

Appendix M

Additional Requirements – Discretionary Involuntary Disenrollment Requests for Disruptive Conduct

EOHHS shall decide whether to approve or deny each request for involuntary disenrollment based on an assessment of the particular facts associated with each request, including an assessment of whether the Contractor followed all of the necessary procedural and Enrollee notice requirements.

The following requirements shall be met for all requests from the Contractor for Discretionary Involuntary Disenrollment due to disruptive conduct, as described in **Section 2.4.13.4**. A plan may disenroll an Enrollee whose behavior is disruptive only after EOHHS has reviewed and approved the request.

An Enrollee is disruptive if their behavior substantially impairs the plan's ability to arrange for or provide services to the individual or other plan members. An individual cannot be considered disruptive if such behavior is related to the use of medical services or compliance (or noncompliance) with medical advice or treatment.

A. Procedural requirements:

1. The Contractor shall make a serious effort to resolve the problems presented by the Enrollee, including providing reasonable accommodations. In addition, the Contractor shall inform the Enrollee, or their representative, of the right to use the Plan's grievance procedures. The Enrollee has a right to submit any information or explanation that the Enrollee may wish to the Contractor.
2. The Contractor shall document the Enrollee's behavior. The Contractor may request from EOHHS the ability to decline future enrollment by the individual into the Contractor's SCO Plan. The Contractor shall submit this information and any documentation received by the beneficiary to EOHHS.
3. The Contractor's request to involuntarily disenroll an Enrollee for disruptive conduct shall be in writing and include all available supporting documentation, including the following:
 - a. Documentation of the disruptive behavior, including dates, locations, and actions;
 - b. Information about the Enrollee, including age, diagnosis, mental status, Functional Status, a description of their social support systems, and any other relevant information;
 - c. The plan's own efforts to resolve any problems, and any extenuating circumstances;

- d. Statements from providers describing their experiences with the Enrollee (or refusal to provide such statements); and
 - e. Any information provided by the Enrollee. The Enrollee can provide any information they wish.
 - f. If the Contractor is requesting the ability to decline future enrollments for this individual, the Contractor shall include this request explicitly in the submission.
4. Prior to approval, the complete request shall be reviewed by EOHHS, including by EOHHS staff with appropriate clinical or medical expertise:

B. Evidentiary standards

1. At a minimum, the supporting documentation shall demonstrate the following to the satisfaction of EOHHS staff with appropriate clinical or medical expertise:
 - a. The Enrollee is presently engaging in a pattern of disruptive conduct that is substantially impairing the Contractor's ability to arrange for or provide Covered Services to the Enrollee and/or other Enrollees.
 - b. The Contractor took reasonable efforts to address the disruptive conduct including at a minimum:
 - i. A documented effort to address the Enrollee's underlying interests and needs reflected in their disruptive conduct and provide reasonable accommodations as defined by the Americans with Disabilities Act, including those for individuals with mental and developmental disabilities. An accommodation is reasonable if it is efficacious in providing equal access to services and proportional to costs. EOHHS will determine whether the reasonable accommodations offered are sufficient.
 - ii. A documented provision of information to the Enrollee of their right to use the Contractor Grievance procedures.
2. The Contractor provided the Enrollee with a reasonable opportunity to cease their disruptive conduct.
3. The Contractor complied with all Enrollee notice requirements, as described in Section D of this Appendix.
4. The Contractor shall provide evidence that the Enrollee's behavior is not related to the use, or lack of use, of Covered Services.
5. The Contractor may also provide evidence of other extenuating circumstances.

C. Limitations

1. The Contractor shall not seek to terminate the Enrollment because of any of the following:
 - a. The Enrollee's uncooperative or disruptive behavior resulting from such Enrollee's special needs unless the Enrollee's continued Enrollment in the Plan substantially impairs the Contractor's ability to provide or arrange for Covered Services, to either this particular Enrollee or other Enrollees. This substantial impairment may be demonstrated by treating providers explicitly documenting their belief that there are no reasonable accommodations the Contract could provide that would address the disruptive conduct.
 - b. The Enrollee exercises the option to make treatment decisions with which the Contractor or any health care professionals associated with the Contractor disagree, including the option of declining treatment and/or diagnostic testing.
 - c. An adverse change in an Enrollee's health status or because of the Enrollee's utilization of Covered Services.
 - d. The Enrollee's mental capacity is, has, or may become diminished.

D. Review Process

1. Once EOHHS reviews the request, it may either (1) disapprove or (2) approve the request. EOHHS will make the decision within 20 business days after receipt of all the information required to complete its review.
2. Should the request be approved, the disenrollment is effective the first day of the calendar month after the month in which the Contractor gives the Enrollee a written notice of the disenrollment.
3. If the request for involuntary disenrollment for disruptive behavior is approved:
 - a. EOHHS may require the Contractor to provide reasonable accommodations to the individual in such exceptional circumstances that EOHHS deems necessary.
 - b. The Contractor may request that EOHHS consider prohibiting re-enrollment in the Contractor's plan. If this is not requested, and the individual is disenrolled due to disruptive behavior, the individual may re-enroll into the Contractor's plan in the future.

E. Notices

1. The disenrollment for disruptive behavior process requires 3 written notices:
 - a. **Advance notice** to inform the Enrollee that the consequences of continued disruptive behavior may be disenrollment;

- b. **Notice of intent** to request EOHHS's permission to disenroll the Enrollee; and
- c. **A planned action** notice advising that EOHHS has approved the Contractor's request.

2. Requirements

The Contractor shall customize each notice following the requirements outlined in this section.

a. Advance Notice

- i. Prior to forwarding an involuntary disenrollment request to EOHHS, the Contractor shall provide the Enrollee with a written notice describing the behavior it has identified as disruptive and how it has impacted the Contractor's ability to arrange for or provide services to the Enrollee or to other Enrollees of the plan. The notice shall do the following:
 - (a) Make clear that the Enrollee's current plan coverage is still in effect.
 - (b) Explain that the Enrollee's continued behavior may result in involuntary disenrollment and that cessation of the undesirable behavior may prevent this action.
 - (c) Provide information about who the Enrollee may contact for more information or to ask questions about the notice.
 - (d) Advise the Enrollee of their right to use the Contractor's, and EOHHS's if appropriate, grievance procedures and to submit any information or explanation.
- ii. Process:
 - (a) The Advance Notice shall not include a projected effective date of disenrollment.
 - (b) The Contractor shall include a copy of this notice and the date it was provided to the Enrollee in any information forwarded to EOHHS.
 - (c) If the disruptive behavior ceases after the Enrollee receives notice and then later resumes, the Contractor shall begin the process again if it still seeks involuntary disenrollment of the Enrollee. This includes sending another advance notice.

b. Notice of Intent

- i. If the Enrollee's disruptive behavior continues despite the Contractor's efforts, the Contractor shall notify the Enrollee of its

intent to request EOHHS's permission to disenroll them for disruptive behavior. This notice shall do the following:

- (a) Make clear that the Enrollee's current plan coverage is still in effect.
- (b) Notify the Enrollee of the Contractor's intent to request EOHHS's permission to dis-enroll them for disruptive behavior.
- (c) Provide information about who the Enrollee may contact for more information or to ask questions about the notice.
- (d) Advise the Enrollee of their right to use the Contractor's, and EOHHS's if appropriate, grievance procedures and to submit any information or explanation.

ii. Process:

- (a) The Notice of Intent should not include a projected effective date of disenrollment.
- (b) The Contractor shall include a copy of this notice and the date it was provided to the Enrollee and forward this documentation to EOHHS.

c. Planned Action Notice

- i. If EOHHS approves the request to disenroll the Enrollee for disruptive behavior, the Contractor shall provide the Enrollee with a written notice that contains the following:
 - (a) A statement that this action was approved by EOHHS and meets the requirements for disenrollment due to disruptive behavior described above.
 - (b) Information about who the Enrollee may contact for more information or to ask questions about the notice.
 - (c) Advise the Enrollee of their right to use the Contractor's, and EOHHS's if appropriate, grievance procedures and to submit any information or explanation.
- ii. The Contractor shall submit the disenrollment transaction to EOHHS and to CMS only after providing the notice of disenrollment (Planned Action Notice) to the individual. The disenrollment is effective the first day of the calendar month after the month in which the Contractor gives the Enrollee a written notice of the disenrollment.
- iii. If EOHHS does not approve the request to disenroll, the Contractor shall provide the Enrollee with a written notice, notifying them of that decision. If the Contractor wishes to pursue another involuntary

disenrollment request for the same Enrollee, the Contractor shall begin the process again. This includes sending another Advance Notice.