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# MEDICAID HOME AND COMMUNITY BASED PROGRAM DISENROLLMENT PROTOCOL

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## Directive 1.30

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Forms: DPF-2, DPF-3

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## Purpose

The purpose of this directive is to establish protocols for Home and Community Based program disenrollment that will facilitate:

- Appropriate movement between Waiver programs;
- More effective utilization of a program's full resources;
- More effective discharge and transition planning;
- Clearer communication of important information, allowing Participants to exercise the full extent of their rights;
- Greater quality assurance and improvement measures for each program.

## Definitions

**CMS** – means the Centers for Medicare and Medicaid Services, the Federal agency that authorize and oversees both programs.

**Department of Workforce Services (DWS)** – is the state agency responsible for determinations of financial eligibility for Utah Medicaid, including Waiver participation.

**Disenrollment** – means termination of participation in an HCBS Waiver.

**Division of Integrated Healthcare (DIH)** – is a division within the Department of Health and Human Service, and serves as the State Medicaid Authority (SMA) for Utah Medicaid.

**Division of Services for People with Disabilities (DSPD)** – is a division within the Department of Health and Human Service, and serves as the Operating Agency (OA) for several HCBS Waivers in Utah.

**Home and Community Based Services (HCBS)** – are established by the Centers for Medicare and Medicaid Services (CMS) as 1915(c) programs within Medicaid. States can develop HCBS Waivers to meet the needs of people who prefer to receive long-term care services and supports in their home or community, rather than in an institutional setting.

**Medicaid Work Incentive (MWI)** – is a Medicaid program for persons who meet the Social Security criteria for disability and have an earned income. The household income limit is 250% of the Federal Poverty Level. It is paid toward Medicaid in the form of a premium.

**Notice of Agency Action and Hearing Rights (NOAA)** – are issued whenever there is an initial or subsequent state eligibility determination; an implementation grievance; or a budget neutral change. Whenever a Person receives a NOAA, they also simultaneously receive a Hearing Request Form 490S. (See Directive 1.6).

**Participant** – means a Person who is enrolled, or was enrolled in an HCBS Waiver.

**Person** – means an individual in services with DSPD, or who is eligible for services.

**Skilled Nursing Facility (SNF)** – means a nursing facility with the staff and equipment to give skilled nursing care and/or skilled rehabilitation services and other related health services. This is a level of care that requires the daily participation of skilled nursing staff.

**Spenddown** – means a Participant mandatory contribution towards the cost of Medicaid participation for individuals whose income level does not allow for them to receive Medicaid services for free. A spenddown is the difference between a Participant's countable income and the income limit for a program.

**Support Coordinator (SCE)** – means someone who provides support coordination services as an employee of an external contracted provider, or who is such a contractor.

**Waiver** – means an HCBS waiver authorized as a 1915(c) program by the CMS.

**Waiver Manager** – means a program manager responsible for a specific Waiver or Waivers, who may delegate certain responsibilities to a designee.

## Procedures

### 1. Procedures for Voluntary Disenrollments

- a. Voluntary Disenrollments are cases where a Person or their legal representative choose to initiate disenrollment from participation in a Home and Community Based program.
  - i. This type of disenrollment may occur when the Participant enters a Skilled Nursing Facility (SNF) for a period of less than 90 days and then chooses not to transition back to the original Waiver program;
  - ii. It may include situations where a Participant transitions to a different Waiver program directly from the SNF.
  - iii. It also includes situations where a Participant transitions out of one Waiver program and into a different Waiver.
- b. Voluntary disenrollment requires that the Support Coordinator (SCE) notifies the DSPD Waiver Manager.
- c. Voluntary disenrollment also requires notification to the Division of Integrated Healthcare (DIH) within ten days from the date of disenrollment. Notification is sent by the Waiver Manager at DSPD, or by their designee.
  - i. Notification shall be provided by the program from which the client is disenrolling;
  - ii. Notification may be in the form of an email carbon copying (cc-ing) the Medicaid Waiver Liaison or the HCBS Quality Assurance Team Lead at DIH. It is sent from the Waiver Manager email address when sending the email that asks for the case coordinator to sign and return the Form 927.
- d. DIH review is not required prior to this type of disenrollment.
- e. As part of the disenrollment process, documentation will be maintained by the program that disenrolls the Participant. It will detail the discharge planning activities that were completed with the Participant.

### 2. Procedures for Pre-Approved Involuntary Disenrollments

- a. Pre-Approved Involuntary Disenrollments are cases in which Participants are involuntarily disenrolled from the Waiver program for any of the following reasons:
  - i. Death of the Participant;
  - ii. The Participant has been determined to be ineligible for Medicaid by the Department of Workforce Services (DWS) for more than 90 days. This happens when, for example, Medicaid Work Incentives (MWI) or Spenddowns were not paid during that time, and a request for review has not been submitted;
    1. In the case of a pre-approved involuntary disenrollment due to an ineligibility determination by the Department of Workforce Services (DWS) that has remained unresolved for more than 90 days, DWS will send a closure notice in the form of a Notification of Agency Action and hearing rights.
    2. Subsequent to the notification by DWS, a second and separate NOAA will then be sent by DSPD closing Waiver enrollment as a result of the DWS determination of eligibility.
  - iii. The Participant has entered a SNF for a stay of more than 90 days.
    1. In the case of a pre-approved involuntary disenrollment due to a stay in a skilled nursing facility of more than 90 days, the individual will receive a notification of nursing home eligibility, and a notification of closure and hearing rights for Waiver eligibility.

- b. Pre-Approved Involuntary Disenrollment requires that the SCE notify the DSPD Waiver Manager.
- c. Pre-Approved Involuntary Disenrollment also requires notification by the Waiver Manager, or their designee, to DIH within ten days from the date of disenrollment.
  - i. Notification shall be provided by the program from which the client is disenrolling;
  - ii. Notification may be in the form of an email carbon copying (cc-ing) the Medicaid Waiver Liaison or the HCBS Quality Assurance Team Lead at DIH from the Waiver Manager (DHS) email address when sending the email that asks for the case coordinator to sign and return the 927 form.
- d. DIH review is not required prior to this type of disenrollment: the reasons for this type of disenrollment have already been approved by the State Medicaid Agency (SMA).
- e. As part of the disenrollment process, documentation will be maintained by the program that disenrolls the Participant detailing the discharge planning activities that were completed with the Participant, when appropriate.

### 3. Procedure for Special Circumstance Involuntary Disenrollment

- a. Special Circumstance Involuntary Disenrollments are cases where Participants are disenrolled for reasons that are non-routine in nature. In these cases, the decision to disenroll the Participant requires both prior review and prior approval by DIH. The circumstances leading to the disenrollment are specific to the Participant, and may include, but are not limited to:
  - i. The Participant no longer meets the corresponding institutional level of care requirement for the Waiver: Nursing Facility (NF), or Intermediate Care Facility for individuals with intellectual disabilities (ICF/ID)
  - ii. The Participant 's health and safety needs cannot be met by the Waiver program's services and supports;
  - iii. The Participant has demonstrated non-compliance with the agreed upon care plan and is unwilling to negotiate a new Person-Centered Support Plan (PCSP) that meets minimum safety standards;
  - iv. The Participant has demonstrated non-compliance with a signed Participant Agreement with DSPD;
  - v. The Participant, or their legal representative when applicable, requests a transfer of the Participant from the Waiver directly to another Waiver program when a stay at a NF or other facility (such as an ICF/ID) has not occurred; and/or
  - vi. The Participant's whereabouts are unknown for more than 30 days and the Participant has not yet been determined to be ineligible for Medicaid services by DWS.
- b. The special circumstance disenrollment review process consists of the following:
  - i. The SCE will compile information to support the rationale for the disenrollment and submit it to their DSPD Waiver Manager for review;
  - ii. The Waiver Manager will then review the documentation of support coordination activities and the disenrollment recommendation and, if they concur with the recommendation, forward a request for disenrollment to DIH using the form DPF-2 (*Medicaid Special Circumstance Involuntary Disenrollment Notice of Intent*);
  - iii. DIH may facilitate case staffing meetings with appropriate parties, as needed, to complete their review and make a final decision on the proposed disenrollment.
  - iv. The final decision by DIH will be communicated in writing to both the SCE, and the state-level program management staff.

1. The form DPF-3 (*DHCF Decision Notice for Special Circumstance Involuntary Disenrollment*) will be used for notification.
  2. The standard expectation is that DIH will provide notification of a decision within 30 days.
  3. Although best efforts to conduct a review and provide a final decision within the 30-day time frame will be made, exceptions may be granted based on the individual circumstances of the case and would be communicated by DIH to DSPD.
- c. If the recommendation to approve the special circumstances disenrollment is approved, the SCE will provide the Participant or their legal representative with the required written notice of action (NOAA) with notice of a right to fair hearing.
  - d. The SCE will initiate discharge planning activities sufficient to assure a smooth transition to an alternate Medicaid program and/or to other services.
    - i. Discharge planning activities shall be documented in the Participant's case record.