

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
 A Statement of Need and Fiscal Impact accompanies this form.

Oregon Health Authority, Division of Medical Assistance Programs (Division)	410
Agency and Division	Administrative Rules Chapter Number

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Rules Coordinator	Address	Telephone

RULE CAPTION

Process for Resolving Disputes between CCOs and the Oregon Health Authority

. Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

November 17, 2015	10:30am	500 Summer St NE, Salem, OR 97301	Sandy Cafourek
Hearing Date	Time	Location	Hearings Officer

Hearing Date	Time	Location	Hearings Officer
<i>Auxiliary aids for persons with disabilities are available upon advance request.</i>			

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND: 410-141-3267

REPEAL: 410-141-3267(T)

RENUMBER:

AMEND & RENUMBER:

Stat. Auth : **ORS 183.484 and 413.042**

Other Auth.:

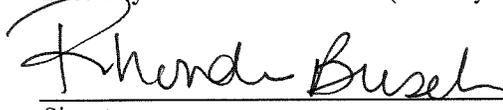
Stats. Implemented: **ORS 413.042**

RULE SUMMARY

These rules provide the existing Coordinated Care Organizations direction and clarification regarding recourse available when in dispute with the Oregon Health Authority. This rule offers Administrative Review, as specified in OAR 410-120-1580 and mediation, as outlined in the Attorney General's Model Rules located in the Administrative Procedures Act. OAR 410-141-3267(T) will be repealed.

November 19, 2015, 5 pm

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

	Rhonda Busek	10-9-15
Signature	Printed name	Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Health Authority, Division of Medical Assistance Programs

410

Agency and Division

Administrative Rules Chapter Number

Process for Resolving Disputes between CCOs and the Oregon Health Authority

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: the amendment of 410-141-3267

REPEAL: 410-141-3267(T)

Statutory Authority: ORS 183.484 and 413.042

Other Authority:

Stats. Implemented: ORS 413.042

Need for the Rule(s): These rules provide the existing Coordinated Care Organizations direction and clarification regarding recourse available when in dispute with the Oregon Health Authority. This rule offers Administrative Review, as specified in OAR 410-120-1580 and mediation, as outlined in the Attorney General's Model Rules located in the Administrative Procedures Act. (T) OAR 410-141-3267 will be repealed.

Documents Relied Upon, and where they are available: Attorney General's Model Rules located in the Administrative Procedures Act

Fiscal and Economic Impact: None

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): The Division does not anticipate fiscal impacts on other state agencies, units of local government or the public.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: The types of small businesses include doctor's offices, specialty groups, small clinics and community based providers, however, the Division's system does not flag which providers are part of a larger clinic or corporation, therefore the Division is unable to estimate the number of small businesses that are subject to the rules but the Division does not anticipate a direct or indirect impact on small businesses.

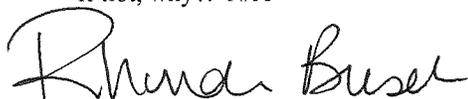
b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: None anticipated

c. Equipment, supplies, labor and increased administration required for compliance: None anticipated

How were small businesses involved in the development of this rule? N/A

Administrative Rule Advisory Committee consulted?: Yes, 7/28/15, 8/26/15, 9/15/15 and 9/22/15

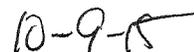
If not, why?: N/A



Signature



Printed name



Date

410-141-3267

Process for Resolving Disputes between Coordinated Care Organizations (CCOs) and the Oregon Health Authority New Rule

(1) If a CCO has a dispute with the Oregon Health Authority (OHA) as a result of a Division decision that is perceived as adversely affecting a CCO, the CCO may submit a request for dispute resolution to the Division of Medical Assistance (Division) director or their designee.

(2) Examples of such disputes may include, but are not limited to, service area changes and Authority decisions made through the OHA Provider Discrimination Review Process as a result of a provider discrimination appeal. These disputes primarily address legal or policy issues that may arise in the context of a Division decision that is perceived by the CCO to adversely affect the CCO and is not otherwise reviewed as a claim redetermination, a contested case, or client appeal. This rule does not involve claims that OHA has breached its contract with a CCO. This CCO process is not mandatory and it need not be exhausted before a CCO seeks judicial review or brings any other form of action related to any CCO/OHA dispute related decision.

(3) If the dispute is likely to impact another CCO, the Authority shall notify all CCOs potentially impacted by the dispute and provide an opportunity for the impacted CCOs to participate in the dispute resolution.

(4) It is the intent of the Authority that the CCO shall initiate the dispute resolution process with a request to the Division director for an administrative review as prescribed in OAR 410-120-1580. Should a resolution be reached through use of the administrative review that is mutually agreeable to all involved, the process shall be considered complete and binding.

(5) Within 30 calendar days of the conclusion of the administrative review or such other time as may be agreed to by the CCO and the Division, the Division shall send written results of the administrative review to the initiating CCO and any other impacted party.

(6) If the dispute between the CCO and the OHA remains unresolved as a result of the administrative review, the CCO may ~~continue on to request~~ alternative dispute resolution to resolve the issue. The alternative dispute process is conducted pursuant to the Attorney General's Uniform Model Rules OAR 137-005-0060 and 137-005-0070

(7) Within ten business days of receipt of the final administrative review decision, the CCO may contact the Division director with its intent to pursue mediation. In that request, the CCO may request to stay the pending administrative review decision which the Division will grant if the CCO alleges sufficient facts and provides good cause for the stay as provided in OAR 137-004-0090. The Division shall respond within ten business days of the date of the stay request.

(8) After both the CCO and the Authority agree to enter into mediation, both shall attempt to agree on the selection of the mediator and complete paperwork required to secure the mediator's services. If the CCO and the Authority are unable to agree, both shall appoint a mediator, and those mediators shall select the final mediator. To be qualified to propose resolutions for disputes under this rule, the mediator shall:

- (a) Be a knowledgeable and experienced mediator;
- (b) Be familiar with health care and the disputed matters; and
- (c) Follow the terms and conditions specified in this rule for the mediation process.

(9) The CCO shall pay for all mediation costs, whether a conclusion is reached or not.

(10) Within ten business days of a selection of a mediator, the CCO and the Authority shall submit to each other and to the mediator the following:

- (a) Dispute resolution offer; and
- (b) Explanation of their position (i.e., advocacy brief).

(11) The parties will engage in mediation as arranged by the mediator.

(12) The Authority shall maintain the confidentiality of proprietary information of all participating CCOs to the extent the information is protected under state or federal law.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 183.484, 183.502 and 413.042