



Senior & Long Term Care Division Community Services Bureau Big Sky Waiver Policy Manual

Title: BSW 412
Section: ELIGIBILITY FOR SERVICES
Subject: Adverse Action
Reference: Big Sky Waiver Application 01-01-2018; ARM 37.40.1407,.1408,.1426
42 CFR 431.210,.211.
Supersedes BSW 412 (01/16/2018)

PURPOSE

An adverse action is any action to terminate, decrease or deny Big Sky Waiver (BSW) services or coverage. Timely and/or adequate notice must be provided for all adverse actions.

NOTE: The Office of Public Assistance (OPA) will issue letters of adverse actions resulting from Medicaid financial ineligibility. Mountain Pacific Quality Health issues letters of adverse action resulting from Level of Care criteria.

NOTICE CONTENT REQUIREMENT

A written statement that informs the client of the:

1. Action taken;
2. Reason for the action;
3. Specific agency policy and state and federal regulations supporting the adverse action;
4. Date the action will occur; and
5. Member's right to request a hearing.

NOTE: A person aggrieved by any adverse action made by the Department, may request a fair hearing (refer to Big Sky Waiver 413).

DEFINITIONS

Adequate Notice: Written notice mailed no later than the date of action.

Timely Notice: Written notification mailed at least 10 calendar days prior to the date of action.

Termination: Discontinuation of coverage under the Big Sky Waiver program.

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TIMELY NOTICE

The Case Management Team (CMT) must send timely notice when Big Sky Waiver services are terminated, denied or decreased for any of the following reasons:

1. The plan of care costs exceeds the maximum limit unless prior authorized by the Department;
2. The service is not medically necessary and/or does not relate specifically to the member's medical diagnosis;
3. The service is not the most cost-effective option available to meet the needs of the member;
4. The service does not provide a direct medical or remedial benefit to the member;
5. The service has not been pursued and exhausted through all other Medicaid programs, other insurance or third-party sources;
6. A determination by the CMT or Community Services Bureau (CSB) that the services, as provided for in the service plan, are no longer appropriate or effective in relation to the member's needs;
7. The failure of the member to use the services as provided for in the service plan;
8. The behaviors of the member create serious risk to the member, caregivers or others or substantially impede the delivery of services as provided for in the service plan;
9. The health of the member is deteriorating or in some other manner placing the member at serious risk of harm;
10. A determination by the CMT that the service providers necessary to the delivery of services as provided for in the service plan are unavailable;
11. The services requested by the member do not prevent institutionalization;
12. The member is not 65 years of age or older;
13. Member has not been certified as disabled by the Social Security Administration or the Medicaid Eligibility Determination Services. Refer to BSW 804;

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14. Insufficient Big Sky Waiver funds;
15. Member's needs cannot be met by the Big Sky Waiver Program;
16. Member refuses to sign the Service Plan;
17. Medicaid Ineligibility in the following situations:
 - a. Member refuses to pay the spend down, or
 - b. CMT receives SLTC-55 from OPA confirming member's closure or denial due to Medicaid ineligibility.

NOTE: CMTs must remove an individual from the wait list or program enrollment within 10 calendar days of receiving a SLTC-55 from the OPA indicating Medicaid ineligibility.

18. Member has moved out of state; or
19. Member transitioned to another Medicaid program (e.g. Member transitions from BSW to SDMI Waiver).

NOTE: Member's transition to another Medicaid program does not require RPO Authorization on the Termination or Denial of Program Coverage SLTC-144 form.

ADEQUATE NOTICE SITUATIONS

The Case Management Team (CMT) must send adequate notice in the following situations:

NOTE: For adequate notice situations, RPO Authorization is not required on the Termination or Denial of Program Coverage SLTC-144 form.

1. The member is admitted to a nursing facility, hospital or Transitional Care Unit (TCU);

NOTE: If a member is absent from services less than 30 calendar days, refer to BSW 415.

2. Member's written request to end program coverage or service; or
3. The death of the member.

NOTE: Notices are addressed to: The estate of the member.

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EXCEPTION

The Department will provide at least 30 calendar days advance notice before a termination of services due to insufficient program funds.

PROCEDURES

The following actions must be taken prior to the **client's termination or denial from the BSW Program:**

Completion of the **Termination or Denial of Program Coverage** SLTC-144 form:

- a. The CMT will complete sections 1-5 of the SLTC-144 form;
- b. The CMT will forward the completed SLTC-144 to the RPO for review and authorization.
- c. Upon receipt of the form, the RPO will review the form for accuracy and compliance to BSW policies.
 1. If the RPO concurs, the RPO will sign and date Section 6 and return the completed form to the CMT who will mail the form to the client.
 2. If the RPO does not concur, the RPO will notify the CMT the SLTC-144 cannot be authorized.

- NOTE:** For termination of Big Sky Waiver Program coverage, in addition to completion of the SLTC-144 form as outlined above, the following actions must be taken:
1. The CMT must send an updated MA-55 to the OPA reflecting the termination date. Refer to HCS 899-6.
 2. The CMT must fax the **Termination of Coverage – Provider Notification** SLTC-137 form to MPQH.

The following actions must be taken prior to the client's **termination, denial or reduction of a Big Sky Waiver service:**

1. Completion of the **Termination, Denial or Decrease of Services** SLTC-150 form:
 - a. The CMT will complete sections 1-5 of the SLTC-150 form;
 - b. The CMT will forward the completed SLTC-150 to the RPO for review and authorization;

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Upon receipt of the form, the RPO will review the form for accuracy and compliance to BSW policies.

1. If the RPO concurs, the RPO will sign and date Section 6 and return the completed form to the CMT who will mail the form to the client.
2. If the RPO does not concur, the RPO will notify the CMT the SLTC-150 cannot be authorized.