

**Arizona Department of Health Services
Division of Behavioral Health Services
PROVIDER MANUAL
*Magellan Health Services of Arizona Edition***

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

- 5.1.1 Introduction
- 5.1.2 References
- 5.1.3 Scope
- 5.1.4 Did you know...?
- 5.1.5 Definitions
- 5.1.6 Objectives
- 5.1.7 Procedures
- 5.1.7-A: General Requirements
- 5.1.7-B: Notice of Action
- 5.1.7-C: Notice of Action timeframes
- 5.1.7-D: Title XIX and Title XXI appeal and State Fair Hearing process
- 5.1.7-E: Continuation of services during the appeal or State Fair Hearing process

5.1.1 Introduction

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 \(SMI and Non-SMI/Non-Title XIX/XXI\)](#).

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 shall be provided notice and the opportunity to appeal by Arizona Department of Health Services/Division of Behavioral Health Services (ADHS/DBHS).

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:

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

5.1.2 References

The following citations can serve as additional resources for this content area:

- [42 CFR 431.200 et seq.](#)
- [42 CFR 438.210](#)
- [42 CFR 438.400 et seq.](#)
- [A.R.S. § 36-2903.01](#)
- [ARS §36-2904](#)
- [A.R.S. § 36-3413](#)
- [A.R.S. Title 41, Chapter 6, Article 10](#)

**Arizona Department of Health Services
Division of Behavioral Health Services
PROVIDER MANUAL
*Magellan Health Services of Arizona Edition***

[2 A.A.C. Chapter 19, Article 1](#)

[9 A.A.C. 21](#)

[9 A.A.C. 34, Article 2](#)

[AHCCCS/ADHS Contract](#)

[ADHS/RBHA Contracts](#)

[ADHS/TRBHA IGAs](#)

[Section 3.6, Member Handbook](#)

[Section 3.9, Assessment and Service Planning](#)

[Section 3.14, Securing Services and Prior Authorization](#)

[Section 5.5, Notice and Appeal Requirements \(SMI and Non-SMI/Non-Title XIX/XXI\)](#)

[Section 5.6, Provider Claims Disputes](#)

[Policy and Procedures GA 3.3, Title XIX/XXI Notice and Appeal Requirements](#)

[Policy and Procedures MI 5.3, Pre-admission Screening and Resident Review](#)

[ADHS/DBHS Covered Behavioral Health Services Guide](#)

5.1.3 Scope

To whom does this apply?

This section applies to all Title XIX and Title XXI eligible persons who are seeking covered services through the ADHS/DBHS behavioral health system.

5.1.4 Did you know...?

- ADHS/DBHS 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](#)). A provider can file an appeal on behalf of a Title XIX/XXI eligible person with that person's written consent.

5.1.5 Definitions

[Action](#)

[Appeal](#)

[Appeal Resolution](#)

[Complaint](#)

[Day](#)

[Denial](#)

[Health Care Professional](#)

**Arizona Department of Health Services
Division of Behavioral Health Services
PROVIDER MANUAL
*Magellan Health Services of Arizona Edition***

[Limited Authorization](#)

[PASRR](#)

[Prior Authorization](#)

[Service Authorization Request](#)

5.1.6 Objectives

The objectives of this section are to ensure that Title XIX and Title XXI eligible persons seeking or receiving covered 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:

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

5.1.7 Procedures

5.1.7-A: General Requirements

Language and Format Requirements

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

- Notice and written documents related to the appeals process must be available in each prevalent, non-English language spoken within the Regional Behavioral Health Authority's (RBHA's) geographic service area (GSA);
- As applicable, 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;
- 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; and
- Notice and written documents must be written using an easily understood language and format.

Computation of time

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

- 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 with the exception of 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.
- 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

Arizona Department of Health Services
Division of Behavioral Health Services
PROVIDER MANUAL
Magellan Health Services of Arizona Edition

immediately preceding the weekend day or legal holiday. (For more information see the [AHCCCS Contractor Operation Manual \(ACOM\) Section 414, IV. Definitions](#)).

- Computation of time in calendar days includes all calendar days.
- 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. RBHAs 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.

5.1.7-B: Notice of Action

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

- 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 for a service that is not TXIX/XXI covered; and
- 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 Title XIX/XXI eligible person, Magellan ensures that a written notice is sent to the recipient. If the decision regarding an action is made at the provider level, the provider must ensure the communication of a notice to the person. .

ADHS/DBHS sends notices to Title XIX/XXI eligible persons enrolled with a Tribal RBHA (TRBHA) following:

- The denial or limited authorization of a requested service , including the type or level of service (see [Section 3.14, Securing Services and Prior Authorization](#)); and
- The reduction, suspension or termination of a previously authorized service.

ADHS/DBHS 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 notice communicated to Title XIX/XXI eligible persons?

The use of [PM Form 5.1.1](#) is required when providing notice regarding an action concerning a Title XIX/XXI person. (Please see the [AHCCCS Contractors Operations Manual \(ACOM\) 414](#) for guidance in preparation of this form). [PM Form 5.1.1](#) must be completed to include the following:

- The requested service;
- The reason/purpose of that request in layperson terms;
- The action taken or intended to be taken (denial, limited authorization, reduction, suspension or termination) with respect to the service request;
- The effective date of the action;

Arizona Department of Health Services
Division of Behavioral Health Services
PROVIDER MANUAL
Magellan Health Services of Arizona Edition

- The reason for the action, including member specific facts;
- The legal basis for the action;
- Where members can find copies of the legal basis;
- The right to and process for appealing the decision; and
- Legal resources for members for help with appeals, as prescribed by the Arizona Health Care Cost Containment System (AHCCCS) (See [AHCCCS Contractors Operations Manual \(ACOM\) 414, Attachment C](#)).

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/Child Protective Services 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. In the event that 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.

5.1.7-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):

- 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;
- 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;
- 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:
 - 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

Arizona Department of Health Services
Division of Behavioral Health Services
PROVIDER MANUAL
Magellan Health Services of Arizona Edition

- 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.
- ADHS/DBHS, the Tribal/Regional Behavioral Health Authority (T/RBHA) or T/RBHA 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:

- The responsible entity must send the Notice of Action at least 10 days before the date of the action with the following exceptions:
 - The responsible entity may send the Notice of Action no later than the date of the action if:
 - The responsible entity has factual information confirming the death of a Title XIX/XXI person;
 - 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;
 - 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;
 - The Title XIX/XXI person's whereabouts are unknown and the post office returns mail to the responsible entity indicating no forwarding address; or
 - 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.

5.1.7-D. Title XIX and Title XXI appeal and State Fair Hearing process

Who is responsible?

Each RBHA is responsible for processing appeals and may not delegate this function to a provider. ADHS/DBHS processes appeals related to actions initiated by a Tribal RBHA or one of their subcontracted providers. Any responsibilities attributed to a RBHA in Subsections 5.1.7-D and 5.1.7-E of this section are the responsibility of ADHS/DBHS if the action relates to a Tribal RBHA or one of their subcontracted providers, or relates to an appeal concerning a PASRR determination.

The following information is provided to familiarize 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:

- A Title XIX/XXI eligible person;

Arizona Department of Health Services
Division of Behavioral Health Services
PROVIDER MANUAL
Magellan Health Services of Arizona Edition

- 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 provider, acting on behalf of the person, with the person's or legal representative's written consent.
- 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 RBHA have to resolve a standard appeal?

The RBHA 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 RBHA must extend the timeframe up to an additional 14 days. If the RBHA needs additional information and the extension is in the best interest of the person, the RBHA may extend the 30-day timeframe up to an additional 14 days.

Under what circumstances must an appeal be expedited?

The RBHA must conduct an expedited appeal if:

- The RBHA receives a request for an appeal from a Title XIX/XXI eligible person and the RBHA 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;
- The RBHA receives a request for an expedited appeal from a Title XIX/XXI eligible person supported with documentation from the 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
- The RBHA receives a request for an expedited appeal directly from a provider, with the Title XIX/XXI eligible person's written consent, and the 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 RBHA denies a request for expedited resolution of an appeal from a Title XIX/XXI eligible person, the RBHA 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 RBHA must follow up with written notice of the denial.

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

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

**Arizona Department of Health Services
Division of Behavioral Health Services
PROVIDER MANUAL
*Magellan Health Services of Arizona Edition***

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 RBHA must extend the timeframe up to an additional 14 days. If the RBHA needs additional information and the extension is in the best interest of the person, the RBHA 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 or authorized representative may request a State Fair Hearing following the RBHA's resolution of an appeal. The request must be in writing and submitted to:

Magellan Health Services of Arizona
Attn: Grievance and Appeals
4801 E. Washington, Suite 100
Phoenix, AZ 85034

The request must be received by the RBHA 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 provider or referred to the RBHA by contacting Magellan at:

Magellan Health Services of Arizona
Attention: QI Department
P.O. Box 68110
Phoenix, AZ 85082-8110;

They also can call the State Protection and Advocacy System:

The Arizona Center for Disability Law
5025 E. Washington Street, Suite 202
Phoenix, Arizona 85034
602-274-6287 (voice and TTY)
800-927-2260 (toll free)
602-274-6799)fax)

Persons with a serious mental illness may contact and advocate at the Office of Human Rights at 800-421-2124 or 602-364-4585. Members can also refer to their member handbook for more information about the appeals process. Members who have questions about their decision should call Magellan at 800-564-5465; or for Title XIX/XXI eligible persons enrolled with a Tribal RBHA, by contacting ADHS/DBHS Office of Grievance and Appeals at (602) 364-4575.

Arizona Department of Health Services
Division of Behavioral Health Services
PROVIDER MANUAL
Magellan Health Services of Arizona Edition

5.1.7-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:

- The person files the appeal timely*;
- 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;
- The services were ordered by an authorized provider; and
- The person requests continuation of services.

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

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

If a person wishes services to continue during 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 continued during the appeal or State Fair Hearing process?

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

- The Title XIX/XXI eligible person withdraws the appeal;
- 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
- 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 RBHA's action, the RBHA 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 5.1.7-E.

What happens if a decision to deny authorization of services is reversed by ADHS/DBHS?

If the RBHA 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 RBHA shall process a claim for payment from the provider in a manner consistent with the RBHA'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 RBHA 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.

Arizona Department of Health Services
Division of Behavioral Health Services
PROVIDER MANUAL
Magellan Health Services of Arizona Edition

RBHAs 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.