



Section 5.1 **Notice Requirements and Appeal Process for Title XIX and Title XXI Eligible Persons**

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I. STATEMENT OF PURPOSE:

All Title XIX and Title XXI eligible persons must be afforded the opportunity to appeal specified actions. The circumstances that constitute an action are defined in this section. When a provider or another entity takes certain actions as defined by this section, the Title XIX/XXI person must receive adequate and timely notice. Notice allows a Title XIX/XXI person to exercise their right to appeal a decision. Appeals of decisions for Title XIX/XXI persons not falling within the scope of this policy will be covered under *Section 5.5, Notice and Appeal Requirements (SMI and General)*.

Title XIX/XXI eligible persons who have been adversely affected by a Pre-Admission Screening or Resident Review (PASRR) determination in the context of either a preadmission screening or a resident review shall be provided notice and the opportunity to appeal by Arizona Health Care Cost Containment System (AHCCCS).

The intent of this section is to provide information to providers that describes the Title XIX and Title XXI member appeal process and describes procedures to ensure that Title XIX/XXI persons receive appropriate notification of decisions, including:

- 1. The events that require notice to a Title XIX/XXI eligible person; and
- 2. The timeframes and content associated with providing notice.

II. REFERENCES:

The following Pascua Yaqui (PY) Centered Spirit Program (CSP) Provider Manual sections can serve as additional resources for this content area:

- Section 5.6, Provider Claims Disputes*
- Section 3.14, Securing Services and Prior Authorization*



Section 3.9, Assessment and Service Planning
Section 3.6, Member Handbook
Section 5.5, Notice and Appeal Requirements (SMI and General)

The following citations and AHCCCS document also serve as resources for this content area:

42 CFR 431.200 et seq.
42 CFR 438.210
42 CFR 438.400 et seq.
A.R.S. § 36-3413
A.R.S. § 36-2903.01
A.R.S. Title 41, Chapter 6, Article 10
2 A.A.C. Chapter 19, Article 1
9 A.A.C. 34, Article 2
AHCCCS/TRBHA Intergovernmental Agreement (IGA) 2021

III. **STANDARDS:**

This section applies to all Title XIX and Title XXI eligible persons who are:

1. Seeking behavioral health services through the AHCCCS behavioral health system; or
2. Enrolled with the AHCCCS behavioral health system.

AHCCCS must have systems in place for Title XIX and Title XXI eligible persons that include a complaint process, an appeal process and access to the State's Fair Hearing process.

All Title XIX/XXI eligible persons must receive a Notice of Action and have the right to an appeal when a claim for service relates to the payment for a service that is not Title XIX/XXI covered and the decision is to deny the claim in whole or in part. This Notice of Action must be sent to the person along with the explanation of benefits (EOB) when the claim for payment has been denied (see *Section 5.6, Provider Claims Disputes*). This notice requirement is a TRBHA responsibility.

A behavioral health provider can file an appeal on behalf of an enrolled behavioral health recipient.

IV. **DEFINITIONS:**

Action: The denial or limited authorization of a requested service, including the type or level of service;

- The reduction, suspension or termination of a previously authorized service;
- The denial, in whole or in part, of payment of service;
- The failure to provide covered services in a timely manner;



- The failure to act within established timeframes for resolving an appeal or complaint and providing notice to affected parties; and
- The denial of the Title XIX/XXI eligible person's request to obtain covered services outside the network.

Appeal: The request for review of an action, or decision made by AHCCCS, a TRBHA, or a TRBHA provider.

Appeal Resolution: For purposes of this policy is the written determination by the RBHA or AHCCCS, or AzSH concerning an appeal.

Complaint: Also known as Enrollee or Member Grievance. An expression of dissatisfaction with any aspect of care other than the appeal of an action involving Title XIX/XXI recipients. Complaints include, but are not limited to, concerns about the quality of care or services provided, a disagreement with a decision to extend the timeframe for making an authorization decision, aspects of interpersonal relationships with service providers, and lack of respect for recipients' rights.

Denial: The decision to deny an initial request made by, or on behalf of, a behavioral health recipient for the authorization of a covered service.

Health Care Professional: All professionals included in ARS §32-3201 including a physician, podiatrist, optometrist, chiropractor, psychologist, dentist, physician assistant, physical or occupational therapist, therapist assistant, speech language pathologist, audiologist, registered or practical nurse (including nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist and certified nurse midwife), licensed social worker, registered respiratory therapist, licensed marriage and family therapist and licensed professional counselor.

Limited Authorization: A service authorization that falls short of the original request, with respect to either the duration, frequency, or type of service requested.

PASRR: Pre-Admission Screening and Resident Review.

Prior Authorization: A process that requires the behavioral health practitioner to obtain approval from the TRBHA prior to the provision of the covered service. Prior authorization is not a guarantee of payment.

Service Authorization Request: A behavioral health recipient's request, through a behavioral health provider, for the provision of a covered service that requires prior authorization

V. **OBJECTIVES:**

The objectives of this section are to ensure that Title XIX and Title XXI eligible persons seeking or receiving behavioral health services have access to an appeals process that fairly and



efficiently resolves identified issues and that Title XIX/XXI eligible persons are provided required notices that:

1. Are timely;
2. Explain the action to be taken and the appeal process available to the person or guardian, advocate and/or designated representative; and
3. Are written in a manner that is clear and easily understood by the person.

VI. **PROCEDURES:**

A. General requirements:

Language and format requirements:

Entities responsible for sending notice to Title XIX/XXI eligible persons must ensure that:

1. Notice and written documents related to the appeals process must be available in each prevalent, non-English language spoken within the TRBHA's geographic service area (GSA);
2. As applicable, behavioral health providers must provide free oral interpretation services to explain information contained in the notice or as part of the appeal process for all non-English languages; and
3. Notice and written documents related to the appeals process must be available in alternative formats, such as Braille, large font or enhanced audio and take into consideration the special communication needs of the person.

Computation of time:

The following methodology must be used in computing any period of time described in this section:

1. Computation of time for appeals begins the day after the act, event or decision and includes the final day of the period. For purposes of computing all timeframes except for the standard service authorization time frames and extensions thereof, if the final day of the period is a weekend day (Saturday or Sunday) or legal holiday, the period is extended until the end of the next day that is not a weekend day (Saturday or Sunday) or a legal holiday.



2. For a standard service authorization with or without an extension, if the final day of the period is a weekend day or legal holiday the period is shortened to the last working day immediately preceding the weekend day or legal holiday.
3. Computation of time in calendar days includes all calendar days.
4. Computation of time in workdays includes all working days, i.e. non-weekend and non-legal holiday days.

Prohibition of punitive action

Providers must not take punitive action against a Title XIX/XXI eligible person who decides to exercise their right to appeal. TRBHAs must ensure that punitive action is not taken against a provider who requests an expedited resolution to an appeal or who supports a Title XIX/XXI eligible person's appeal.

B. Notice of action:

For Title XIX/XXI covered services, notice must be provided following:

1. The denial or limited authorization of a requested service, including the type or level of service;
2. The reduction, suspension or termination of a previously authorized service;
3. The denial, in whole or in part, of payment for a service that is not TXIX/XXI covered; and
4. The denial of the Title XIX/XXI person's request to obtain services outside the network

Who is responsible for sending the notice?

Following an action requiring notice to a behavioral health recipient, the TRBHA must ensure the communication of a notice to the person.

AHCCCS sends notices to Title XIX/XXI eligible persons enrolled with TRBHA following:

1. The denial or limited authorization of a requested service that requires prior authorization, including the type or level of service; and
2. The reduction, suspension or termination of a previously authorized service that requires prior authorization.



AHCCCS sends notices to Title XIX/XXI eligible persons who have been adversely affected by a PASRR determination in the context of either a preadmission screening or a resident review.

How is a Notice communicated to Title XIX/XXI eligible persons?

PM Form 5.1.1 must be completed to include the following:

1. The requested service;
2. The reason/purpose of that request in layperson terms;
3. The action taken or intended to be taken (denial, limited authorization, reduction, suspension or termination) with respect to the service request;
4. The effective date of the action;
5. The reason for the action, including member specific facts;
6. The legal basis for the action;
7. Where members can find copies of the legal basis;
8. The right to and process for appealing the decision; and
9. Legal resources for members for help with appeals, as prescribed by AHCCCS.

Delivery of Notices:

The Notice of Action must be delivered to the Title XIX/XXI eligible person and, when applicable, their legal representative or designated representative (e.g., Department of Economic Security/Division of Children, Youth and Families/Department of Child Safety Specialist and/or advocate for SMI persons requiring special assistance). For Title XIX/XXI eligible persons under the age of 18, the Notice of Action must be delivered to their legal or custodial parent or a government agency with legal custody of the Title XIX/XXI eligible person.

All notices must be personally delivered or mailed by certified mail to all parties at their last known residence or place of business. If it may be unsafe to contact a person at his or her home address, or the person does not want to receive mail at home, alternate methods identified by the person for communicating notice must be used.



C. Notice of Action timeframes

For service authorization requests, the following timeframes for sending notice of action are in effect (see *Section 3.14, Securing Services and Prior Authorization* for required timeframes for decisions regarding prior authorization requests):

1. For an authorization decision related to a service requested by or on behalf of a Title XIX/XXI eligible person, the responsible entity must send a notice of action within 14 days following the receipt of the person's request;
2. For an authorization request in which the provider indicates, or the responsible entity determines, that the 14 calendar day timeframe could seriously jeopardize the person's life or health or ability to attain, maintain or regain maximum function, the responsible entity must make an expedited authorization decision and send the Notice of Action as expeditiously as the person's health condition requires, but no later than three working days after receipt of the request for service; or
3. If the Title XIX/XXI eligible person requests an extension of either timeframe above, the responsible entity must extend the timeframe up to an additional 14 days;

If the responsible entity needs additional information and the extension is in the best interest of the person, the responsible entity shall extend the 14-calendar day or the three working day timeframe up to an additional 14 days. If the responsible entity extends the timeframe, the responsible entity must:

1. Give the Title XIX/XXI eligible person written notice of the reason for the decision to extend the timeframe using PM Form 5.1.2, Notice of Extension of Timeframe for Service Authorization Decision Regarding Title XIX/XXI Services, and inform the person of the right to file a complaint if the person disagrees with the decision; and
2. Issue and carry out the determination as expeditiously as the person's condition requires and no later than the date the extension expires.

For service authorization decisions not reached within the maximum timeframes outlined above, the authorization shall be considered denied on the date that the timeframe expires.

AHCCCS, the TRBHA or TRBHA provider shall provide the requesting provider notification of a decision to deny a service authorization. The notification must be in writing.



For service terminations, suspensions or reductions, the following timeframes are in effect:

1. The responsible entity must send the Notice of Action at least 10 days before the date of the action with the following exceptions:
 - a. The responsible entity may send the Notice of Action no later than the date of the action if:
 - i. The responsible entity has factual information confirming the death of a Title XIX/XXI person;
 - ii. The responsible entity receives a clear written statement signed by the Title XIX/XXI person or their legal representative that the person no longer wants services or gives information to the responsible entity that requires termination or reduction of services and indicates that the person understands that this will be the result of supplying that information;
 - iii. The Title XIX/XXI person is an inmate of a public institution that does not receive federal financial participation and the person becomes ineligible for TXIX/XXI;
 - iv. The Title XIX/XXI person's whereabouts are unknown and the post office returns mail to the responsible entity indicating no forwarding address; or
 - v. The responsible entity establishes the fact that the Title XIX/XXI person has been accepted for Medicaid by another state. The responsible entity may shorten the period of advance notice to five days before the date of action if the responsible entity has verified facts indicating probable fraud.

D. Title XIX and Title XXI appeal and State Fair Hearing process:

Who is responsible?

Each TRBHA is responsible for processing appeals and may not delegate this function to a behavioral health provider. AHCCCS processes appeals related to actions initiated by a TRBHA or one of their subcontracted behavioral health providers. Any responsibilities attributed to a TRBHA in Subsections D and E of this section are inferred to be the responsibility of AHCCCS if the action relates to a TRBHA or one of their subcontracted providers, or relates to an appeal concerning a PASRR determination.

The following information is provided to familiarize behavioral health providers with the Title XIX/XXI appeal process.



Who can file an appeal or request a State Fair Hearing?

The following persons or representatives may file an appeal or request a State Fair Hearing regarding an action:

1. A Title XIX/XXI eligible person;
2. A legal or authorized representative (e.g., Department of Economic Security/Division of Children, Youth and Families/Child Protective Services Specialist and/or advocate for SMI persons requiring special assistance), including a behavioral health provider, acting on behalf of the person, with the person's or legal representative's written consent.
3. A Title XIX/XXI eligible person adversely affected by a PASRR determination in the context of either a preadmission screening or a resident review.

What is the timeframe for filing an appeal?

A Title XIX/XXI eligible person has up to 60 days after the date of the Notice of Action to file a standard appeal. The appeal may be filed orally or in writing.

How long does the TRBHA have to resolve a standard appeal?

The TRBHA must resolve standard appeals no later than 30 days from the date of receipt of the appeal unless an extension is in effect.

Can the standard appeal resolution timeframe be extended?

If a Title XIX/XXI eligible person requests an extension of the 30-day timeframe, the TRBHA must extend the timeframe up to an additional 14 days. If the TRBHA needs additional information and the extension is in the best interest of the person, the TRBHA may extend the 30-day timeframe up to an additional 14 days.

Under what circumstances an appeal must be expedited?

The TRBHA must conduct an expedited appeal if:

1. The TRBHA receives a request for an appeal from a Title XIX/XXI eligible person and the TRBHA determines that taking the time for a standard appeal resolution could seriously jeopardize the person's life or health, or ability to attain, maintain, or regain maximum function;
2. The TRBHA receives a request for an expedited appeal from a Title XIX/XXI eligible person supported with documentation from the behavioral health provider that taking the time for a standard resolution could



seriously jeopardize the person's life or health, or ability to attain, maintain or regain maximum function; or

3. The TRBHA receives a request for an expedited appeal directly from a behavioral health provider, with the Title XIX/XXI eligible person's written consent, and the behavioral health provider indicates that taking the time for a standard resolution could seriously jeopardize the person's life or health, or ability to attain, maintain or regain maximum function.

What if the request for an expedited appeal is denied?

If the TRBHA denies a request for expedited resolution of an appeal from a Title XIX/XXI eligible person, the TRBHA must resolve the appeal within the standard resolution timeframe and make reasonable efforts to give the person prompt oral notice of the denial. Within two calendar days, the TRBHA must follow up with written notice of the denial.

How long does the RBHA have to resolve an expedited appeal?

The TRBHA must resolve expedited appeals within three working days after the day the TRBHA receives the appeal.

Can the expedited appeal resolution timeframe be extended?

If a Title XIX/XXI eligible person requests an extension of the three working day timeframe, the TRBHA must extend the timeframe up to an additional 14 days. If the TRBHA needs additional information and the extension is in the best interest of the person, the TRBHA must extend the three working day timeframe up to an additional 14 days.

Requesting a State Fair Hearing

A Title XIX/XXI eligible person, legal guardian or authorized representative may request a State Fair Hearing following the TRBHA's resolution of an appeal. The request must be in writing and submitted to the Pascua Yaqui TRBHA Quality Manager at 4567 West Tetakusim Road, Tucson, AZ 85757. The request must be received by the TRBHA no later than 30 days after the date that the person received the Notice of the Appeal Resolution.

What assistance must be provided to Title XIX/XXI eligible persons in filing an appeal and/or requesting a State Fair Hearing?

Reasonable assistance must be provided to Title XIX/XXI eligible persons in completing forms and other procedural steps. Reasonable assistance includes, but is not limited to, providing interpreter services and toll-free numbers that have adequate TTY/TTD (teletypewriter/ telecommunications device for the deaf and text telephone) and interpreter capability. Reasonable assistance may be offered



by a behavioral health provider or referred to the TRBHA by contacting the Pascua Yaqui TRHBA at (520) 879-6060 or, for Title XIX/XXI eligible persons enrolled with a TRBHA, by contacting AHCCCS office of grievance and appeals at (602) 364-4575.

E. Continuation of services during the appeal or State Fair Hearing process:

For the purposes of this subsection, if the following criteria are met, services shall be continued based on the authorization that was in place prior to the denial, termination, reduction or suspension of services that has been appealed. A Title XIX/XXI eligible person's services can continue during the appeal and State Fair Hearing process, unless continuation of services would jeopardize the health or safety of the person or another person, if:

1. The person files the appeal timely*;
2. The appeal involves the termination, suspension, or reduction of a previously authorized course of treatment or the appeal involves a denial if the provider asserts the denial represents a necessary continuation of a previously authorized service;
3. The services were ordered by an authorized provider; and
4. The person requests continuation of services.

*Timely filing means filing on or before the later of the following:

1. Within 10 days after the date that the TRBHA mails or delivers the Notice of Action; or
2. The effective date of the action as indicated in the Notice of Action.

If a person wishes services to continue during the appeal, they must request the continuation of services when the appeal is initially filed and at the time of requesting a State Fair Hearing.

At what point will a person's services no longer be provided during the appeal or State Fair Hearing process?

The TRBHA must continue services until one of the following occurs:

1. The Title XIX/XXI eligible person withdraws the appeal;
2. The Title XIX/XXI eligible person makes no request for continued benefits within 10 days of the delivery of the Notice of Appeal Resolution; or
3. The AHCCCS Administration issues a State Fair Hearing decision adverse to the Title XIX/XXI eligible person.



What happens if the person loses the appeal?

If the Director's decision upholds the TRBHA's action, the TRBHA may recover the cost of the services furnished to a Title XIX/XXI eligible person while the appeal is pending if the services were furnished solely because of the requirements of subsection E.

What happens if a decision to deny authorization of services is reversed by AHCCCS?

If the TRBHA or AHCCCS Director's Decision reverses a decision to deny, limit, or delay authorization of services, and the member received the disputed services while an appeal was pending, the TRBHA shall process a claim for payment from the provider in a manner consistent with the TRBHA's or Director's Decision and applicable statutes, rules, policies, and contract terms (see ARS § 36-2904)

The provider shall have 90 days from the date of the reversed decision to submit a clean claim to the TRBHA for payment. For all claims submitted as a result of a reversed decision, the RBHA is prohibited from denying claims as untimely if they are submitted within the 90-day timeframe.

TRBHAs are also prohibited from denying claims submitted by providers as a result of a reversed decision because the member chooses not to request continuation of services during the appeals/hearing process: a member's failure to request continuation of services during the appeals/hearing process is not a valid basis to deny the claim.