

Patrice Botsford

**Authorized Signature**

**Number:** APD-AR-13-093

**Issue Date:** 11/21/2013

**Topic:** Developmental Disabilities

**Due Date:**

**Subject:** Notification of Planned Action

**Applies to (check all that apply):**

- |   |   |
|---|---|
| <input type="checkbox"/> All DHS employees                  | <input checked="" type="checkbox"/> County DD Program Managers  |
| <input type="checkbox"/> Area Agencies on Aging             | <input type="checkbox"/> County Mental Health Directors   |
| <input type="checkbox"/> Aging and People with Disabilities | <input type="checkbox"/> Health Services  |
| <input type="checkbox"/> Children, Adults and Families      | <input checked="" type="checkbox"/> Other (please specify): Brokerage directors; DD service coordinators; brokerage personal agents; CIIS; ODDS |

**Reason for Action:**

Per Medicaid law [42 CFR 431 Subpart E](#), [Oregon State statute, ORS 183.415](#), and Oregon Administrative Rule (OAR) [461-025](#) and [461-175](#), it is required that prior to denying, reducing, suspending or terminating (closing) Medicaid or state plan services to an individual, a Notification of Planned Action (NPA), (form SDS 0947) must be provided to the individual and (if applicable) their legal guardian. This includes if an individual has voluntarily requested to reduce, suspend or terminate their service.

The individual or their representative must receive their rights to a hearing which can be found on the back of the NPA form. In addition to having the right to a hearing, the individual may also request that their services remain the same during the hearing process. *This is information that can be found on the NPA.*

The expectation of annually advising individuals in service of their hearing rights and the right to complain continues, with the requirement of providing the Fact Sheet (0948) and securing a signature using the Notification of Rights signature form (0949).

Future training and a technical 'Worker Guide to Issuing Notices' will be provided by ODDS around the issuance of a timely decision notice. Oregon Administrative Rules will be amended to include clear guidance around the issuance of a timely decision notice and individuals' right to a hearing.

This information is specific to individual denials, terminations, reductions or suspensions. It does *not* pertain to overall program reductions, terminations or suspensions.

## **Action Required:**

### **Section I.** When a Notification of Planned Action (NPA) (SDS 0947) is required:

- a) Anytime a service that is requested, by an individual or their representative, is denied. This includes a requested increase or change to any of the services being received by the individual. *An example of an increase in services may be that they want additional 1:1 support either at home or in the community (ex: plan indicates 4 hours of 1:1 are needed each day and the individual requests 8 hours of 1:1). An example of a change to services may be a request to change providers or to have a specific provider, and the request is denied.*
- b) Anytime a service to an individual is being reduced, suspended or terminated by the Department (CDDP, Brokerage, Kids Residential or CIIS).
- c) Anytime an individual voluntarily requests to have their services reduced, suspended or terminated.
- d) Anytime an individual expresses dissatisfaction with their service plan based on the results of their needs assessment.

### **Section II.** Scenarios when a Notification of Planned Action (SDS 0947) is **not** required:

- a) Provider rates are reduced with no impact to the individuals' service plan.
- b) When a Notice of Eligibility Determination (SDS 5104) has been issued, terminating the individual from Developmental Disabilities Services (the SDS 5104 takes the place of the NPA if the issue is related to DD eligibility).

### **Section III.** 'Effective dates' to include on the Notification of Planned Action (SDS 0947):

*NOTE\*\*\* If there is an individual program rule (Oregon Administrative Rule) that requires 30-day notice, you must follow that guidance when identifying an effective date to reduce or terminate a service. \*\*\**

In the event that the program rules do not provide guidance on how to determine an effective date, follow these guidelines:

- a) If you are sending the NPA on or before the 18<sup>th</sup> of any given month (this means that the letter is going out in the mail on this date), then use the end of the same month as the 'effective date' for the change.
- b) If you are sending the NPA on or after the 19<sup>th</sup> of any given month (this means that the letter is going out in the mail on or after this date), then use the end of the following month as the 'effective date' for the change.
- c) If you are sending a NPA due to a denial of service (outlined in Section I (a)), then the 'effective date' is the same date as identified as the 'Date of Notice'.

**Section IV.** Examples of 'Action and Reason for Action' statements:

You must document the service(s) that is/are being impacted, the action that is being taken (is the program reducing or terminating a service), and the reason that the action is taking place.

Here is an example of how to write a Reason for Action statement for an individual in In-Home services (other situations will apply depending on the service the individual is requesting): *"You are eligible for 8 hours a day of in-home services based on the needs assessment that was completed on October 22<sup>nd</sup>, 2013. You have requested 10 hours a day of in-home service which is not supported based on your assessed needs".*

**Section V.** Applicable Oregon Administrative Rules (OAR):

You must include all applicable OARs related to the decision, on this notice. Additional guidelines and a technical Worker Guide to issuing Notices will be forthcoming. An example of citing an OAR for someone who has their In-Home service hours reduced is:

OAR 411-330-0020(31); 411-330-0050(2); 411-330-0050(3)(c)

**Section VI.** Additional resources:

Department administrative rules and additional guidance around Medicaid requirements for issuing decision notices (461-175-0200) can be found at: [http://arcweb.sos.state.or.us/pages/rules/oars\\_400/oar\\_461/461\\_175.html](http://arcweb.sos.state.or.us/pages/rules/oars_400/oar_461/461_175.html);

Department administrative rules around requirements for issuing voluntary withdrawal notices (OAR 461-175-0340) can be found at:

[http://arcweb.sos.state.or.us/pages/rules/oars\\_400/oar\\_461/461\\_175.html](http://arcweb.sos.state.or.us/pages/rules/oars_400/oar_461/461_175.html)

Oregon State Statute and additional guidance around the issuance of decision notices can be found at:

[https://www.oregonlegislature.gov/bills\\_laws/lawsstatutes/2011ors183.html](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2011ors183.html)

Medicaid law regarding the issuance of decision notices can be found at:

<http://www.ecfr.gov/cgi-bin/text-idx?SID=4eb35f6cd2ebe13b1252db9e3a3b41a1&node=42:4.0.1.1.2.5&rgn=div6>

**Field/Stakeholder review:**     Yes     No

**If yes, reviewed by:** Community Developmental Disability Service Program Managers; Support Service Brokerage Directors

*If you have any questions about this action request, contact:*

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