

Article 1A.

Disenrollment from Prepaid Health Plans.

**§ 108D-5.1. General provisions.**

(a) Nothing in this Article shall be construed to limit or prevent the Department from disenrolling, from a PHP, an enrollee who (i) is no longer eligible to receive services through the Medicaid program or (ii) becomes a member of a population of beneficiaries that is not required to enroll in a PHP under State law.

(b) Nothing in this Article shall be construed to exclude a Medicaid beneficiary who is otherwise required by State law to enroll in a PHP from enrolling in a PHP, or to prevent a beneficiary who is otherwise exempted from enrollment in a PHP from disenrolling from a PHP and receiving services through the fee-for-service program. (2019-81, s. 1(a); 2022-74, s. 9D.15(z); 2023-11, s. 3.2(h).)

**§ 108D-5.3. Enrollee requests for disenrollment.**

(a) In General. – An enrollee, or the enrollee's authorized representative, who is requesting disenrollment from a PHP, shall submit an oral or written request for disenrollment to the enrollment broker.

(b) Without Cause Enrollee Requests for Disenrollment. – An enrollee shall be allowed to request disenrollment from the PHP without cause only during the times specified in 42 C.F.R. § 438.56(c)(2), except that enrollees who are in any of the following groups may request to disenroll at any time:

- (1) Beneficiaries who meet the definition of Indian under 42 C.F.R. § 438.14(a).
- (2) Beneficiaries who are described in G.S. 108D-40(a)(14).
- (3) Repealed by Session Laws 2023-134, s. 9E.22(d), effective October 3, 2023.
- (4) Repealed by Session Laws 2023-134, s. 9E.22(d), effective October 3, 2023.
- (5) Beneficiaries who are receiving long-term services and supports in institutional or community-based settings.
- (6) Any other beneficiaries who are not required to enroll in a PHP under G.S. 108D-40.
- (7) Beneficiaries who are described in G.S. 108D-40(a)(12).

(c) With Cause Enrollee Requests for Disenrollment. – An enrollee, or the enrollee's authorized representative, may submit a request to disenroll from a PHP for cause at any time. For cause reasons for disenrollment from a PHP include the following:

- (1) The enrollee moves out of the PHP's service area.
- (2) The PHP, because of the PHP's moral or religious objections, does not cover a service the enrollee seeks.
- (3) The enrollee needs concurrent, related services that are not all available within the PHP's network and the enrollee's provider determines that receiving services separately would subject the enrollee to unnecessary risk.
- (4) An enrollee who receives long-term services and supports will be required to change residential, institutional, or employment supports providers due to the enrollee's provider's change from in-network to out-of-network status with the PHP and, as a result, the enrollee would experience a disruption in residence or employment.
- (5) The enrollee's complex medical conditions could be better served under a different PHP. For purposes of this subsection, an enrollee is considered to have

a complex medical condition if the enrollee has a condition that could seriously jeopardize the enrollee's life or health or ability to attain, maintain, or regain maximum function.

- (6) A family member of the enrollee becomes, or is determined, eligible for Medicaid and the family member is, or becomes, enrolled in a different PHP.
- (7) Poor performance by the PHP, as determined by the Department. The Department shall not make a determination of poor performance by any PHP until the Department has completed an annual PHP performance evaluation following the first year of that PHP's contract.
- (8) Poor quality of care, lack of access to services covered under the PHP's contract, lack of access to providers experienced in addressing the enrollee's health care needs, or any other reasons established by the Department in the PHP's contract or in rule.

(d) Expedited Enrollee Requests for Disenrollment. – An enrollee, or the enrollee's authorized representative, may submit an expedited request for disenrollment to the enrollment broker when the enrollee has an urgent medical need that requires disenrollment from the PHP. For purposes of this subsection, an urgent medical need means that continued enrollment in the PHP could jeopardize the enrollee's life, health, or ability to attain, maintain, or regain maximum function. (2019-81, s. 1(a); 2021-62, s. 4.8(a); 2022-74, s. 9D.15(z); 2023-134, s. 9E.22(d).)

#### **§ 108D-5.5. PHP requests for disenrollment.**

(a) In General. – A PHP requesting disenrollment of an enrollee from the PHP shall submit a written request for disenrollment to the enrollment broker.

(b) Limitations on PHP Requests for Disenrollment. – A PHP shall not request disenrollment of an enrollee from the PHP for any reason prohibited by 42 C.F.R. § 438.56(b)(2). A PHP may request disenrollment of an enrollee only when both of the following criteria are met:

- (1) The enrollee's behavior seriously hinders the PHP's ability to care for the enrollee or other enrollees of the PHP.
- (2) The PHP has documented efforts to resolve the issues that form the basis of the request for disenrollment of the enrollee. (2019-81, s. 1(a).)

#### **§ 108D-5.7. Notices.**

(a) Notices of Resolution. – For each disenrollment request by an enrollee or a PHP, the Department shall issue a written notice of resolution approving or denying the request by mail to the enrollee before the first day of the second month following the month in which the enrollee or PHP requested disenrollment. For expedited enrollee requests for disenrollment made under G.S. 108D-5.3(d), the Department shall issue the written notice of resolution approving or denying the expedited request within three calendar days of receipt of the request. In the same mailing as the notice, the Department shall also provide the enrollee with an appeal request form that includes all of the following:

- (1) A statement that, in order to request an appeal, the enrollee must file the form with OAH no later than 30 days after the mailing date of the notice of resolution, and the form may be filed by either (i) sending the form by mail or fax to the address or fax number listed on the form or (ii) calling the telephone number on the form and providing the information requested on the form.

- (2) The enrollee's name, address, telephone number, and Medicaid identification number.
  - (3) A preprinted statement that indicates that the enrollee would like to appeal the specific adverse disenrollment determination identified in the notice of resolution.
  - (4) A statement informing the enrollee of the right to be represented at the contested case hearing by a lawyer, a relative, a friend, or other spokesperson.
  - (5) A space for the enrollee's signature and date.
- (b) Notices Pertaining to Expedited Enrollee Requests for Disenrollment. – If the Department determines that an enrollee's request for disenrollment does not meet the criteria for an expedited request, the Department shall do the following:
- (1) No later than three calendar days after receiving the enrollee's request for disenrollment, make reasonable efforts to give the enrollee and all other affected parties oral notice of the denial and follow up with a written notice of the denial. The denial is not appealable.
  - (2) Issue the notice of resolution within the time limits established for standard disenrollment requests under subsection (a) of this section. (2019-81, s. 1(a); 2021-62, ss. 2.1(d), 2.2(e); 2022-74, s. 9D.15(z).)

**§ 108D-5.9. Appeals of adverse disenrollment determinations.**

(a) Appeals. – An enrollee, or the enrollee's authorized representative, who is dissatisfied with an adverse disenrollment determination may request a hearing to appeal the determination by filing the appeal request form provided under G.S. 108D-5.7(a) with the Office of Administrative Hearings within 30 calendar days of the date on the notice of resolution. The form may be filed by either (i) sending the form by mail or fax to the address or fax number listed on the form or (ii) calling the telephone number on the form and providing the information requested on the form. A request for a hearing to appeal an adverse disenrollment determination of the Department under this section is a contested case subject to the provisions of Article 3 of Chapter 150B of the General Statutes. The appeal shall be conducted in accordance with the procedures in Part 6A of Article 2 of Chapter 108A of the General Statutes.

(b) Parties. – The Department shall be the respondent for purposes of appeals under this section. (2019-81, s. 1(a); 2021-62, s. 2.1(e).)

**§ 108D-6. Reserved for future codification purposes.**

**§ 108D-7. Reserved for future codification purposes.**

**§ 108D-8. Reserved for future codification purposes.**

**§ 108D-9. Reserved for future codification purposes.**

**§ 108D-10. Reserved for future codification purposes.**