Guide to Edits for HH0004 Health Homes & Home and Community Based Services (HCBS) Notices of Determination and Fair Hearing Policy

Summary: As of November 2024, the Health Homes & Home and Community Based Services (HCBS) Notices of Determination and Fair Hearing Policy HH0004 now reflect revised language (indicated by text in red) alongside prior language (indicated by text crossed out text in black). The revised December 2024 policy supersedes all previous policies and reflects an implementation date of November 22, 2025. If there are discrepancies between the policy and this guide to edits, please adhere to the language in policy, and notify the Department at via the Health Home BML- subject policy.

Revisions have been made to this Guide to Edits as of December 2024. Updates made can be identified by an Asterix * in the update "Made Column".

Page and Section	Update Made	Update Specifications Language may be completely new or partially reused from earlier policies. Reference "Former Location of Information" column.	Former Location of Information
Page 1, Policy Title	The policy's title has been revised.	Health Homes & Home and Community Based Services (HCBS) Notices of Determination and Fair Hearing Policy	Additional language to prior title.
Page 1, Applicable to:	Language has been added to serve as a disclaimer for this updated policy superseding all prior versions and associated documents.	This policy supersedes other versions, guidance and webinar presentations issued prior to this policy. This policy clarifies the existing Fair Hearing requirements including specific timeframes and due dates associated with issuance of the Notices and documentation requirements. Adherence to these requirements is the responsibility of Health Homes, Care Management Agencies/Care Managers, and 1915(c) Children's Waiver Home and Community Based Services (HCBS) providers by the implementation date noted above.	
Page 1, Purpose	New language has been included to include additional agency types.	**Purpose:** To inform NYS Health Homes, ~~and~~ Care Management Agencies, and Children and Youth Evaluation Service (C-YES) of policies and procedures for issuing notices and participating in the ~~Notices of Determination and~~ Fair Hearing process for ***both*** Health Homes and Home and Community Based Services (HCBS).	Revised and additional language to prior policy.
Page 1-2, Content	This policy now reflects a new section titled *Content* that summarizes and provides the location of the topics.	Refer to policy document to view new section.	New to policy document.

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Page 2-4, Definitions	The *Glossary of Terminology* has been revised to *Definitions* along with an expanded listed of terms.	Please refer to policy for the revised section title and expanded terms list.	Revised and additional language to prior policy.
Page 4, Policy	This section now reflections new language regarding Children and Youth Evaluation Service (C-YES) and the 1915(c) Children's Waiver.	The Department requires that Health Homes serving adults and children, and Children and Youth Evaluation Service (C-YES) establish and maintain policies and procedures to notify members/potential members of their Fair Hearing rights, and participate in the Fair Hearing process if a Health Home or Children's Waiver HCBS member requests a Fair Hearing challenging enrollment, denial of enrollment, or disenrollment from the Health Home and/or the Children's Waiver HCBS. In addition, Health Homes and Children and Youth Evaluation Service (C-YES) will have clear and focused training on Medicaid notice requirements and will be required to maintain a quality assurance program to ensure compliance with specified requirements. Care managers and providers will understand and follow the process for Fair Hearings including who to contact in the event the member/potential member is interested in pursuing a Fair Hearing. Care Management Agencies (CMA) or Children and Youth Evaluation Service (C-YES) will review the Notice of Decision form in its entirety, including Fair Hearing rights within the Notice of Determination/Decision document, with the member and their family.	Additional language to prior policy.
Pages 4-5, II. Notices Used for Health Homes Serving Adults and Health Homes Serving Children, and for the Children's Waiver of Home and Community Based Services (HCBS) Children	This section now reflects a new title, the inclusion of both Health Homes Serving Adult and Children, and clarification of the two notices developed by the Department.	**II. Notices ~~of Determination~~ Used for Health Homes Serving Adults and Health Homes Serving Children and, for the Children's Waiver of Home and Community Based Services (HCBS) Children** The Department has developed three (3) notices for Health Homes Serving Adults (HHSA) and Health Homes Serving Children (HHSC) to use to advise a Health Home (HH) member or a potential Health Home (HH) member and/or their parent/caretaker/guardian/legally authorized representative, of the Health Home's (HH) determination on eligibility for enrollment ~~or~~ in, continued enrollment, or disenrollment from the Health Home program. These notices can be found on the Department's Lead Health Home Resource Center page of the Health Home website (under: Forms and Templates) at: https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/lead_hhc.htm and should be used by ***all*** Health Homes serving adults and children. The Department also developed two (2) notices for ~~Health Homes/Care Management Agencies~~ Health Homes (HH), Care Management Agencies (CMA), and Children and Youth Evaluation services (C-Yes) to advise their members or potential members and/or their parent/caretaker/guardian/legally authorized representative of the Health Homes (HH), Care Management Agencies (CMA) determination on eligibility, ~~or~~ continued eligibility, or disenrollment specifically for Children's Waiver HCBS participation. The notices for Children's Waiver HCBS can be found under the *Forms* section, subsection *Notice of Decision Forms* at: https://www.health.ny.gov/health_care/medicaid/redesign/behavioral_health/children/eligibility.htm	Revised and additional language to prior policy.

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		The ~~notices~~ Notices of Determination/Notices of Decision inform the individual of the decision being made, the reason for the decision, their right to a Fair Hearing, how to request a Fair Hearing, their right to access their Health Home (HH) or Children and Youth Evaluation Service (C-YES) file and copies of documents in the case record, their right to Aid Continuing in certain circumstances, and their right to have an Informal Agency Conference with the Health Home (HH or Children and Youth Evaluation Service (C-YES).	
Pages 5, III. Health Homes (HH)/Children and Youth Evaluation Service (C-Yes) Responsibilities	This sections now reflects a revised title. In addition, the section also includes new/revised language to include expanded guidance on Health Homes (HH)/Children and Youth Evaluation Service (C-Yes) responsibilities.	**III. Health Homes (HH)/Children and Youth Evaluation Service (C-Yes) Responsibilities** A Health Home (HH)/Children and Youth Evaluation Service (C-Yes): • ensures that the Care Management Agency (CMA)/ Children and Youth Evaluation Service (C-YES) has a procedure in place to immediately notify the Health Home (HH)/ Children and Youth Evaluation Service (C-YES) upon enrollment, denial of enrollment, or disenrollment of a member from the Health Home (HH) program and/or the Children's Waiver HCBS; • issues ~~an adequate~~ the appropriate notice of determination/notice of decision as follows: o *adequate* notice of a determination/notice of decision to accept or deny an application for enrollment within five (5) calendar days of determination o or; o ~~issue a~~ *timely* and *adequate* notice of a disenrollment within five (5) calendar days of determination; • maintains a copy of such notice in the member's record; • holds an informal Agency Conference with the member and their representative upon request of the member; • maintains well documented evidence to support enrollment/disenrollment determinations when a Fair Hearing is scheduled as outlined in the Definition Section under *Evidence Packet* ~~including, but not limited to, the signed DOH-5055 consent form; the updated Plan of Care (POC); care record notes; medical documentation, as well as a written summary of the case; the applicable program policy upon which the decision is based; and a copy of the notice sent to the member;~~ • upon request from the member and/or their parent/caretaker/guardian/legally authorized representative, provides a copy of the evidence packet to the member or their legally authorized representative and provide copies of other documents from the member's case file upon request from the member or their legally authorized representative prior to the hearing at no cost; • attends the Fair Hearing, be familiar with the case, and have the authority to make binding decisions at the hearing including the authority to withdraw the decision; and, • complies with the Decision after Fair Hearing as to enrollment in or ~~continued enrollment~~ disenrollment from ~~in~~ the New York State Health Home (HH) Program and Children's Waiver HCBS	Revised and additional language to prior policy.

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Page 5-6, IV. The Fair Hearing Process	This section reflects a clarification on the sixty (60) day timeframe and revised language regarding the notification process. Additionally, language has been revised to update the two walk in locations and contact information for the Office of Temporary and Disability Assistance (OTDA).	The member has sixty (**60) calendar days from the date of the Notice of Determination/Notice of Decision to request a Fair Hearing** from the Office of Temporary and Disability Assistance (OTDA). When a Fair Hearing is requested, the Office of Temporary and Disability Assistance's (OTDA) Office of Administrative Hearings (OAH) ~~will issue~~ issues form ~~OAH-4420 (~~Acknowledgement of Fair Hearing Request (OAH-4420), the Fair Hearing number assigned, and Confirmation of Aid Status. Office of Temporary and Disability Assistance's (OTDA) Office of Administrative Hearings (OAH) will then issue form Notice of Fair Hearing (OAH-457) to the member and the New York State Department of Health's Health Home Team who sends the Fair Hearing notice to the Health Home (HH) ~~and the member~~ and/or Children and Youth Evaluation Service (C-YES), as applicable. This ~~form~~ notice ~~will also provide~~ provides the Fair Hearing number that has been assigned by Office of Temporary and Disability Assistance (OTDA), as well as the date, time, and location of the hearing. The Notice of Fair Hearing (Form OAH-457) will also indicate the Aid status and if the Health Home (HH) or Children and Youth Evaluation Service (C-YES) is being directed to provide Aid Continuing, i.e., to continue providing services unchanged until the Decision After Fair Hearing Notice is issued. The member has the right to be represented by legal counsel, a relative, a friend or other person, or to represent themselves. At the hearing the member, their attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, the member has a right to bring witnesses to speak in their favor. The Health Home (HH)/ Children and Youth Evaluation Service (C-YES) ensures that an appropriate representative of their agency to serve on their behalf is present at the Fair Hearing .as warranted, attends the Fair Hearing on the scheduled date, time, and location directed on form the Notice of Fair Hearing (Form OAH-457). If the Health Home has a valid reason, they may request an adjournment by contacting Office of Temporary and Disability Assistance (OTDA) as listed within the Notice. ~~at their office located at 14 Boerum Place, Brooklyn, NY, by phone at 877-209-1134, or online at http://otda.ny.gov/hearings/.~~ **PLEASE NOTE:** Simply needing more time may not be sufficient for Office of Temporary and Disability Assistance (OTDA) to grant an adjournment. Fair Hearings may be expedited, usually at the request of the member, depending on the urgency of the issue(s), and may be held within three days or sooner. [1] 18 CRR-NY 358-5.7 Defines who may be present at the Fair Hearing.	Revised and additional language to prior policy.
Pages 7-9, V. Notices of Determination and Decision	The title of this section has been revised and the forms have been broken down into subcategories.	**V. Notices of Determination and Decision ~~for Disenrollment from the Health Home Program (DOH 5235)~~** **A. Notice of Determination for Enrollment into the Health Home Program (DOH 5234)**	Additional subsections to prior policy.

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		B. Notice of Determination for Disenrollment from the Health Home Program (DOH 5235) **C. Notice of Determination for Denial of Enrollment into the Health Home Program (DOH 5236)** **D. Notice of Decision for Enrollment or Denial of Enrollment from Children's Waiver Home and Community Based Services (HCBS) (DOH 5287)** **E. Notice of Decision for Discontinuance from the Children's Waiver Home and Community Based Services (DOH 5288).**	
Pages 6-7, V. Notices of Determination and Decision	Language has been revised to update the five (5) business days to five (5) calendar days.	**A. Notice of Determination for Enrollment into the Health Home Program (DOH 5234)** The Notice of Determination for Enrollment into the Health Home Program (DOH 5234) notifies the member and/or their parent, legal guardian, or legally authorized representative of their Health Home (HH) enrollment and the commencement of care management services. The notice is mailed to the member along with the Health Home Welcome Letter within five (5) ~~business~~ calendar days from the Determination for Enrollment into the Health Home Program.	Revised and additional language to prior policy.
Pages 7, V. Notices of Determination and Decision	Language has been revised to clarify timelines and scenario examples based on date mailed.	**B. Notice of Determination for Disenrollment from the Health Home Program (DOH 5235)** If a determination is made to disenroll a Health Home (HH) member or upon a member's successful completion of the Health Home (HH) program, timely and adequate notice by means of Form DOH-5235 is required *before* the Health Home (HH) can take any action. As defined in 18 NYCRR § 358-2.23, timely notice is one that is mailed at least ten days (based on date mailed) before the date upon which the proposed action is to become effective. 18 NYCRR § 358-3.3 outlines the requirements for an adequate notice. Please note the Health Home cannot make any programmatic changes until at least ten (10) calendar days after ~~the ***postmark*** date of~~ the Notice of Decision was mailed ~~– not the notice date.~~ If the ten (10) calendar days carry over into the following month, then the disenrollment date is identified and written as the last day of that following month. Any Health Home Care Management (HHCM) core services conducted during this time are billable. For example: Notice is mailed June 25th. The 10-day period ends July 5th. The disenrollment date is July 31st. Health Home Care Management (HHCM) core services conducted and meeting requirements in June and July are billable.	Revised and additional language to prior policy.

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		If the Notice is mailed a month with only thirty (30) days, then it is mailed by, at the latest, the 20th of the month. ***If the Notice is mailed during a month with thirty-one (31) days,*** then it is mailed by, at the latest, the 21st of the month. **NOTE:** Fair Hearing rights are not to be offered when a member voluntarily discontinues Health Home (HH) services. In such cases, no Notice of Decision/Determination is provided to the member. The Health Home (HH) would ensure written notification of disenrollment is issued to the member as per the *Member Disenrollment From the Health Home Program* policy #HH0007. Should an eligible member want to rejoin a Health Home (HH), the remedy would be to re-enroll if they continue to meet Health Home (HH) eligibility and appropriateness criteria.	
Pages 8, V. Notices of Determination and Decision	Language has been revised to explain the process of notifying an individual if found ineligible for the program.	**C. Notice of Determination for Denial of Enrollment into the Health Home Program (DOH 5236)** During the enrollment process, the member's eligibility for Health Home (HH) enrollment is verified, including proper Medicaid coverage, Health Home (HH) eligibility, and appropriateness criteria. If they are found ineligible for enrollment, Health Homes (HH) issue form DOH 5236 to the individual found ineligible. The notice will be mailed to the individual within five (5) business days from the Determination of Denial of Enrollment to inform the individual that they did not meet the eligibility criteria for enrollment into the Health Home (HH) program and the reason for denial of enrollment. Refer to the Appropriateness Codes and Criteria chart used for initial eligibility (Adults and Children/Youth).	Revised and additional language to prior policy.
Pages 8-9, V. Notices of Determination and Decision	A new subsection and language added to expand on DOH 5287.	**D. Notice of Decision for Enrollment or Denial of Enrollment from Children's Waiver Home and Community Based Services (HCBS) (DOH 5287)** While eligibility determination for the Children's Waiver HCBS is separate and distinct from Health Home (HH) eligibility, the process for issuing a Notice of Decision is the same. Children/Youth may be found to be ineligible for Children's Waiver HCBS but remain eligible for Health Home (HH). Upon receiving a Children's Waiver HCBS service request/application, the Health Home (HH)/ Children and Youth Evaluation Service (C-YES) care manager needs to determine if the child/youth meet the Children's Waiver HCBS eligibility requirements. If the child/youth does not meet any of the HCBS eligibility exclusion reason (i.e., over the age of twenty-one (21), expected to reside in an inpatient setting for ninety (90) days or more, enrolled in another Home and Community Based Services (HCBS) waiver, etc. as noted on DOH 5287) then the Children's Waiver HCBS Determination assessment will be conducted to determine if the child/youth meet the Level of Care (LOC) criteria. Upon signing and finalizing the Children's Waiver HCBS Determination within the Uniform Assessment System for New	New subsection and language to prior policy.

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		York (UAS-NY), the Health Home Care Manager (HHCM) /Children and Youth Evaluation Service (C-YES) will be presented with an outcome confirming if the child/youth is HCBS eligible or ineligible for the identified Target Population. The same form, *Notice of Decision for Enrollment or Denial of Enrollment in the New York State 1915(c) Children's Waiver (DOH 5287),*, is sent for both enrollment and denial of enrollment. The Health Home (HH)/Children and Youth Evaluation Service (C-YES) care manager will send the notice form within five (5) calendar days from the completion of the Children's Waiver HCBS Eligibility Determination to the child/family which documents the outcome of Children's Waiver HCBS Eligibility Determination. For children/youth found eligible, the Children's Waiver HCBS Eligibility Determination is valid for one (1) year (three-hundred and sixty-five (365) days) from the date of the signed/finalized assessment, which is outlined in the form *Notice of Decision for Enrollment or Denial of Enrollment in the New York State 1915(c) Children's Waiver (DOH 5287),*. This Notice is sent for initial assessments for all children and for children that remain eligible when a reassessment occurs, which will include a new three-hundred and sixty-five (365) days of eligibility. *If the child/youth is determined Home and Community Based Services (HCBS) eligible; however, a waiver slot is not available per Capacity Management:* The child/family will still receive a notice from the Health Home (HH)/ Children and Youth Evaluation Service (C-YES) care manager of eligibility. Once a slot becomes available, the Department of Health (DOH) Capacity Management will notify the Health Home (HH)/ Children and Youth Evaluation Service (C-YES) care manager and then the Health Home Care Manager (HHCM)/Children and Youth Evaluation Service (C-YES) will issue an updated DOH 5287 to the child/family indicating that a slot is available or will need to conduct a new Home and Community Based Services (HCBS) Eligibility Determination if the family wishes to pursue Home and Community Based Services (HCBS) and the Eligibility Determination was signed/finalized over six (6) months. For further information and guidance, please refer to the Children's Home and Community Based Services Manual.	
Pages 9, V. Notices of Determination and Decision	A new subsection and language added to expand on DOH 5288.	**E. Notice of Decision for Discontinuance from the C Children's Waiver HCBS (DOH 5288)** The Children's Waiver HCBS Eligibility Determination is valid for one year (365 days). If the child/youth no longer meets the Home and Community Based Services (HCBS) Eligibility Criteria or is found ineligible during the annual Children's Waiver HCBS Eligibility Determination, then the Health Home/Children and Youth Evaluation Service (C-YES) sends a Notice of Decision (NOD) for Discontinuance in the New York State Children's Waiver (DOH 5288) within five (5) calendar days from the ineligibility determination to the child/family and (10) calendar days (based on date mailed) prior to the action of disenrollment from the Children's Waiver. **NOTE:** If an annual Children's Waiver HCBS Eligibility Determination cannot be completed due to lack of documentation, a DOH 5288 is sent at least ten (10) calendar days prior to the annual reassessment due date.	New subsection and language to prior policy.

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Pages 9, VI. Aid Continuing	Prior language has been removed and revised language has been added to better explain Aid Continuing and provide additional information for members enrolled in Health Home Serving Children.	~~If the member requests a Fair Hearing before the effective date stated in the notice, the member may continue to receive benefits unchanged until the Fair Hearing decision is issued. However, if the member checks the box "I agree to have the action taken on my medical assistance benefits, as described in this notice, prior to the issuance of the Fair Hearing Decision" under Continuing Your Benefits on the back of the notice, the Health Home can move forward with Pending the enrollment in MAPP until the Decision After Fair Hearing is issued.~~ When a Notice of Determination/Decision is issued to the member, they have the right to determine whether they want to request a Fair Hearing and whether the selection of Aid Continuing is right for them. If Office of Temporary and Disability Assistance (OTDA) orders Aid Continuing before the effective date stated in the notice, the member continues to receive Health Home Care Management services and/or Children's Waiver Home and Community Based Services until the final outcome of the Fair Hearing is determined. **NOTE:** Children/youth enrolled in the Children's Waiver who request a Fair Hearing with Aid Continuing must continue to have Care Management as part of the waiver requirements.	Revised and additional language to prior policy.
Page 10, VII. Maintaining Members' Status in the Tracking System for Home and Community Based Services Aid Continuing	*This section reflects new language to further clarify how to maintain a member's pend status, actions to take based on the Decision After Fair Hearing, and case scenarios (please see Appendix A below for additional case scenarios).	**VII. Maintaining Members' Status in the Tracking System for Home and Community Based Services Aid Continuing** ~~If Aid Continuing is not granted by OTDA, the Health Home should PEND the enrollment segment in MAPP at the end of the month of disenrollment.~~ This section reflects the most recent Medicaid Analytics Performance Portal (MAPP) Health Home Tracking System (HHTS) specification document update and reflects an implementation date of **January 1, 2025**. For more information, please refer to the Medicaid Analytics Performance Portal Health Home Tracking System File Specifications Document version 4.7.1 The member's segment in the Medicaid Analytics Performance Portal (MAPP) Health Home Tracking System (HHTS) is adjusted according to whether the member requests a Fair Hearing with or without Aid Continuing (AC). If the Department receives notification from the Office of Temporary and Disability Assistance (OTDA) of an order for a Fair Hearing with Aid Continuing (AC) while the member's segment is still active (typically within ten (10) days from postmark of the Health Home notice to the member and before the Health Home (HH) disenrolls the member) the Department will notify the Health	Revised and additional language to prior policy.

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		Home (HH) and pend the segment with 'Pended for HH Fair Hearing Aid Continuing' effective the first day of the month following the date on which the order was received. If the Department receives notification of a member's request for a Fair Hearing with Aid Continuing (AC) after the segment has been closed (typically more than (10) days after the Health Home notice to the member) the Department modifies (reopens) the closed segment and then pends the member's segment 'Pended for HH Fair Hearing Aid Continuing.' **NOTE:** Segments that are 'Pended for HH Fair Hearing Aid Continuing' can only be changed by the Department and cannot be changed by the Health Home (HH). Care Management Agencies are to continue to serve members that are 'Pended for HH Fair Hearing Aid Continuing' and the pended segments are structured to allow Health Homes (HH) to bill for services which are provided as required by the Office of Temporary and Disability Assistance (OTDA) between the time their Fair Hearings (FH) with Aid Continuing is ordered and the determination by the Administrative Law Judge is issued. Care Management Agencies may only bill if they provide at least the minimum necessary core services in accordance with the Health Home, Health Home Plus, and/or High Fidelity Wrap policies. Annual Appropriateness (for children) and Continued Eligibility for Services (CES) Tool (for adults) do not need to be completed for segments the Department pends with 'Pended for HH Fair Hearing Aid Continuing.' The Plan of Care is to be completed and uploaded into the Medicaid Analytics Performance Portal (MAPP) Health Home Tracking System (HHTS). The Department monitors the outcome of Fair Hearings. Upon receipt of the Decision After Fair Hearing, the Department adjusts the pended segment in the Medicaid Analytics Performance Portal (MAPP) Health Home Tracking System (HHTS) to reflect the outcome of the Fair Hearing. The adjusted pend reason codes may then be changed by the Health Home and the Department instructs the Health Home accordingly. The following lists the procedures associated with Decisions After Fair Hearing and the responsibility of the Health Home and Department. • If the Decision after Fair Hearing is in favor of a member with Aid Continuing, the Department creates a new 'Pended for Approved Fair Hearing' segment with a pend start date that equals the first of the month during which the Decision after Fair Hearing was received and notifies the Health Home of this change. The Health Home ends this segment on the last day of the month in which the Decision After Fair Hearing was received and then creates a new active enrollment segment dated the first day of the month after which the Decision is received and continues to serve the member. This action triggers the system to end the 'Pended for Approved Fair Hearing' segment. • If the Decision after Fair Hearing is **not** in favor of a member with Aid Continuing, or if the member withdraws the Fair Hearing Request, the Department will create a new 'Pended for Denied Fair Hearing' or 'Pended for Withdrawn Fair Hearing' segment with a pend start date that equals the first of the month during which the Decision after Fair Hearing was received and notifies the Health Home of this change. The Health Home ends that segment on the last day of the month after the month in which the Decision is received.	

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		• If something changes with the member's status while 'Pended for HH Fair Hearing Aid Continuing' that would normally result in the Health Home closing the member's segment, the Health Home contacts the Department via the Fair Hearing Bureau Mail Log before taking any action. If the Department agrees that the member's segment should be closed prior to the member's Fair Hearing disposition, the Department creates a new 'Pended for Administrative Change' segment with a pend start date that equals the first of that month. The Health Home then ends that segment on the last day of the month in which the notice is received. If the member requests a Fair Hearing and the Office of Temporary and Disability Assistance (OTDA) does not order Aid Continuing (AC), the Health Home is not required to provide services to the member while the member is waiting for their Fair Hearing. If the Decision After Fair Hearing finds in favor of the member, the Health Home (HH) follows the final decision of the Administrative Law Judge. The Department instructs the Health Home to create an active segment on the first day of the month after which the Decision After Fair Hearing (FH) is issued. In these instances, the existing consent remains valid. If the previous Plan of Care was completed within the last three hundred and sixty-five (365) days, it is still active. Initial Appropriateness must be recorded within twenty-eight calendar (28) days of the new active segment (adults and children/youth). If the Health Home is unable to identify an applicable Initial Appropriateness criterion, the Health Home is to contact the Department for guidance via the Fair Hearing Bureau Mail Log. A new Continued Eligibility for Service (CES) Tool is required three hundred and sixty-five (365) days after opening the new segment (adults). For children/youth, annual appropriateness must be documented in the member's record. For the Children's Waiver Home and Community Based Services, the Eligibility Determination must be completed within three-hundred and sixty-five (365) days from the previous Children's Waiver Home and Community Based Services, Eligibility Determination, regardless of whether it was an ineligible determination. If the original Notice was issued because the member no longer met continuing eligibility criteria, the Health Home contacts the Department Fair Hearing Bureau Mail Log for guidance on completing Initial Appropriateness for the new active segment. For additional guidance on edge case scenarios for members 'Pended for Approved Fair Hearing,' please refer to Appendix A of this document for a list of life-events alongside the responsibilities of the Department and the Health Home. **Special Note at the time of this policy revision (December 2024):** This policy may be amended once New York State is no longer required to provide enhanced access to Fair Hearing processes following the COVID-19 Public Health Emergency. For more information, please refer to Fair Hearing e14 Approval.	

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Page 10, VIII. Agency Conference	Language has been revised to clarify the determination is enrollment or disenrollment. In addition, Children and Youth Evaluation Service (C-YES) have been added.	Pursuant to 18 NYCRR § 358-3.8, at any reasonable time prior to the Fair Hearing, the member can request an informal Agency Conference with the Health Home (HH)/Children and Youth Evaluation Service (C-YES). If the member requests an Agency Conference, the Health Home (HH)/Children and Youth Evaluation Service (C-YES) arranges for a meeting with the member and/or their representative or anyone they choose (friend, family, attorney, neighbor etc.) and allow the member to submit additional information and review the Health Home's (HH)/Children and Youth Evaluation Service (C-YES) determination on enrollment or ~~continued enrollment~~ disenrollment from the Health Home Program or Children's Waiver HCBS. The Health Home (HH)/Children and Youth Evaluation Service (C-YES) can withdraw its determination and enroll or re-enroll the member. If the Health Home (HH)/Children and Youth Evaluation Service (C-YES) decides to uphold its initial determination, the member will still be entitled to have the initial determination reviewed through the Fair Hearing process.	Revised and additional language to prior policy.
Page 10-11, IX. Waiver Of Appearance	Language was removed to clarify that blanket waivers of appearance will not be granted.	Under certain circumstances and no later than five (5) calendar days before the hearing date, the Health Home (HH)/Children and Youth Evaluation Service (C-YES) may request a waiver of appearance from Office of Temporary and Disability Assistance's (OTDA). If Office of Temporary and Disability Assistance's (OTDA) grants this request, the Health Home can submit a written ~~evidentiary~~ evidence packet instead of appearing at the hearing location. Waiver requests will be reviewed and granted on a case-by-case basis. ~~At this time,~~ Blanket waivers of appearance will not be granted; however, if the agency contact does not receive a telephone call from the Office of Administrative Hearings (OAH) prior to the hearing date indicating otherwise, it will be presumed that a waiver has been granted. The waiver request contains the primary and back-up contact person's names and telephone number/s. The waiver request also contains the fair hearing number, date of hearing, and a summary of the specific facts relevant to the issue under review at the hearing. For proper inclusion in the fair hearing record, the waiver request and ~~evidentiary~~ evidence packet should be submitted immediately upon notification of the hearing request.	Revised and additional language to prior policy.
Page 11, X. Examination of Case Record-Providing Documentation Prior to Fair Hearing	Children and Youth Evaluation Service (C-YES) have been added to this section.	~~In addition, the~~ Health Homes/ Children and Youth Evaluation Service (C-YES) ~~must~~ provides complete copies of its documentary evidence to the Administrative Law Judge (ALJ). Evidence Packets are sent via the secure portal at Office of Temporary Disability Assistance (OTDA) through Upload.NY.gov. ~~The Health Home must provide copies of this evidentiary packet to the member and/or their authorized representative within 10 business days within receipt of the Fair Hearing notice~~. The ~~evidentiary~~ evidence packet ~~must~~ includes substantiation to support enrollment/disenrollment determinations made by the Health Home/Children and Youth Evaluation Service (C-YES) for success in defending its actions (refer to Definition section for the Evidence Packet).~~substantiation to support enrollment/disenrollment determinations including, but not limited to, the signed DOH-5055 consent form; the updated Plan of Care; care record notes; and medical documentation, as well as a written summary of the case; the applicable policy governing the~~	Revised and additional language to prior policy.

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		~~program; a copy of the notice being challenged; and an explanation of the action taken and why it was appropriate and in compliance with that policy.~~ If the member or their authorized representative needs additional documentation to prepare for the Fair Hearing, the Health Home (HH)/Children and Youth Evaluation Service (C-YES) will provide the requested documentation within a reasonable time prior to the fair hearing date. If the member's request is made less than five (5) business days before the hearing, the Health Home (HH)/Children and Youth Evaluation Service (C-YES) provides such copies no later than at the time of the hearing. Case file documents should be mailed only if the member specifically asks that they be mailed. If there is insufficient time for such documents to be mailed and received before the scheduled date of the Fair Hearing, the documents may be presented at the hearing instead of being mailed.	
Page 11-12, XI. Decision After Fair Hearing	This section now reflects a new subsection along with further information regarding scenarios with the Decision After Fair Hearing being in favor of a member who has or does not have aid continuing.	When the Decision After Fair Hearing is issued, it is binding upon the Health Home (HH) to comply in accordance with 18 NYCRR § 358-6.4. **Decision in Favor of the Member** **With Aid Continuing:** If the Decision after Fair Hearing is in favor of the member, then services continue to be provided to the member and the Health Home/Children and Youth Evaluation Service (C-YES) continue to follow program policies. **Without Aid Continuing:** If the Decision After Fair Hearing is in favor of the disenrolled member, the ~~Health Home (HH)~~ Department ~~need to end~~ notifies the Health Home to open a new enrolled ~~the pended~~ segment ~~in the tracking system and begin a new enrollment segment to be~~ effective the first day ~~following disenrollment to ensure no lapse in the segments.~~ of the month after which the Decision After Fair Hearing is received, and resume serving the member. In these instances, the existing consent remains valid, if the previous Plan of Care was completed within the last three hundred and sixty-five (365) days, it is still active, initial appropriateness must be recorded within twenty-eight (28) calendar days of the new active segment (adults and children/youth). A new Continued Eligibility for Services (CES) Tool is required three hundred and sixty-five (365) days after opening the new segment (adults). For children/youth, annual appropriateness must be documented in the member's record. The Home and Community Based Services (HCBS) Eligibility Determination must be completed within three-hundred and sixty-five (365) days from the previous Children's Waiver HCBS Eligibility Determination, regardless of whether it was an ineligible determination. **NOTE:** In instances when the decision after the Fair Hearing is in the member's favor but the reason for the Notice to have been issued to the member was due to lack of appropriateness	Revised and additional language to prior policy.

Page and Section	Update Made	Update Specifications Language may be completely new or partially reused from earlier policies. Reference "Former Location of Information" column.	Former Location of Information
		criteria for continued Health Home (HH) enrollment, the Health Home (HH) must notify the Department in writing via the Health Home BML subject: Health Home Policy for guidance on next steps.	
Page 12-13, XI. Decision After Fair Hearing	This section now reflects a new subsection along with further information regarding scenarios with the Decision After Fair Hearing not being in favor of a member who has or does not have aid continuing.	**Decision is not in Favor of the Member** **With Aid Continuing:** If the Decision after Fair Hearing is not in favor of the member, then the Health Home (HH)/Children and Youth Evaluation Service (C-YES) care manager notifies all involved professionals of the disenrollment from the Health Home program and Children's Waiver Home and Community Based Services, if applicable. Refer to the Member Disenrollment From the Health Home Program Policy HH0007 for disenrollment procedures. NOTE: since the final decision was made by the Administrative Law Judge (ALJ) a new Notice of Determination/Decision would not be issued. **Without Aid Continuing:** If the Decision after Fair Hearing is not in favor of the disenrolled member, then the case remains closed, and documentation of the Fair Hearing decision is maintained in the member's record.	Additional language to prior policy.
Page 13, XII. Health Home (HH) and Health and Recovery Plans / HIV Special Needs Plans Home and Community Based Services for Adults	Language has removed and revised to narrow down the necessary information for this section.	~~If the Behavioral Health (BH) Home and Community Based Services (HCBS) eligibility assessment determines that a member is not eligible for Home and Community Based Services (HCBS), the Health and Recovery Plans (HARP) or Special Needs Plans (SNP), not the Health Home (HH), will issue a notice to the member regarding the outcome of the eligibility assessment for Home and Community Based Services (HCBS). If a Fair Hearing is requested, the Health Home will compile the evidence packet as directed by the Health and Recovery Plans (HARP) or Special Needs Plans (SNP in support of the determination; the Health and Recovery Plans (HARP) or Special Needs Plans (SNP) have ten (10) days from the date of the notice to forward the evidentiary packet. The Health and Recovery Plans (HARP) or Special Needs Plans (SNP), may request that the Health Home participate in the Fair Hearing Process, but the Health and Recovery Plans (HARP) or Special Needs Plans (SNP) will be issuing the determination regarding eligibility for Home and Community Based Services (HCBS).~~ The Health and Recovery Plans (HARP) or Special Needs Plans (SNP) are responsible for issuing the determination regarding eligibility for Home and Community Based Services. Health Homes must comply with requests from Health and Recovery Plans (HARP) or Special Needs Plans (SNP) to participate in the Fair Hearing process.	Language from prior policy removed.

Page and Section	Update Made	Update Specifications Language may be completely new or partially reused from earlier policies. Reference "Former Location of Information" column.	Former Location of Information
Page 13, XIII. Training	Children and Youth Evaluation Service (C-YES) have been added to this section.	~~Health Homes (HH) provide training to Care Management Agencies (CMA) on notice procedures and management of the Fair Hearing process. Health Homes (HH) provide access to and information regarding training opportunities that include the Fair Hearing Process described in this policy.~~ Health Homes (HH)/ Children and Youth Evaluation Services (C-YES) provide training to Care Management Agencies (CMA) and care managers on the Fair Hearing process are to include, but are not limited to: • Health Home (HH)/Care Management Agency (CMA) Care Manager roles and responsibilities in the Fair Hearing process • Notices of Decision/Determination issued • Agency Conferences • Fair Hearing Requests • Aid Continuing • Disenrollment/Continued Enrollment procedures • Documentation needed to support enrollment/disenrollment determinations • Decision after Fair Hearing	Additional language to prior policy.

**Page 13-14,
XIV. Quality Management Program**
		Health Homes (HH) have a quality assurance process in place to ensure that Health Home Care Managers (HHCM) and Care Management Agencies (CMA) comply with Health Home (HH) policies and procedures (Please see Health Home Quality Management Program HH0003 policy). Quality indicators are to include, but are not limited to:
		
		• The Health Home (HH) issued a correct and complete, timely and adequate notice to the member.
		• The Health Home (HH) tracks and monitors Fair Hearings requests filed against the Health Home (HH)/Care Management Agency (CMA):
		  o Fair Hearing Requests with Aid Continuing
		  o Fair Hearing Request without Aid Continuing
		• The Health Home followed protocol regarding member disenrollment or continued enrollment determinations
		• The Health Home tracks the number of decisions after Fair Hearings:
		  o in favor of the Health Home (HH)/Care Management Agency (CMA)
		  o in favor of the member
		  ▪ Reason for unfavorable decision
		  ▪ Are there similar issues that prompt a Fair Hearing that require technical assistance to the Care Management Agency (CMA)?
		• The Health Home (HH) provided the evidence packet to the member and/or their authorized representative upon their request.
			Revised and additional language to prior policy.

Page and Section	Update Made	Update Specifications Language may be completely new or partially reused from earlier policies. Reference "Former Location of Information" column.	Former Location of Information
		• The Health Home (HH) provided additional information to the member or their authorized representative upon their request. ~~• The Health Home (HH) forwarded a correct and complete, timely and adequate notice.~~ ~~• The Health Home (HH) reviews the number of Fair Hearings filed against the Health Home (HH)/Care Management Agency (CMA):~~ ~~o Number of Decisions After Fair Hearing favorable to Health Home (HH)/ Care Management Agency (CMA)~~ ~~▪ Number of Decisions After Fair Hearing unfavorable to Health Home (HH)/ Care Management Agency (CMA):Are there similar issues that prompt a Fair Hearing that require technical assistance to the Care Management Agency (CMA)?~~ ~~• The Health Home (HH) provided the Evidence Packet to the member and/or their authorized representative within the required time frames.~~ ~~The Health Home (HH) provided additional information requested by the member or their authorized representative within the required time frames, if requested.~~	
Page 14, XVI. Policies and Resources	New section and list of policies and resources references referenced throughout this policy.	Please refer to policy document for the new section and list of referenced policies and resources.	New addition to prior policy.
Page 1, XVII. Appendix A	*An appendix has been added to provide guidance on edge case scenarios. Please refer to the chart in policy for a list of life-events alongside the responsibilities of the Department and the Health Home.	Please refer to the policy for addition to policy.	