



**Nursing Facility Level of Care (NF LOC) and Setting of Care (SOC)  
Requirements for  
MCO Appeals, Fair Hearings, and Technical Denials**

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**New Mexico Human Services Department**

# Agenda

- ▶ Full Medicaid NF LOC Denials
- ▶ NOME NF LOC Denials
- ▶ Refusal/Non-Compliance (AKA Difficult To Engage (DTE)) of Comprehensive Needs Assessment (CNA) Requirements
- ▶ Important Reminders
- ▶ Questions

# Full Medicaid– Initial Denial

# Full Medicaid Members

- ▶ Examples include: SSI, Breast & Cervical Cancer, Working Disabled, other Adult, Parent Caretaker, Children's Medicaid must have a NF LOC and SOC date span sent via the **MCO to HSD Omnicaid** interface file.
  - Examples of COEs include: 001, 003, 004, 052, 074, 100, 200, 300, 400.
- ▶ SOC's are always ANW or SNW.

# Full Medicaid Members – Initial Denial

- ▶ Initial NF LOC Denials
  - CNA must be completed within 30 calendar days of the HRA OR when the member requests LTC services.
  - NF LOC packet must be sent to the MCOs' UM/UR for NF LOC determination.
  - NF LOC determination must be completed by the MCO UM/UR within 5 business days of NF LOC packet received.

# Full Medicaid Members – Initial Denial

- The MCO shall send a Notice of Action (NOA) to the member with the denial of NF LOC and include Appeal/FH rights within 5 business days of the NFLOC determination.
- Member is not eligible to request continuation of benefits (COB).
- **No ASPEN submission required.**
- **No MCO to HSD Omnicaid submission required.**

# Full Medicaid Case Example– Initial Denials



- Pink Panther (PP) has COE 001 and requests community benefits (CB) on May 31, 2016.
- MCO has 30 calendar days to gather information including administering the CNA. This takes us to 6/30/2016.
- ▶ UM/UR has 5 business days to make a NF LOC determination – (has until 7/07/2016).
- ▶ The PP does not meet the NF LOC criteria. The MCO sends PP a NOA and does not submit the **MCO to HSD Omnicaid** interface file.
- ▶ **ASPEN** interface submissions are not required for Full Medicaid members.

# Full Medicaid Members– Initial Denial



- ▶ Pink Panther files an Appeal with the MCO.
- ▶ MCO receives Appeal request and reviews determination.
- ▶ MCO does not overturn decision.
- ▶ MCO issues Appeal decision notice to Pink Panther.
- ▶ Pink Panther still has the option to file a FH.
- ▶ Pink Panther is not eligible to request COB because Community Benefits (CB) were never approved/delivered.

# Full Medicaid – Annual Denial

# Full Medicaid Members- Annual Denial Case Example



- ▶ Roger Rabbit has a COE 004 and requested community benefits on 2/14/2015.
- ▶ MCO approved NF LOC and SOC effective dates: 04/01/15 – 03/31/16.
- ▶ MCO schedules annual CNA to be completed no later than November 2015 (120 days prior to 3/31/16) and must have NF LOC determination completed by January 2016.
- ▶ On December 1, 2015 the MCO UM/UR determines that RR no longer meets NF LOC.

# Full Medicaid Members– Annual Denial Case Example

- ▶ On December 2, 2015, the MCO sends a NOA to Roger Rabbit with NF LOC denial and includes Appeal and FH rights. The NOA should also indicate that CB will end on 03/31/16.
- ▶ Simultaneously, the MCO must notify the provider(s) that services will end effective 03/31/16.
- ▶ The MCO does NOT submit the **MCO to HSD Omnicaid** interface file at this time due to Roger Rabbit not meeting NF LOC criteria.
  - The NF LOC will expire on 3/31/16.

# Full Medicaid Members– Annual Denial



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- ▶ Roger Rabbit has 10 calendar days, from the date of the NOA, to request COB.
- ▶ Roger Rabbit has 90 calendar days, from the date of the NOA, to request a MCO Appeal.
- ▶ If Roger does not request COB timely, the MCO has no requirement to submit updated NF LOC/SOC data in the Omnicaid system until the Appeal and FH process is complete.

# Full Medicaid Members– Annual Denial Case Example



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- ▶ Roger Appeals the MCO's decision and requests COB on December 8<sup>th</sup> to the MCO. (within 10 calendars days of the NOA).
  - The appeal and request for COB are usually submitted at the same time by the member

# Full Medicaid Members– Annual Denial Case Example

The MCO shall:

- ▶ **ASPEN INTERFACE:** The MCO does not send any information via the **ASPEN** interface.
- ▶ **OMNICAID INTERFACE:** The MCO shall send a 120 day temporary NF LOC span via the **MCO to HSD Omnicaid** interface file, with the applicable SOC (ANW, SNW) for COB during the MCO Appeal process.

Dates are: 04/01/16 – 07/31/16

# Full Medicaid Members– Annual Denial

- ▶ 90 days after the submission of the **MCO to HSD Omnicaid** interface file, the MCO shall review the status of the Appeal and FH and determine if another temporary NF LOC/SOC is required.
  - If the Appeal and FH is delayed, the MCO shall send another 120 day temporary NF LOC/SOC via the **MCO to HSD Omnicaid** interface file.



# Full Medicaid Members – Annual Denial

- ▶ For members who are ABCB, a continued Prior Authorization (PA) must be sent to the appropriate provider(s) to continue service(s) for the 120 day period and for each subsequent temporary extension submitted during the Appeal and FH.

# Full Medicaid Member – Annual Denial

- ▶ For members who are SDCB, a partial budget and care plan for 120 days must be entered in FOCoS for COB during the Appeal and FH process and for each subsequent temporary extension submitted during the Appeal and FH.



# Full Medicaid Members– Annual Denial During FH Process

This example is now assuming Roger Rabbit has exhausted the Appeal process with the MCO and the decision was not overturned and Roger Rabbit requested a FH.

- ▶ The MCOs will work with the HSD/MAD Program Policy Bureau (PPB) during the FH process.
- ▶ The MCO is responsible for the development of the Summary of Evidence (SOE) and providing testimony during the FH.
- ▶ The MCO sends SOE to MAD FH Liaison or via the DMZ for MAD to process and distribute to all parties.

# Full Medicaid Members – Annual Denial FH completed

- ▶ The MCO will receive a copy of the final FH decision from the HSD.
- ▶ Once the MCO receives the final FH decision letter, the MCO has 24 hours (or one business day) of receipt of the letter to comply with the decision and implement steps to uphold the decision.



# Full Medicaid Members – Annual Denial FH completed

- ▶ If decision is in favor of the Department, the MCO sends out the notice to the direct service provider(s) within one business day of the final FH letter and informs provider that PA will be terminated in 14 calendar days.
- ▶ If the decision is in favor of the Claimant, the MCO extends the existing temp PAs, NF LOC dates and care plan to the end of the original NF LOC end date.
  - Please note that this would also be followed for NOME final FH decisions.



# Roger's Case at a Glance



1. RR previous NF LOC span was:  
04/01/15 – 03/31/16
2. On December 1, 2015, the MCO sends a NOA to Roger Rabbit with NF LOC denial and includes Appeal and FH rights.
3. Roger submits a request for an Appeal and COB on December 8, 2015 to the MCO.
4. MCO sends the **MCO to HSD Omnicaid** interface file on December 13<sup>th</sup> with NF LOC/SOC dates of:  
4/01/16 – 07/31/16.

# Roger's Case at a Glance



5. Roger does not have his Appeal overturned by his MCO and files a FH.
6. MCO works with PPB during the FH process.
7. MCO checks status of FH in March 2016 and FH is not expected to be delayed.
8. Final FH decision letter received on 4/20/16.

# Roger's Case at a Glance

9. Decision is in favor of claimant:
  - MCO will send the **MCO to HSD Omnicaid** interface file with dates: 08/01/16 – 03/31/17 (this will extend the existing NF LOC date to a full 12 months).
  - MCO extends PAs to providers through 03/31/17
  - For SDCB member, the MCO also must update the budget and care plan dates in the FOCoS system to 03/31/16.



# NOME- Initial Denial

# NOME Members – Initial Denials

- ▶ The MCO receives a Primary Freedom of Choice (PFOC) form on 9/12/16 from the MAD Allocations Unit and an **ASPEN** request for a NF LOC determination for Bugs Bunny.
- ▶ The MCO has 30 days from receipt of PFOC to complete NF LOC determination.
- ▶ The MCO determines that Bugs Bunny does not meet NF LOC criteria.
- ▶ The MCO submits the denial of a NF LOC via the **ASPEN** interface file within 5 business days of the NF LOC denial.



# NOME Members– Initial Denials

- ▶ NF LOC denial was completed on 10/12/16 (30 days after receiving PFOC). No later than 10/19/16 (5 business days), the MCO must submit the NF LOC date span via the **ASPEN Interface** file as: 10/12/16 – 10/12/16 with disposition reason: Medical Denial (DM) – does not meet medical necessity.
- ▶ Simultaneously, the MCO will also send a Client Information Update (CIU) form to the ISD office to report the denial of the NF LOC.



# NOME Members– Initial Denials

- ▶ The ISD will deny the Waiver case in **ASPEN**.
- ▶ The ISD will issue a Notice of Case Action (NOCA) with denial of Medicaid eligibility, which includes FH rights.
- ▶ Bugs Bunny is not eligible to request continuation of benefits (COB).
- ▶ No **MCO to HSD Omnicaid** interface submission required.



# NOME Members– Initial Technical Denial Case Example

- ▶ Yosemite Sam was allocated to the waiver on July 1, 2016 and his MCO received the PFOC.
- ▶ Care coordinator makes contact with Yosemite and schedules an initial CNA appointment for July 14, 2016.
- ▶ On July 14<sup>th</sup>, the care coordinator goes to Yosemite's home and Yosemite refuses to answer the door to have the CNA administered.



# NOME Members – Initial Technical Denial Case Example

- ▶ Care coordinator follows the MCO Policy Manual related requirements and attempts under Section 4: Care Coordination for Difficult To Engage (DTE) members.
- ▶ Yosemite still refuses to cooperate.



# NOME Members – Initial Technical Denial Case Example

- ▶ The MCO shall submit an **ASPEN** interface file with reason for disposition: **Administrative Denial (DA)** (*The most common reason for an administrative denial (or technical denial) is when the provider does not respond to a request for information (RFI). NM Medicaid rule sets this at 14 business days. Basically, the contractor cannot make a decision with the paperwork that was submitted because it is incomplete.*)
- ▶ NF LOC denial date is one day: 7/01/16 – 7/01/16

# NOME – Annual Denials



# NOME Members– Annual Denial Case Example

Betty Boop was allocated to the waiver on 2/14/2015 and has been receiving

Community Benefits.

- ▶ Betty Boop's current NF LOC dates are:  
2/26/15 – 02/25/16.
- ▶ The MCO care coordinator sets up an appointment for the annual CNA to be completed in November 2015 (120 days prior to 02/25/16 NF LOC end date) and must have NF LOC determination completed by January 2016.
- ▶ UM/UR determines that Betty Boop no longer meets the NF LOC criteria.

# NOME Members– Annual Denial



- ▶ The MCO sends the **ASPEN** interface file within 24 hours (or one business day) of the NF LOC determination.
  - NF LOC denial dates are: **2/26/16 – 2/26/16**
  - Disposition reason is: Medical Denial (DM) – does not meet medical necessity.
- ▶ Simultaneously, the MCO also sends CIU to ISD to report NF LOC denial for Betty Boop.
- ▶ ISD will close the Waiver COE in **ASPEN** and issue a NOCA to Betty Boop with FH rights.
- ▶ Betty Boop has 10 calendar days to request COB.

# NOME Members– Annual Denial



- Betty Boop requests FH and COB timely (within 10 calendar days of the NOCA).
- ISD sends the MCO a CIU informing the MCO of FH and COB request from Betty Boop.
- The MCO shall submit a 120 day temporary NF LOC span via the **ASPEN** interface file. Dates are: 02/26/16 – 6/25/16.
- Simultaneously, the **MCO also sends the CIU to ISD** notifying them of the ASPEN submission.

# NOME Members– Annual Denial

- ▶ ISD will re–open the Waiver COE in ASPEN to allow for CB during the FH.
- ▶ The MCO shall also send a 120 day temporary NF LOC/SOC span (02/26/16 – 06/25/16) via the MCO to HSD Omnicaid interface file, with the applicable SOC (ANW, SNW) for COB during the Fair Hearing process.
  - ▶ Please note this is the 1<sup>st</sup> temporary extension being submitted.

# NOME Members– Annual Denial

- ▶ 90 days after the submission of the [ASPEN](#) interface file, the MCO shall review the status of the FH and determine if another temporary NF LOC is required.
  - The FH is delayed, the MCO shall send another 120 day temporary NF LOC via the [ASPEN](#) interface.
  - **DON'T FORGET TO ALSO SEND THE CIU TO ISD!?**
  - Dates for 2<sup>nd</sup> extension are: 06/26/16 – 10/25/16.
- ▶ The MCO must continue to monitor the status of the FH to avoid a lapse in eligibility.



# NOME Members – Annual Denial

- ▶ 90 days after the submission of the [MCO to HSD Omnicaid](#) interface file, the MCO shall review the status of the FH and determine if another temporary NF LOC/SOC is required.
  - The FH is delayed, the MCO shall send another 120 day temporary NF LOC/SOC via the [MCO to HSD Omnicaid](#) interface file.
  - Dates are: 06/26/16 – 10/25/16.
  - The MCO must continue to monitor the status of the FH to avoid a laps in benefits.



## ASPEN Interface

- ▶ **Annual Denial**  
02/26/16 – 02/26/16
- ▶ **1<sup>st</sup> temp extension submitted in March:**  
02/26/16 – 06/25/16
- ▶ **2<sup>nd</sup> temp extension submitted in May:**  
06/26/16 – 10/25/16
- ▶ A CIU must be sent each time the ASPEN interface is submitted to notify ISD that the temp extension been sent.

## MCO to HSD Omnicaid Interface

- ▶ **No submission required for denial**
- ▶ **1<sup>st</sup> temp extension submitted in March:**  
02/26/16 – 06/25/16
- ▶ **2<sup>nd</sup> temp extension submitted in May:**  
06/26/16 – 10/25/16

# NOME Members – Annual Denial

- ▶ For members who are ABCB, a continued Prior Authorization (PA) must be sent to the appropriate provider(s) to continue service(s) for the 120 day period and for each temporary extension submitted during the FH.



# NOME Members– Annual Denial

- ▶ For members who are SDCB, a partial budget and care plan for 120 days must be entered in FOCoS for COB during the FH process and for each temporary extension submitted during the FH.



# NOME Members– Annual Denial

- ▶ MCO will work with ISD during the FH process.
- ▶ The MCO is responsible for the development of the SOE and provides testimony during FH (medical denial).
  - The MCO shall send the final SOE to the ISD, FH Bureau and member.
- ▶ The MCO will receive the final FH decision from HSD/ISD.
- ▶ Once the MCO receives the FH decision letter, the MCO has 24 hours (or one business day) from receipt of the decision letter to comply with the decision and implement steps to uphold the decision.



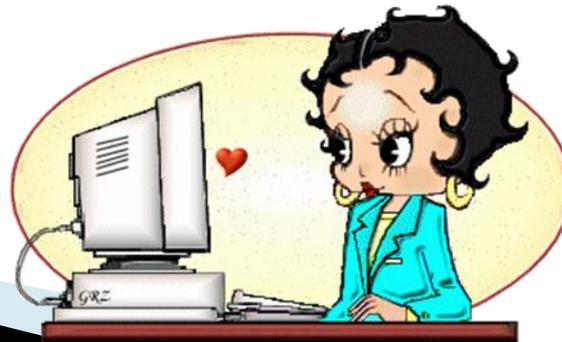
# Betty's Case at a Glance



1. MCO denies NF LOC.
2. MCO sends CIU to ISD AND sends the **ASPEN** interface file with the disposition reason “Medical Denial” at the same time.
3. ISD closes Waiver case in **ASPEN** and issues the NOCA to Betty Boop.
4. The MCO does NOT send the **MCO to HSD Omnicaid** interface file at this time.
5. MCO receives CIU from ISD that Betty Boop has requested FH and COB timely.
6. MCO submits both **ASPEN** and CIU to ISD and **MCO to HSD Omnicaid** interface files with 120 day temp NF LOC/SOC dates.

# Betty's case at a glance:

7. ISD receives **ASPEN** file and CIU and re-opens Waiver COE.
8. MCO completes SOE, sends to all interested parties and works with ISD during FH.
9. MCO checks status of FH after 90 days of denial and sends **ASPEN** and CIU to ISD and **MCO to HSD Omnicaid** interface file because FH is delayed.
10. FH decision received from HSD and is in favor of Department.
11. MCO has 24 hours (one business day) to implement steps to uphold decision.



# Refusal/Non-Compliance with CNA

# Refusal/Non-Compliance with CNA

- ▶ The MCO shall make reasonable efforts to contact the Member (**both Full Medicaid and NOMEs**) to conduct the CNA and shall document at least three (3) attempts to contact the Member.
- ▶ Reasonable efforts shall include at least one (1) attempt to contact the Member at the phone number most recently reported by the Member and use of the Member's last reported residential address.



# Refusal/Non-Compliance with CNA

- ▶ Documentation of the three (3) attempts shall be included in the Member's file.
- ▶ Such attempts shall occur on not less than three (3) different calendar days, at different hours of the day, including day and evening hours and after business hours.



# Refusal/Non-Compliance with CNA

- ▶ A Reminder Notice shall be sent to the Member's most recently reported address (90 days prior to the existing NF LOC expiration date) indicating that the NF LOC will end (give date) and that Community Benefits (CB) will not be accessible without the completion of the CNA.
- ▶ If the member has a Waiver COE (NOME), the Reminder Notice shall also inform the member that not completing the CNA will result in loss of Medicaid Eligibility, and shall provide information about how to contact his/her care coordinator to schedule a CNA.

# Refusal/Non-Compliance with CNA

- ▶ If the member still refuses to complete the CNA, the MCO shall issue a NOA 30 calendar days prior to the expiration of the existing NF LOC span, indicating that due to refusal and/or non-compliance with the annual CNA requirements, the member's services will end (include end date in NOA). The NOA shall include Appeal and FH Rights.



# Refusal/Non-Compliance with CNA

- ▶ The MCO will allow the NF LOC to expire in **ASPEN** and/or **Omnicaid** unless the member requests COB within 10 calendar days of the NOA.
- ▶ If the member requests COB timely, the MCO shall follow steps outlined for annual NOMEs and full Medicaid members who request COB.



# NF LOC Denials for Nursing Homes



Full Medicaid



Medicaid Pending

- ▶ The MCOs will follow the process outlined for both full Medicaid and NOME denials for any NF cases that are denied NF LOC.

# Shortening/Voiding NF LOC/SOC Spans

# Voided Spans – ASPEN

- ▶ If the Fair Hearing decision is in favor of the Department and the MCO had previously submitted multiple temporary NF LOC spans, the MCO is not required to void the temporary NF LOC spans via the ASPEN interface file.
  - Once the MCO sends the CIU to the ISD, the ISD will end the category of eligibility (COE) and the case will close.
- ▶ Since the case is closed in ASPEN, the MCO is not required to do anything further in ASPEN to end services.

# Voided Spans – Omnicaid

- ▶ If the Fair Hearing decision is in favor of the Department and the MCO had previously submitted multiple temporary NF LOC/SOC spans, the following should be completed.
  1. The MCO needs to shorten the first NF LOC/SOC temporary authorization span submitted; and
  2. The MCO needs to request, via email, that the second NF LOC/SOC temporary authorization span be voided in its entirety. Request should be sent to the following state staff:

[Linda.Gonzales@state.nm.us](mailto:Linda.Gonzales@state.nm.us) and  
[JohnH.Padilla@state.nm.us](mailto:JohnH.Padilla@state.nm.us)
  3. If Self-Directed Community Benefit (SDCB) member, a **FOCoS** change is also necessary.

# Example of Voided Span Request– Omnicaid



- ▶ Betty Boop's FH was found in favor of the Department.
- ▶ The final FH decision was received by the MCO on **5/20/16**. Betty Boop also received the FH decision.
- ▶ The MCO must allow 14 calendar day notice to provider(s) that services will end on **6/03/16**.
- ▶ The MCO should end the current PA (02/26/15–06/25/16) and NF LOC/SOC span effective **6/03/16**.
- ▶ The MCO should request the span for **6/26/16–10/25/16** to be voided.
- ▶ MCO shall send notice to member and/or EOR (if SDCB) that services will end **06/03/16** due to FH decision.

# Voided Spans – FOCoS

- ▶ If the Fair Hearing decision is in favor of the Department and the MCO had previously submitted multiple temporary NF LOC/SOC spans, the following should be completed.
  1. The MCO shortens the first NF LOC/SOC temporary authorization span submitted; and
  2. The MCO requests, via email, that the second NF LOC/SOC temporary authorization span be voided in its entirety to the state staff.



# Voided Spans – FOCoS

3. If member is SDCB – The MCO’s care coordinator manually ends 1st NF LOC temp span **AND** manually voids the 2nd NF LOC temp span in the **FOCoS System**. (Please note: This is a temporary process until interface is reconfigured.)
4. Don’t forget to notify member/EOR that services are ending due to FH decision so that the member/EOR can inform their employees of the date to stop working.
5. The care coordinator must also close-out the budget and care plan in the **FOCoS System**.



## ASPEN Interface

- ▶ No **ASPEN** interface required.
- ▶ ISD will close COE based on FH decision being in favor of Department.

## FOCoS System

- ✓ Care coordinator must manually end the 1<sup>st</sup> temp span in the **FOCoS System**.  
New end date is **06/03/16**
- ✓ Care coordinator must manually void the entire 2<sup>nd</sup> temp span in the **FOCoS System**

## MCO to HSD Omnicaid Interface

- ❖ 1<sup>st</sup> temp extension submitted in March was:  
02/26/16 – 06/25/16  
Must be changed to:  
02/26/16 – **06/03/16**
- ❖ 2<sup>nd</sup> temp extension submitted in May was:  
06/26/16 – 10/25/16  
Must request to state staff to void entire span.

# Important Reminders

# Important Reminders

- ▶ Full Medicaid member denials:
  - the MCO issues the NOA.
  - the MCO mails the final SOE to and works with PPB/MAD during the FH.
  - only requires **MCO to HSD Omnicaid** interface transmissions.
  - must complete the Appeal process before they can request FH.

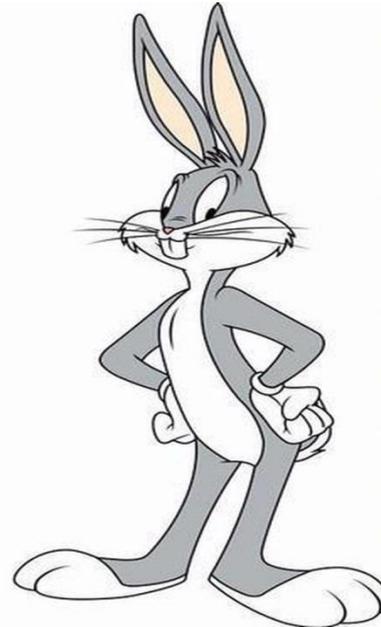


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# Reminders Continued

- ▶ NOME member denials:
  - do not go through the Appeal process with the MCO for a NF LOC denial, only a FH.
  - the ISD office issues the NOCA.
  - the MCOs work with ISD office during the FH.
  - MCO mails out the SOE to all interested parties.
  - require both **ASPEN** and **Omnicaid** interface submissions.



# Reminders Continued

- ▶ Every time the MCO submits an ASPEN interface for Medical Denial/Technical denial or for COB, a CIU must also be sent to ISD.
- ▶ Neither initial NOMES nor initial full Medicaid Members whose NF LOC is denied are eligible to request COB.
- ▶ When the FH decision is in favor of the Department, the MCO must notify the member/EOR that services are ending and provide the end date.
- ▶ Every time the MCO changes the authorization date the provider must be notified.



# Questions?

