

<b>PLAN OPERATIONS</b>	 From DentaQuest			
	<i>Policy and Procedure</i>			
	Policy Name:	<b>Disenrollment from DCO</b>	Policy ID:	<b>PLANCG-16</b>
	Approved By:	Quality Assurance and Performance Improvement Committee	Last Revision Date:	11/08/2021
	States:	Oregon	Last Review Date:	11/15/2021
Application:	Medicaid	Effective Date:	11/16/2021	

## PURPOSE

To establish guidelines for the disenrollment of an enrollee from the Dental Care Organization (DCO) that is not enrollee-initiated.

## POLICY

1. The DCO will abide by the disenrollment rules set forth by the Oregon Health Authority (OHA) as referenced in OAR 410-141-3810, which provides that the DCO may request disenrollment of a member for a number of reasons, including without limitation:
  - A. Fraudulent or Illegal Acts
    - a. Enrollee commits fraudulent or illegal acts related to the enrollee’s participation in the Oregon Health Plan (OHP) such as: Permitting the use of their medical ID card by others, altering a prescription, theft, or other criminal acts.
    - b. The DCO shall report any illegal acts to law enforcement authorities and, if appropriate, to DHS Fraud Investigations Unit at 888-Fraud01 (888-372-8301) or <http://www.oregon.gov/DHS/abuse/pages/fraud-reporting.aspx> as appropriate, consistent with 42 CFR 455.13.
    - c. When requesting disenrollment based on an enrollee’s fraudulent or illegal act(s), the DCO shall submit a written disenrollment request to the applicable CCO or OHA. In the disenrollment request, the DCO shall document the reasons for the request, provide written evidence to support the basis for the request, including any verification of reports submitted to law enforcement, and, if applicable, the DHS Fraud Investigations Unit.
    - d. Based on the evidence submitted, the CCO or OHA will review the disenrollment request and all submitted evidence as appropriate. The review process will be documented and a recommendation for disenrollment will be submitted to OHA’s management to make a final decision on the appropriateness of disenrolling the enrollee and whether any recommended disenrollment decision must be made immediately or wait until after the completion of any fraud investigation
  - B. Uncooperative or Disruptive Behavior
    - a. Subject to applicable disability discrimination laws, the OHA may, upon request of the DCO, disenroll enrollees for cause when an enrollee is uncooperative or disruptive, except when such behavior is in the result of the enrollee’s special health care needs or disability. An enrollee’s refusal to accept a provider’s treatment plan does not constitute uncooperative or disruptive behavior.
    - b. For purposes of this policy “direct threat” means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures.

In determining whether an enrollee poses a direct threat to the health or safety of others, the DCO shall make an individualized assessment based on reasonable judgment that relies on current medical knowledge or the best available objective evidence to ascertain the nature, duration, and severity of the risk to the health or safety of others; the probability that potential injury to others shall actually occur; and whether reasonable modifications of policies, practices, or procedures shall mitigate the risk to others.

- c. The DCO shall not have the right to request an enrollee be disenrolled based solely on any of the following reasons:
  - i. Physical, intellectual, developmental, or mental disability; or
  - ii. An adverse change in the enrollee's health; or
  - iii. Under or over-utilization of services; or
  - iv. Filing a grievance or exercising any appeal or contested case hearing rights; or
  - v. The enrollee exercises their option to make decisions regarding their dental care with which the DCO disagrees; or
  - vi. Uncooperative or disruptive behavior resulting from the enrollee's special needs.
- d. DCO providers are required to provide the DCO's case management department with prompt written notification of an enrollee's uncooperative or disruptive behavior through the DCO's secure provider portal. The provider's notification shall describe the uncooperative or disruptive behavior and, except for credible threats of violence, allow time for appropriate resolution by the DCO before refusing to provide services to the enrollee. The provider shall document the written notification to the DCO in the enrollee's dental record.
- e. In response to notification of an enrollee's uncooperative or disruptive behavior, the DCO shall do all of the following prior to submitting a request for disenrollment to the CCO or OHA:
  - i. Furnish education and training to the notifying provider about the need for early intervention, disability accommodation, and the resources or services available to the provider. The DCO shall document the education, training, and the resources or services furnished to the reporting provider.
  - ii. Work with the CCO as applicable to determine whether the CCO or DCO should contact the enrollee. If the DCO contacts the enrollee, the DCO shall do so either in person, by telephone, or in writing. All contacts made in person or by telephone shall be followed by written confirmation and sent to the enrollee with a copy to the provider that notified the DCO of the enrollee's uncooperative or disruptive behavior. When contacting the enrollee, the DCO shall:
    - 1. Inform the enrollee of the uncooperative or disruptive behavior that has been identified and attempt to develop an agreement with the enrollee regarding the behavior;
    - 2. Advise the enrollee that the DCO or CCO (as applicable) will provide, and the enrollee shall be required to participate in individual education, disability accommodation, counseling, or other interventions in an effort to resolve the behavior; and
    - 3. Inform the enrollee that their continued behavior may result in disenrollment from the DCO.

- iii. In the event the interventions undertaken do not ameliorate the enrollee's uncooperative or disruptive behavior, the DCO or CCO (as applicable) shall contact the enrollee's care team, or develop an enrollee focused care team if one does not already exist, to support the enrollee in remediating their behavior. If needed, and with the consent of the enrollee, the care team shall involve other appropriate individuals working with the enrollee in the resolution within the laws governing confidentiality. The DCO or CCO (as applicable) shall facilitate cross functional care conferences that include the enrollee, enrollee focused care team, and other individuals chosen by the enrollee with appropriate releases documented.
- iv. In the event the enrollee's uncooperative or disruptive behavior continues after undertaking the efforts identified, the DCO or CCO (as applicable) shall convene an interdisciplinary team that includes a mental health professional or behavioral specialist and other health care professionals who have the clinical expertise necessary for reviewing and assessing the enrollee's behavior, their behavioral history, and previous efforts undertaken to manage the enrollee's behavior, including those developed through the enrollee's care team and care conferences, in order to determine whether the enrollee may be able to remediate their uncooperative or disruptive behavior through other reasonable clinical or social interventions.
- v. All efforts undertaken, including, without limitation, all interventions, written and oral communications, training and education provided to the enrollee and the enrollee's provider(s), as well as those persons who participated in any and all interventions, care teams, assessments and the like, shall be documented in the enrollee's DCO case file and as applicable, the provider shall document all efforts undertaken in the enrollee's medical record.
- vi. If, after undertaking all efforts identified, the enrollee's disruptive or uncooperative behavior cannot be managed sufficiently in order for a provider to provide the services the enrollee requires, the DCO or CCO (as applicable) may submit a written request for disenrollment that complies with all of the following:
  - 1. Sets forth the reasons for the request for disenrollment, details the attempts at intervention and accommodations that were made, why those interventions and accommodations were not effective, and includes all required written documentation.
  - 2. Identifies, and provides documentation in support of the identification of, any special health care needs or disability the disruptive or uncooperative enrollee may have and describes:
    - a. The relationship the uncooperative or disruptive behavior may have, if any, to the enrollee's special health care needs or disability, which must be substantiated by a provider with the appropriate credentials and expertise in the enrollee's special health care needs or disability; and
    - b. Why the DCO has concluded the enrollee's disruptive or uncooperative behavior is not a consequence of the enrollee's special health care needs or disability.
  - 3. States whether the enrollee's uncooperative or disruptive behavior poses a direct threat to the health or safety of others.

4. Identifies the documentation that supports the DCO's rationale for concluding that the enrollee's continued enrollment in the DCO seriously impairs the DCO's ability to furnish services to either the enrollee who has engaged in the uncooperative or disruptive behavior or the DCO's other enrollees.
5. Furnish all other information and documentation requested by the CCO or OHA.
6. If a Primary Care Dentist (PCD) terminates the provider/patient relationship during the period of time the DCO is undertaking the efforts described in this section, the DCO shall, prior to submitting a request for disenrollment, attempt to locate another participating PCD who will accept the enrollee as their patient. If needed, the DCO shall obtain an authorization for release of information from the enrollee in order to share the information necessary for a new PCD to evaluate whether they can treat the enrollee. All terminations of provider/patient relationships shall be consistent with the DCO's OHP policies, the DCO or PCD's policies for commercial enrollees, and applicable disability discrimination laws.

#### C. Credible Threats of Violence

- a. The DCO has the right to request an exception to the DCO initiated disenrollment requirements when an enrollee has committed an act of, or made a credible threat of, physical violence directed at a health care provider, the provider's staff, other patients, or the DCO staff, so that it seriously impairs the DCO's ability to furnish services to either this particular enrollee or other enrollees.
- b. For purposes of this policy, a credible threat means that there is a significant risk that the enrollee may cause grievous physical injury (including but not limited to death) in the near future, and that risk cannot be eliminated by a modification of policies, practices, or procedures.
- c. The DCO shall require providers to notify law enforcement immediately when an enrollee has acted violently or makes a credible threat of physical violence, and then notify the DCO's Member Services Department.
  - i. The notification may be made to the DCO by telephone provided that such notice is followed by written notice to the DCO.
  - ii. Notice shall describe the circumstances surrounding the act or credible threat of violence and the actions taken by the provider as a result.
  - iii. The DCO shall require their providers to document the incident in the enrollee's medical record and the DCO shall document the provider's notice in the enrollee's case file.
- d. The DCO shall notify the CCO as applicable and ensure the enrollee's care team is also aware of the act or credible threat of violence. The DCO or CCO (as applicable) shall involve the enrollee's care team and, within the laws governing confidentiality, other appropriate individuals which may include, without limitation, a mental health professional or behavioral specialist and other health care professionals who have the clinical expertise necessary for reviewing and assessing the enrollee's behavior to develop a plan to contact and provide support to the enrollee in remediating the enrollee's violent behavior.

- e. The DCO or CCO (as applicable) and the care team shall make, and document all attempts at contacting and actual contacts with the enrollee regarding the act or credible threat of violence.
- f. If the DCO or CCO (as applicable) determines the enrollee does not pose an imminent and credible threat to others, the DCO or CCO (as applicable) shall undertake the efforts and processes set forth in this policy prior to making any request for disenrollment.
- g. If the DCO or CCO (as applicable) determines the enrollee does pose an imminent and credible threat to others and cannot be remediated, the DCO or CCO (as applicable) shall have the right to request the enrollee's disenrollment. The DCO's disenrollment request shall comply with all additional requirements as follows:
  - i. Include an explanation of why the DCO believes the exception to following the outlined disenrollment process is necessary as it relates to an act of, or credible threat of, physical violence; and
  - ii. In addition to all other documentation required to be submitted, the request must also include a copy of the police report or case number. If a police report or case number is not available, the DCO shall submit a copy of the provider's entry in the enrollee's medical record, which must be signed by the provider, or a copy of the DCO's entry into the enrollee's case file signed by the DCO, or both, that documents the report to law enforcement or any other reasonable evidence.

## **PROCEDURE**

1. The following procedures apply to all approved disenrollment requests
  - A. The DCO or CCO (as applicable) shall provide the affected enrollee with written notice of their disenrollment within five business days after the OHA has approved the request for disenrollment. A copy of the enrollee notice shall be sent to the DCO or CCO (as applicable), which the DCO or CCO (as applicable) shall distribute to the enrollee's care team. A copy of the enrollee notice shall be placed in the enrollee's case file maintained by the OHA. The notice of disenrollment provided to the enrollee shall include all of the following information:
    - a. The disenrollment date;
    - b. The reason for disenrollment;
    - c. Information regarding the enrollee's right to file a grievance and their administrative hearing rights; and
    - d. All applicable statutory and regulatory support for the decisions made and the enrollee's rights. A copy of the enrollee's notice shall be included in OHA's record of the request and provided to the DCO or CCO (as applicable) for distribution the enrollee's care team.
  - e. The date of disenrollment shall be effective ten calendar days after the date of the enrollee's disenrollment notice, unless:
    - i. The enrollee files a grievance or otherwise requests a hearing, in which case disenrollment is tolled pending the outcome of any and all final administrative processes. Upon final decision by an administrative law judge to uphold the OHA's decision to grant disenrollment, or if the enrollee chooses not to appeal any grievance that results in upholding the approval of disenrollment, the enrollee's disenrollment shall become effective immediately upon such decisions.

**REFERENCES**

OAR 410-141-3810 Disenrollment from MCEs

42 CFR 455.13 Methods for identification, investigation, and referral

***Revision History***

Date:	Description
06/14/2012	Approval and adoption.
05/02/2014	Updates based on annual review.
02/23/2015	Updates based on annual review.
02/23/2016	Updates based on annual review.
02/14/2017	Updates based on annual review.
03/12/2018	Updates based on annual review.
04/23/2019	Updates based on annual review.
12/05/2019	Conversion to revised policy and procedure format and naming convention.
12/08/2020	Updates based on annual review.
11/08/2021	Updates based on annual review.