NEW YORK STATE | Department of Health | Office of Health Insurance Programs

# New Partial Capitation Model Action Notices

## Introduction to the Managed Long Term Care (MLTC) Initial Adverse Determination and 4687 MLTC Action Taken Notices


The Bureau of Managed Long Term Care

Division of Long Term Care, Office of Health Insurance Programs

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Panelists: **Margaret O. Willard, Deborah Conley-Flora, and Donna Lochner**


April 29, 2015

# What are these notices?

1. Model MLTC Initial Adverse Determination (“IAD”)
2. 4687 MLTC Action Taken - Denial, Reduction or Termination of Benefits (211) (“Action Taken notice”)

- Developed for most plan “Actions” (Model Contract, Appendix J)
- The IAD replaces the Plan Decision Template (Model Contract, Appendix K)
- The Action Taken notice is used to inform enrollees of their Fair Hearing rights, and allows them to submit a Fair Hearing request.

# Why new model notices?

- Make notification simpler and more effective.
- Protect enrollees' due process rights.
- Ensure compliance with applicable federal and state requirements.
- Reduce administrative burden and paperwork by standardizing processes across and within programs.

# Who must use them?

- These notices are for use by Partial Capitation Plans only.
- Work has begun on similar updates for MAP and PACE programs.
- The Bureau is collaborating with CMS to develop the appropriate models.

# When should plans use the model notices?

- Plans must send both model notices for most “Actions” as defined in Appendix J of the Partial Capitation Model Contract:

**Action** is a denial or a limited authorization of a requested service or a reduction, suspension, or termination of a previously authorized service; denial, in whole or in part, of payment for a service; failure to provide services in a timely manner; determination that a requested service is not a covered benefit (does not include requests for services that are paid for fee-for-service outside the plan); or failure to make a grievance or grievance appeal determination within required timeframes.

# When should plans use the model notices?

Exceptions:

- Actions based on timeliness
  - “failure to provide services in a timely manner”
  - “failure to make a grievance or grievance appeal determination within required timeframes”

- IAD should not used for actions based on a restriction to benefits

# When should plans use the model notices?

- Public Health Law (PHL) Article 49 Utilization Review - Adverse Determinations
  - Examples:
    - Level 2 Personal Care Services Not medically necessary
    - Experimental or Investigational

- Non-utilization review/administrative determinations (e.g., other determinations under Article 49 and §4408-A*2)
  - Examples:
    - Benefit not covered by plan
    - Enrollee withdrew request

# How to use the notices?

- Enter generic plan information to create the base model notice template
  - Plan Name, Address, etc.

- Determine which contingent sections apply based on the type of Action or Actions

# How to use the notices?

- Provide a detailed reason for the Action
- Insert Specific information the plan or agent needs to receive upon appeal
- Determine the “fillable” date (for the deadline to file a fair hearing)

# How do these fit in with other notices?

- The Model Notices will replace the Plan Decision Template identified in Appendix K of the Partial Capitation contract.

- No models for the other 3 notices; only minor changes.
  - Letter indicating the appeal date has past (60 business days from notice postmark date).
  - Written acknowledgement of Appeal.
  - Notice of plan-initiated extension, if applicable (may be combined with acknowledgement).

# Changes to Notice Content Requirements

- Direct Access to Fair Hearings.
- Must request a Fair Hearing to get Aid to Continue (AC).
- Change of Deadline to accepting Internal Appeals.
  - 45 calendar days → 60 business days
- Out-of-network Referral Denial Update.
  - PHL §4900(7-f-1) and PHL §4903(2)

# Direct Access to Fair Hearings

- Elimination of Internal Appeal Exhaustion Requirement.
- Internal Appeal and Fair Hearing deadlines start to run at the same time.
- Deadline to request a Fair Hearing is 60 calendar days from the date of the notice
- Can file and pursue Internal Appeal and Fair Hearing simultaneously.

# Aid to Continue

- Must request a Fair Hearing:
  - Within 10 days from the date of notice, or
  - By the date the action takes effect

- No more AC for internal appeals.

- Enrollees are entitled to the right to AC without regard to expiration of the prior service authorization.
  - Affects the circumstances under which AC is available
  - BMLTC is working on the operational implications of this change

# Deadline for filing Internal Appeals

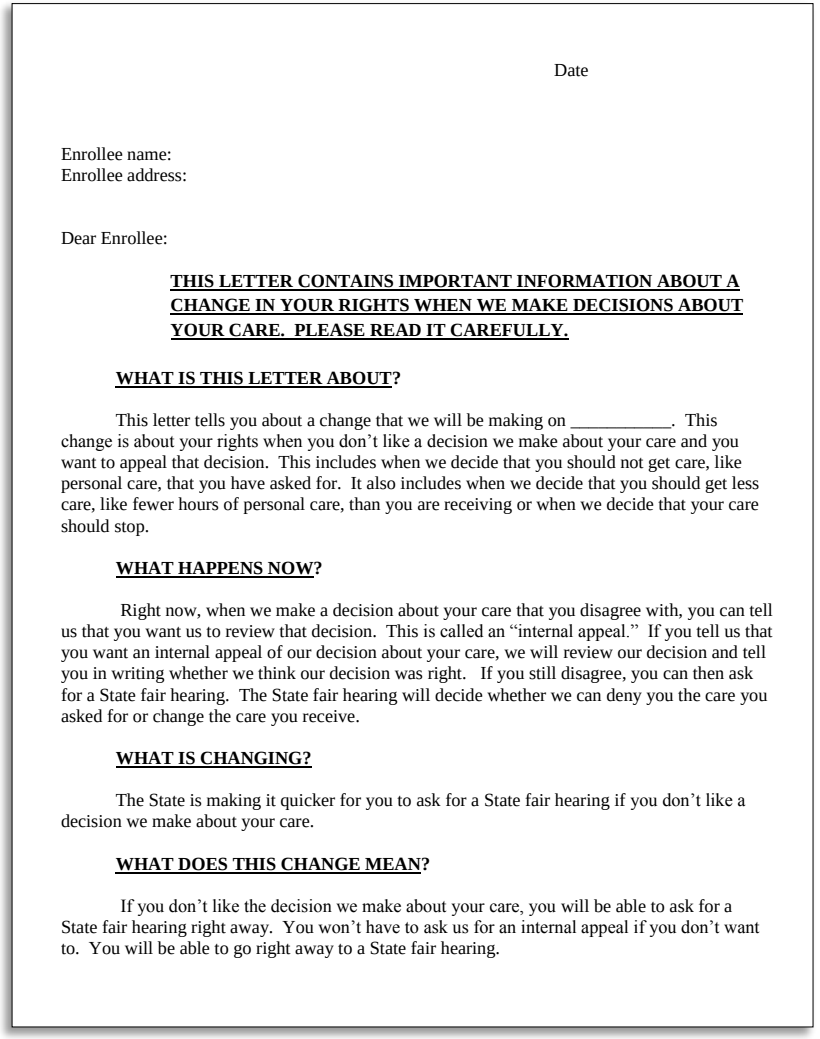
- Deadline changed from 45 calendar days to 60 business days.

- IAD says “60 working days”
  - “working days” = “business days”

- Aligns Internal Appeal deadlines for MLTC and Mainstream Managed Care
  - Plans may extend their Internal Appeal filing deadlines to 90 calendar days.
  - If done, the Plan should modify the IAD and Member Handbook accordingly

# Announcement Letter

- The letter informs enrollees about:
  - Direct Access to Fair Hearings (Elimination of the Internal Appeal exhaustion requirement).
  - Requirement to request a Fair Hearing to get Aid to Continue.
  - Alert Enrollees to the fact that there will be problems if they rely on the standard Internal Appeal to Fair Hearing route (because of deadline changes).



Date

Enrollee name:
Enrollee address:

Dear Enrollee:

**THIS LETTER CONTAINS IMPORTANT INFORMATION ABOUT A CHANGE IN YOUR RIGHTS WHEN WE MAKE DECISIONS ABOUT YOUR CARE. PLEASE READ IT CAREFULLY.**

**WHAT IS THIS LETTER ABOUT?**

This letter tells you about a change that we will be making on _____. This change is about your rights when you don't like a decision we make about your care and you want to appeal that decision. This includes when we decide that you should not get care, like personal care, that you have asked for. It also includes when we decide that you should get less care, like fewer hours of personal care, than you are receiving or when we decide that your care should stop.

**WHAT HAPPENS NOW?**

Right now, when we make a decision about your care that you disagree with, you can tell us that you want us to review that decision. This is called an "internal appeal." If you tell us that you want an internal appeal of our decision about your care, we will review our decision and tell you in writing whether we think our decision was right. If you still disagree, you can then ask for a State fair hearing. The State fair hearing will decide whether we can deny you the care you asked for or change the care you receive.

**WHAT IS CHANGING?**

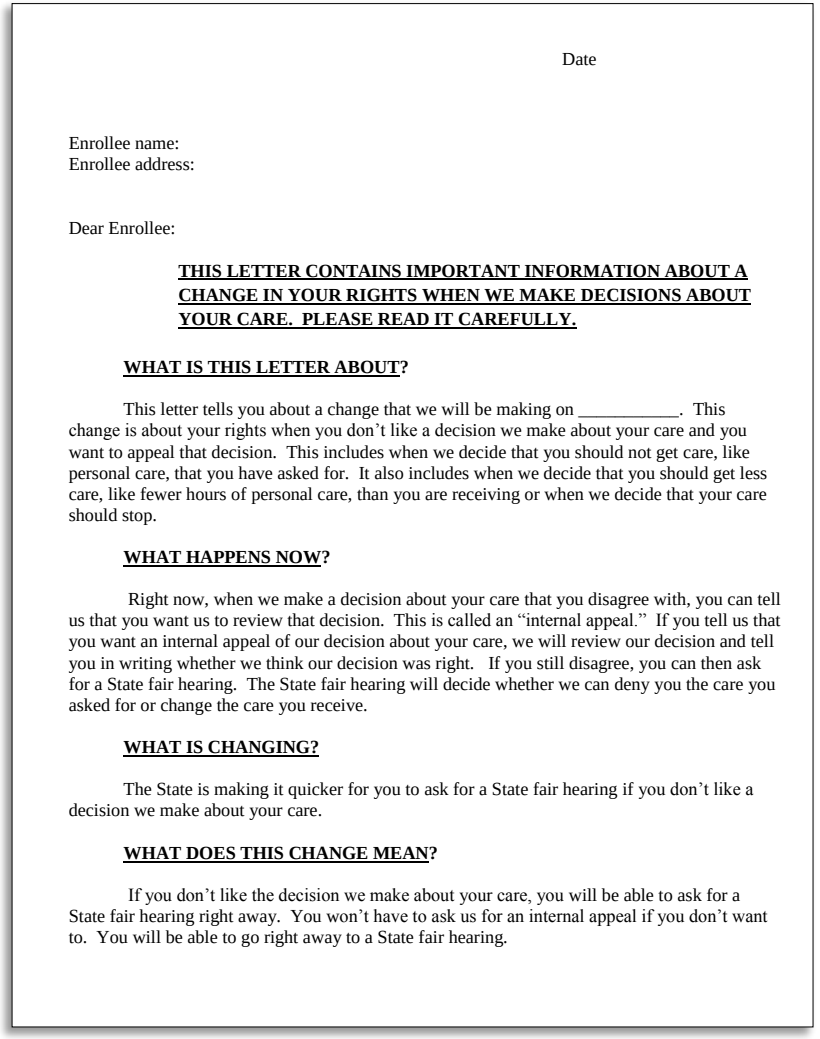
The State is making it quicker for you to ask for a State fair hearing if you don't like a decision we make about your care.

**WHAT DOES THIS CHANGE MEAN?**

If you don't like the decision we make about your care, you will be able to ask for a State fair hearing right away. You won't have to ask us for an internal appeal if you don't want to. You will be able to go right away to a State fair hearing.

# Announcement Letter

- Plans must send the letter on their letterhead to their enrollees.
- The Plans may modify the format as appropriate, but the body paragraphs should not be altered.
- Target for release to the plans: May.
- Target for distribution to enrollees: June 1 - June 15.



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# Out-of-Network (OON) Referral Denial

- PHL §4900(7-f-1)
  - Definition of “Out-of-network referral denial”
  - Requires OON referral denials notices to explain what information the enrollee must submit

- PHL §4903(2)
  - New requirements for pre-authorization UR determination notices
  - Requires partial approval notices to indicate
    - whether services are in-network
    - Whether enrollee will be held harmless

# Out-of-Network (OON) Referral Denial

- Department of Financial Services Guidelines: http://www.dfs.ny.gov/insurance/health/OON_guidance.pdf

# Model Notice Rollout Schedule

- This webinar will be posted to the Department of Health Website for later viewing.
- Second Webinar: Date to be determined
- Announcement Letter: June 1
- **Implementation Date: July 1**
  - **Implementation applies to all plan actions on or after July 1**

# QUESTIONS?

# Contact Us:

mltcworkgroup@health.ny.gov