeal or Administrative Hearing with JBH or a Participating Provider and how to exercise that right as required in OAR 410-141-0262;
 11. The circumstances under which expedited Appeal resolution is available and how to request it;
 12. The OHP Member's right to have benefits continue pending resolution of the Appeal or Administrative Hearing, how to request that benefit(s) be continued, and the circumstances under which the OHP Member may be required to pay the costs of these Services; and
 13. The telephone number to contact JBH for additional information.
 14. A Provider acting on behalf and with the written consent of Member may file an Appeal.
 15. Right to request a DHS Administrative Hearing, and information about how to initiate a hearing.
 16. A Provider cannot request a DHS Administrative Hearing on behalf of Member.
 17. Right to request an Expedited Appeal if Member or Member Representative feels the mental health problem is an Urgent or Emergency Situation that cannot wait for the standard Appeal process, and information about how to do so.

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- C. A Provider acting on behalf and with the written consent of Member may file an Expedited Appeal.
- D. The Member or Member Representative may request continuation of services until a decision is reached in the Appeal or DHS Administrative Hearing, and acknowledges the responsibility to repay the cost of any continued services if the decision is not in favor of Member.
- E. The format for the Notice of Action shall be approved by the DHS Office of Mental Health and prior to use by JBH and the Participating Providers.
- F. Each Notice of Action shall be written using easily understood language and provided in a manner appropriate for a Member or Member Representative's special needs, and shall contain a statement about how to access the information in alternative formats (language type, TDD/TDDY).
- G. A copy of the Notice of Action and any enclosures shall be sent to all identified parties named in the Grievance. A copy shall also be submitted to JBH.

IV. Reinstatement of Reduced, Suspended or Terminated Services

- A. JBH or a Participating Provider must reinstate any reduced, suspended or terminated services if:
 - 1. The previously authorized services are denied, reduced or terminated without issuing the required Notice of Action;
 - 2. A Notice of Action is not issued within the timeframe specified for that Action and the Member or Member Representative requests a DHS Administrative Hearing within 10 calendar days from the date of the Notice; or
 - 3. The Member's whereabouts become known after they were previously unknown, which was demonstrated by the post office's return of mail with no forwarding address, and Member is still eligible for services.

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PART VI: JBH APPEAL AND EXPEDITED APPEAL PROCEDURES

I. Filing An Appeal

- A. OHP Members who are dissatisfied with the disposition of either a Grievance or a Notice of Action have the right to file an Appeal, and if the Appeal is not resolved in favor of the OHP Member, a request may be made for a DHS Administrative Hearing for AMH to review the Notice of Appeal Resolution.
- B. The OHP Member, a Member Representative or a Provider acting on behalf of the OHP Member with the Member's written consent, may file an Appeal with JBH orally or in writing. An oral filing must be followed up with a written and signed Appeal, unless the request is for an expedited resolution. The oral filing date is used as the official filing date to allow for the earlier possible filing date for the Appeal.
- C. The OHP Member may request an Appeal to review the outcome of a Grievance or review an Action by JBH or a Participating Provider.
- D. An Appeal relating to an Action by a Participating Provider may be filed with that Participating Provider or with JBH.
- E. An Appeal relating to an Action by JBH must be filed with JBH. Participating Providers and JBH staff immediately forward Appeal information to JBH's Quality Management Coordinator, Member Specialist or other designated staff person for processing Grievances, Appeals, Expedited Appeals, or DHS Administrative Hearing requests. JBH staff who make decisions on the Appeal must not have been involved in any previous level of decision making and are Health Care Professionals who have the appropriate clinical expertise in treating the OHP Member's disease or condition, if an Appeal of denial is based on lack of Medical Appropriateness or if an Appeal involves a clinical issue.
- F. An Appeal may be filed orally or in writing no later than 45 calendar days from the date of that the Notice of Action is received by the Member or Member Representative.

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- G. For service authorization decisions not reached within the time frame established in 42 CFR 438.210(d), an Appeal must be filed within 45 calendar days of the date the time frames expire.
- H. If JBH failed to provide a timely Notice of Action, the Appeal may be filed no later than 45 calendar days after JBH actually mails the Notice of Action.
- I. The OHP Member and/or Member's Representative must be provided a reasonable opportunity with JBH to present evidence and allegations of fact or law in person as well as in writing. If an Expedited Appeal is requested, JBH informs the OHM Member or their Representative of the shortened time process.
- J. The OHP Member and/or the OHP Member's Representative must be provided an opportunity, before and during the Appeals process, to examine the OHP Member's file, including medical records and any other documents or records to be considered during the Appeals process.

II. Filing An Expedited Appeal

- A. Member is entitled to an Expedited Appeal only if the mental status of the Member meets the definition of an Urgent or Emergency Situation, and the situation cannot wait to be addressed within the timeframes for the standard Appeal process.
- B. The Appeal must indicate that the request is for an Expedited Appeal and explain why a decision is needed right away.

III. JBH's Handling of Appeals

- A. JBH documents the initiation of an Appeal by an OHP Member, OHP Member Representative or the legal representation of a deceased Member's estate and handles it as an Appeal. Appeals are documented in the log in a manner consistent with OAR 410-141-0266.
- B. If the OHP member requests a DHS Administrative Hearing (even if they have not have gone through the JBH Appeal

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process), JBH immediately transfers the Administrative Hearing Request to AMH's Hearing Unit. Upon AMH's notification to JBH that they have received the Hearing request, JBH will be asked to review it as an Appeal. Appeals reviewed by JBH upon notification of AMH based on an Administrative Hearing request must be completed in a timely manner as required in OAR 410-141-0264.

- C. JBH ensures that each Appeal is investigated and resolved in accordance with all applicable rules.
- D. JBH requires that individuals who make decisions on Appeals:
 - 1. Were not involved in any previous level of review or decision making; and
 - 2. Are Health Care Professionals who have the appropriate clinical expertise in treating the OHP 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.
 - 3. JBH shall resolve each Appeal and provide the written notice of the resolution as quickly as the OHP Member's health condition requires. With expedited resolutions, JBH will make reasonable efforts to also provide oral notice of the resolution.
- E. In the written notice, JBH shall include:
 - 1. Results of the resolution process;
 - 2. Date the process was completed;
 - 3. And for Appeals not resolved wholly in the favor of the member, the Notice additionally includes:
 - (a) Reasons for the resolution and a reference to the particular sections of the statutes and administrative rules involved for each reason identified in the notice of the Appeal resolution relied upon to deny the Appeal;

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- (b) Unless the Appeal was referred to JBH by AMH as part of a DHS Administrative Hearing process, the right to request an AMH Administrative Hearing, how to do so, and a copy of the needed forms. (Notice of Hearing Rights, DMAP 3030 and the Hearing Request Form, DHS 443).

- F. For Appeals referred to JBH by AMH as part of an Administrative hearing process, JBH must transmit the Notice of Appeal Resolution and the complete record of the Appeal to the AMH Hearings Unit within two days.

- G. For standard Appeals, JBH must resolve the Appeal and provide a notice of Appeal resolution to the OHP Member or OHP Member's Representative no later than 16 days from the day JBH received the Appeal.

- H. For expedited Appeals, JBH must resolve the Appeal and provide a notice of Appeal resolution to the OHP Member or Member's Representative. no later than 3 working days after JBH receives the Appeal.

- I. The time frame for letters I and J above may be extended up to 14 calendar days if:
 - 1. The OHP member requests the extension; or
 - 2. JBH shows (to the satisfaction of AMH if asked) that there is need for additional information and how the delay is in the OHP Member's interest.

- J. If any extension is made without the request of the OHP Member, JBH gives the OHP Member a written notice detailing the reason for the delay.

- K. JBH maintains records of all Appeals, enters their resolution into a log, and addresses the Appeals in the context of the Quality Management Committee.

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- L. Neither JBH nor a Participating Provider shall take punitive action against any Provider who acts on behalf or in support of Member or Member Representative who requests an Appeal.

IV. Continuation of Services Pending an Appeal Resolution.

- A. In this section, “timely” filing means filing on or before the later of the following:
 - 1. Within 10 calendar days after JBH mails the Notice of Action;
 - 2. The intended effective date of JBH’s proposed action.
- B. If the OHP Member or OHP Member Representative requests that services be continued while the Appeal is being resolved, the request shall be approved only if all of the following criteria are met:
 - 1. Appeal was filed in a timely manner (i.e., before the effective date of the Action or within 10 calendar days after the Notice was mailed or given to the Member or Member Representative, whichever is later);
 - 2. Appeal involves reduction, suspension or termination of a previously authorized course of treatment;
 - 3. Services were authorized by JBH or a Participating Provider; Original service authorization has not expired; and
 - 4. The OHP Member requests an extension of benefits.
- C. If, at the OHP Member’s request, JBH continues or reinstates the OHP Member’s benefits while the Appeal is pending and the notice of Appeal resolution is adverse to the OHP Member, JBH must continue the benefits pending the Administrative Hearing unless the OHP Member withdraws the Administrative Hearing request. (OAR 410-141-0264)
- D. If the final resolution of the Appeal after the Administrative Hearing is adverse to the OHP Member (it upholds JBH’s Action),

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JBH may recover from the OHP Member the cost of the Services furnished to the OHP Member while the Appeal and Administrative Hearing were pending, to the extent that they were furnished solely because of the requirements of the Appeal Procedure.

- E. JBH shall promptly correct the Action taken up to the limit of the original request or authorization, retroactive to the date the Action was taken, if JBH decides in the OHP Member's favor, even if the OHP Member has lost eligibility or the benefit package has changed after the date the Action was taken, including the following:
1. If JBH reverses a decision to deny, limit, or delay Services that were not furnished while the Appeal and Administrative Hearing were pending, JBH shall authorize or provide and pay for, the disputed Services promptly, and as expeditiously as the OHP Member's Health condition requires.
 2. If JBH reverses a decision to deny authorization of Services, and the OHP Member received the disputed Services while the Appeal and Administrative Hearing were pending, JBH or AMH shall pay to the Services in accordance with AMH policy and rules.

V. Procedure for an Expedited Appeal or Grievance

- A. The OHP Member is only entitled to an expedited appeal or grievance process if the mental status of the OHP Member meets the definition of an Emergency Situation (as defined in the MHO Contract as "A mental health condition manifesting itself by acute symptoms of sufficient severity such that a prudent layperson, with an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in (1) serious jeopardy to the health of the OHP Member, (2) serious impairment of bodily function, or (3) serious dysfunction of any bodily organ or part.") or Urgent Situation (as defined in the MHO Contract as "A situation requiring attention within 48 hours to prevent a serious deterioration in an OHP Member's mental health.") which cannot

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wait to be addressed within the time frames associated with a regular appeal or grievance.

- B. An OHP Member or OHP Member Representative may request an expedited appeal or grievance process orally or in writing by indicating such in the place provided on the form and then explain why a decision is needed right away.
- C. For an expedited appeal or grievance, JBH shall provide the OHP Member or OHP Member Representative with a response no later than three (3) working days after JBH receives the request for an expedited appeal or grievance.
- D. IF JBH denies an OHP Member or an OHP Member Representative request for an expedited appeal or grievance, JBH will follow the timeframe for standard grievances and appeal. JBH shall make reasonable efforts to give OHP Member or OHP Member Representative prompt oral notice and follow up within two (2) calendar days with written notice.
- E. JBH and its providers also reserve the right to expedite an appeal or grievance process if it is determined that an expedited process is appropriate to the situation.
- F. If the OHP Member or OHP Member Representative asks for an Administrative Hearing made to AMH, the hearing request should be immediately transmitted to AMH's Hearing Unit.
- G. Upon notification by AMH that they have received the hearing request, JBH shall review it through the procedures listed in the section "JBH Responsibilities in Relation to AMH Administrative Hearings."
- H. Under no circumstances shall JBH discourage an OHP Member or an OHP Member's Representative from using the Administrative Hearing Process. No punitive actions may be taken towards an OHP Member or Provider for supporting a member right to file an appeal.

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VI. Denying An Expedited Appeal Request

- A. JBH or a Participating Provider shall not approve a request for an Expedited Appeal if the situation does not meet the criteria for granting an Expedited Appeal.
- B. JBH or a Participating Provider shall make reasonable efforts to promptly inform the Appeler verbally about the decision to deny the Expedited Appeal request, and shall follow-up within two (2) calendar days with a written notice of the decision. The written notice must state the right of an OHP Member, who believes taking the time for a standard resolution of an Appeal and Administrative Hearing, could seriously jeopardize the OHP Member's life or health or ability to attain, maintain or regain maximum function, to request an expedited Administrative Hearing.
- C. When a request for Expedited Appeal is denied, JBH or a Participating Provider shall follow the process and timeframes for standard Appeals. Date of receipt for the Expedited Appeal shall continue as the date of receipt for the standard Appeal process. JBH or a Participating Provider shall give information about the standard Appeal process and timeframes to the Appeler within 2 calendar days of the decision to deny the Expedited Appeal request.
- D. Member or Member Representative may respond to the denied Expedited Appeal request by filing a Grievance with JBH or a Participating Provider.

PART VII: DHS Administrative Hearings

I. Requesting a DHS Administrative Hearing

- A. If the matter involves a Notice of Action, the Member or Member Representative must request a DHS Administrative Hearing within 45 calendar days from the date of the Notice of Action in order to have the Hearing.

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- B. The Member or Member Representative may request a DHS Administrative Hearing instead of or at any time during the Appeal process.
- C. If a Hearing request is made while the Appeal process is underway, that process shall be concluded upon notification by AMH that such a request has been made. The procedure for DHS Administrative Hearings shall then apply.
- D. The Member shall not be permitted to utilize the Appeal process if a DHS Administrative Hearing has been requested.
- E. If the matter involves the outcome of an appeal, the Member or Member Representative must request a DHS Administrative Hearing within 45 calendar days from the date of the Appeal resolution notice.
- F. Requestor must fill out the appropriate sections of the Administrative Hearing Request form (DHS 0443 (1/08)) and send it to JBH or AMH.
- G. A Provider cannot request a DHS Administrative Hearing on behalf of Member.
- H. An OHP Member or OHP Member Representative may withdraw an Appeal or an Administrative Hearing request at any time.

II. JBH Responsibilities in Relation to DHS Administrative Hearings

- A. If the DHS Administrative Hearing Request form (DHS 0443 (1/08)) is received by JBH or a Participating Provider, it shall be promptly forwarded to AMH Hearings Unit with any documentation related to the Hearing issue.
- B. Upon notification by AMH after receipt of the hearing request form, JBH must review the request as an Appeal.
- C. If the DHS Administrative Hearing Request form (DHS 0443 (1/08)) is received by AMH, AMH, within 2 business days, shall send a copy to JBH, and JBH will treat the Request as an Appeal.

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- D. If, at the OHP member's request for an Appeal or Administrative Hearing, JBH continued or reinstated services while the Appeal was pending, the benefits must be continued pending the Administrative Hearing until one of the following occurs:
1. The OHP member withdraws the request for an Administrative Hearing;
 2. A final order is issued in an Administrative Hearing adverse to the OHP Member; or
 3. The time period or Service limits of a previously authorized Service have been met.

III. AMH Hearings Unit Responsibilities in Relation to DHS Administrative Hearings

- A. Once a DHS Administrative Hearing Request is filed at AMH, AMH, within 2 work days, will send a copy of the request to JBH and ask JBH to treat it as an Appeal in accordance with Section 3 of this Exhibit.
- B. The AMH Hearings Unit shall review each Administrative Hearing Request, related documentation, and computer records to determine whether the individual is or was an OHP Member. If the individual is not a member, the Hearing request was untimely or the request for continuation of benefits was untimely, the Hearings Unit follows the process described in OAR 410-120-1860(4).
- C. If the individual's membership and timeliness is confirmed, the AMH Hearings Unit refers the case to the Office of Administrative Hearings and the hearing will be scheduled unless the OHP Member withdraws the request for review.
- D. JBH and a Participating Provider shall cooperate with AMH and the DHS Office of Administrative Hearings to investigate and resolve the matter, and shall participate in the procedure for Hearings as described in Exhibit N of the most current MHO Agreement. The hearing process must be completed within 90

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days from the date the member files a request for appeal through their plan or an administrative hearing through DMAP/AMH.

- E. A Participating Provider shall ensure that any matter resulting in a Hearing request in which a Participating Provider is named is reviewed by the Quality Management Committee for service improvement purposes.

IV. AMH Hearings

- A. Parties to the Administrative Hearing include JBH, the OHP Member and a Member Representative or the Representative of a deceased OHP Member's estate.
- B. The Hearing procedures shall be consistent with OAR 410-120-1865.
- C. A final order is issued or otherwise resolved within 90 calendar days from the date the Member filed the Appeal Request form with JBH or the date the Member filed the Hearing Request form. The final order is the final decision.

V. Final Resolution

- A. A final order is issued or otherwise resolved within 90 calendar days from the date the Member filed the Appeal Request form with JBH or the date the Member filed the Hearing Request form. The final order is the final decision.
- B. If the final resolution of the Administrative Hearing is adverse to the OHP Member, JBH may recover the cost of the Services furnished to the Member while the Administrative Hearing is pending, to the extent that they were furnished solely because of the requirements of the Hearing and 42 CFR 438.420.
- C. If the final resolution is favorable to the OHP Member, JBH will promptly correct the Action taken up to the limit of the original request or authorization, retroactive to the date the Action was taken.

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- D. If AMH or JBH decides in favor of the Member before the Administrative Hearing, even if the OHP Member lost eligibility or the benefit package changed after the date the Action was taken, JBH will correct the Action as described above in number 3.
- E. If JBH or an Administrative Hearing decision reverses a decision to deny, limit, or delay Services that were not furnished while the Hearing was pending, JBH shall authorize or provide, and shall pay for, the disputed Services promptly, and as quickly as the OHP Member's health condition requires.
- F. If JBH or the Administrative Hearing decision reverses a decision to deny authorization of Services, and the OHP Member received the disputed Services while the Administrative Hearing was pending, the Contractor shall pay for the Services in accordance with AMH policy and regulations in effect when the Member made the request for Services.
- G. If services are continued pending Hearing resolution, they must be continued until one of the following occurs:
 - 1. Current service authorization expires;
 - 2. Hearing decision is rendered; or
 - 3. Member is no longer assigned to JBH for OHP mental health services.
- H. Continuation of services shall not exceed 90 days from the date of the Hearing request.

VI. JBH Process

- A. Summarized information from grievance logs and other documents used in the Grievance Process shall be reviewed by the JBH QMC as part of the QA strategy. To enhance confidentiality, minimal information shall be used in the summary.

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On a monthly basis, JBH staff shall review the Grievance Log for completeness, accuracy, timeliness, compliance with written procedures and OHP rules. The JBH QMC shall review a summary of the logs, at a minimum, semiannually.

- B. JBH's documentation, at a minimum, shall include a log of all oral and written Grievances and Appeals received by JBH. The log shall specify:
1. OHP Member Identification Number;
 2. Date and nature of the grievance;
 3. If a grievance, the disposition and disposition date;
 4. If an Appeal, the Notice of Action date, date of the Appeal request, nature of the Appeal, whether continuing benefits were requested and provided, the resolution and date.
 5. If an Administrative Hearing was provided, whether continuing benefits were provided, and the effect of the final order of the Administrative Hearing.
- C. Participating Providers shall retain the following documents relating to each Grievance/Appeal in a secure centralized location:
1. Notices of Action issued; and
 2. Log of Appeals and Grievances received; and
 3. Records of the review or investigation and resolution of Appeals and Grievances;
 4. All records of the review, investigation or resolution;
 5. All written decisions and copies of correspondence with the OHP Member;
- D. Participating Providers' local QA/PI groups shall review information related to their internal Grievance Process as a part of their QA strategy.
- E. These documents shall be retained for a minimum of seven (7) years from the date of resolution and shall be placed in a central location.