Department: Health Services – Utilization Management	**Number:** HS-020
Title: Dismissal of Organization Determinations	
Original Effective Date: 12/30/2024	**Latest Revision Date:** 12/30/2024

Purpose:

The purpose of this policy is to establish a clear and consistent process for dismissing organization determinations in compliance with CMS regulations. The policy ensures that dismissals are made processed appropriately and that members or other parties are notified of their rights in accordance with CMS established guidelines. This policy applies to all staff within the Utilization Management (UM) department of Sonder Health Plans ("SHP" or "the Plan").

Definitions:

- **Appropriate Party ("Party"):** Individuals and/or entities permitted to make an Organization Determination per CMS guidelines. Specifically: The enrollee (including his or her representative); any provider that furnishes, or intends to furnish, services to the enrollee; the legal representative of a deceased enrollee's estate; a physician (regardless of whether the physician is affiliated with the Plan).
- **Dismissal:** A decision by the Plan to dismiss or reject a request for an organization determination without completing a decision on the merits of the request. The criteria outlined in this policy will be met to dismiss a request.
- **Enrollee/Member/Beneficiary:** For the purpose of this document, enrollee, member, and beneficiary may be used interchangeably and refers to a Medicare Advantage eligible individual who has elected Sonder Health Plans for coverage and benefits.
- **Initial Determination:** The initial decision made by the Plan regarding a request for an organization determination.
- **Level 1 Appeal:** Also known as a reconsideration, is a request made by an appropriate party for review of a Plan's adverse initial determination. It consists of a review of the adverse initial determination, the evidence and finding upon which it was based, and any other evidence that the parties submit or that is obtained by the Plan.
- **Organization Determination:** A decision made by the Plan, or its delegated entity, concerning whether the payment or provision of an item, service, or Part B drug is covered and medically necessary under the member's plan.
- **Representative:** An individual appointed by an enrollee or other party, or authorized under State or other applicable law, to act on behalf of an enrollee or other party involved in an appeal, organization determination, or grievance. Unless otherwise provided by law, the representative will have all the rights and responsibilities of an enrollee or other party, as applicable.
- **Requestor:** Used interchangeably with Appropriate Party.

Policy Statement:

SHP follows the guidelines set forth by the Centers Medicare & Medicaid Services (CMS) when dismissing requests for organization determinations. This policy outlines the process for the Health Services Department (HSD) Utilization Management staff to dismiss requests for organization determinations, the circumstances under which dismissals may occur, the rights of the enrollee or their representative to contest

the dismissal, as well as notification, documentation, and reporting requirements.

Procedures:

I. **Permissible Reasons for a Dismissal -** Consistent with CMS Guidelines, SHP will dismiss a request for an initial determination under any of the following circumstances:
   A. **Ineligibility of Requestor:** The individual or entity making the request is not permitted to request an initial determination under the applicable regulation.
   B. **Invalid Request:** The plan determines that the individual or entity making the request failed to make a valid request for an initial determination that substantially complies with CMS guidelines.
      i. A valid request, per CMS guidelines, includes sufficient information to identify the enrollee to allow the plan to adjudicate the request (or, at a minimum, make contact with the enrollee to clarify the request), including a full name or member ID number or at least one means of contact (e.g., address, telephone number, email).
      ii. In addition, under Part D, an enrollee may not request a tiering exception for an approved non-formulary prescription drug. In this circumstance, a plan would dismiss the request and issue a dismissal notice in accordance with CMS notice requirements.
   C. **Death of the Enrollee:** An enrollee or the enrollee's representative files a request for an organization determination, but the enrollee dies while the request is pending, and both of the following apply:
      i. The enrollee's surviving spouse or estate has no remaining financial interest in the case.
      ii. No other individual or entity with a financial interest in the case wishes to pursue the organization determination.
   D. **Withdrawal of Request:** The individual or entity who requested an initial determination submits a timely verbal or written request for withdrawal of their request for an initial determination with the plan.
      i. Timely indicates that the withdrawal request was made before the Plan made a decision on the organization determination.
      ii. When the plan's dismissal is due to a timely withdrawal request, the plan is required to dismiss the initial determination request and issue a dismissal notice in accordance with CMS notice requirements as outlined below in order to preserve the rights of other parties to the decision who may wish to request review of the dismissal.
      iii. Withdrawn requests and dismissals should continue to be reported separately in their distinct categories, per existing reporting requirements.
   E. The above list of circumstances, as provided by CMS regulations, under which SHP will dismiss a request for an initial determination is exhaustive.
      i. SHP may not deem a request invalid or dismiss a request for an initial determination for any reason not explicitly outlined in Section I, A – D above, or as otherwise updated in the future regulations.
   F. The dismissal of a request for an organization determination is binding unless it is modified or reversed by SHP upon reconsideration or vacated as described in the below section.

II. **Notification of Dismissal and Filing Timeframes**
   A. If SHP dismisses an initial determination request, it will mail or otherwise transmit a written notice of the dismissal to the appropriate parties at their last known address by the conclusion of the applicable timeframe.
   B. SHP may use, and modify as necessary, the *CMS Model Notice of Dismissal of Coverage Request* when notifying an enrollee of a dismissal.
   C. The notice will state all of the following:

i. The reason for the dismissal
    a. The notice will provide a clear explanation of why the request was dismissed, referencing any applicable regulatory or plan-specific requirements, including the grounds for dismissal. For example, the person making the request is not a proper party and there isn't an appointment of representation (AOR) form.
ii. The right to request that the Plan vacate the dismissal action.
iii. The right to request reconsideration (appeal) of the dismissal.

III. Requests for Reconsideration (Level 1 Appeal) of a Dismissal of an Initial Determination Request

A. External Request for Reconsideration (Level 1 Appeal) of a Dismissal
    i. The appropriate party may request that SHP review the dismissal if they believe it has incorrectly dismissed their coverage request.
    ii. The reconsideration request will include a copy of the *CMS Model Notice of Dismissal of Coverage Request* issued by SHP along with any supporting information related to the appeal and provide an explanation why the requestor believes the dismissal was incorrect.
    iii. **Filing Timeframe:** Consistent with the timeframe for requesting a timely appeal of an initial determination, the request for SHP's review of a dismissal will be filed within 60 calendar days from the date of the SHP's dismissal notice.

B. Process if SHP Reverses Dismissal:
    i. If an appropriate party appeals SHP's dismissal of an initial determination request and SHP determines that its dismissal was in error, SHP will reverse the dismissal and processes the request for coverage in accordance with applicable timeframes and notice requirements for standard and expedited organization determinations. Specifically:
        a. If the initial request was for a standard organization determination, SHP will process the dismissal request in accordance with standard processing timeframes. Please refer to Policy HS-037: Standard Organization Determinations for specific guidance.
        b. If the initial request was an expedited organization determination, SHP will process the dismissal request in accordance with expedited processing timeframes. Please refer to Policy HS-038: Expedited Organization Determinations for specific guidance.
    ii. The timeframe for the initial determination begins on the date/time of the plan's decision to reverse its dismissal.

C. Process if SHP Upholds the Dismissal:
    i. If SHP upholds its dismissal of the initial determination, the requestor has no further right to appeal the dismissal of the initial determination to a higher-level adjudicator, meaning SHP's decision as to the initial determination is binding.
    ii. However, an enrollee still has the right to request that the plan (1) vacate the dismissal action of the initial determination OR (2) request a review of the plan's dismissal of the Level 1 appeal request (not the initial determination) by an independent review entity (IRE).

D. Plan's Notification Requirements if Dismissal is Upheld:
    i. If upon appeal, SHP upholds the dismissal, it will provide written notice using and modifying as necessary the C*MS Part C – Model Notice of Dismissal of Appeal Request*.

E. Requestor's Rights if Level 1 Appeal Request is Upheld by SHP:
    i. As stated above, if the plan upholds its original dismissal on appeal, there is no further right to appeal the dismissal of the initial determination.
        a. However, an enrollee still has the right to request that the plan (1) vacate the dismissal action of the initial determination OR (2) request a review of the plan's dismissal of the Level 1 appeal request (not the initial

determination) by an independent review entity (IRE).

ii. Option 1: The requestor has the right to ask SHP to vacate (set aside) the dismissal action by filing a request within 6 months of the date of the notice. *(See Requests to Vacate Dismissal of an Initial Determination Request section below as the process for vacating a Level 1 Appeals process is the same as the process for vacating an Initial Determination. However, the forms will differ as referenced below.)*

iii. Option 2: The requestor has the right to ask an independent reviewer entity (IRE) contracted with Medicare to review SHP's decision to dismiss the appeal request.

a. The requestor will mail or fax the written request within 60 calendar days of the date of *CMS Part C – Model Notice of Dismissal of Appeal Request* provided by SHP to Maximus Federal Services, Inc. at the contact information provided in that notice.

b. The requestor will include a copy of *CMS Part C – Model Notice of Dismissal of Appeal Request* provided by SHP along with any supporting information with the request for review.

c. The IRE (Maximus) will send the requestor notice of its decision.

d. If the IRE agrees that the appeal should not have been dismissed by SHP or was made in error, the appeal request will be returned to SHP for processing within the reconsideration timeframes established by CMS.

e. The IRE's decision regarding a plan's dismissal of a level 1 appeal request is binding and not subject to further review.

IV. Withdrawal of Level 1 Appeal of a Dismissal:

A. The requestor may withdraw their Level 1 Appeal Request prior to a decision being made by SHP.

B. The same rules for Withdrawal of an Initial Determination Request as outlined in Section I, D above applies.

C. The request to withdraw will be filed by the party who requested the level 1 appeal.

i. The request to withdraw may be written or verbal.

ii. For verbal withdrawal requests, the plan should clearly document in their system the date and the reason why the party chose not to proceed with the appeal.

iii. A notice of dismissal will be issued to all parties to the appeal and include:

a. The reason for the dismissal.

b. The right to request that SHP vacate the dismissal action.

c. The right to request review of the dismissal by the independent entity.

D. If the withdrawal request from the party that requested a reconsideration is received after SHP has forwarded the case file to the IRE, SHP will forward the withdrawal request to the IRE for processing.

V. Requests to Vacate a Dismissal of an Initial Determination Request (or Level 1 Appeal)

A. SHP Vacates its Dismissal on its own:

i. SHP may vacate its own dismissal if good cause is established within 6 months of the date of the notice of the dismissal.

ii. SHP may find good cause to vacate a dismissal if, for example, SHP determines the dismissal was issued in error because the documentation in the administrative case file shows the reason for dismissing the request was incorrect.

iii. For examples of where good cause may exist, please refer to § 50.3 of the Medicare Managed Care Manual: Enrollee Grievances, Organization Determinations, and Appeals Guidance Manual.

B. External Request for SHP to Vacate a Dismissal:

i. The appropriate party may request that SHP vacate (set aside) the dismissal action.

ii. The request will include a copy of the *CMS Part C – Model Notice of Dismissal of Coverage Request* provided by SHP along with any supporting information. (If the request is related to a Level 1 Appeal, then the request should include a copy of the *CMS Model Notice of Dismissal of an Appeal Request).*

iii. If the request contains sufficient evidence or other documentation that supports a finding of good cause for vacating, SHP will make a favorable good cause determination.
iv. **Filing Timeframe:** The request for the Plan to vacate the dismissal will be received by the Plan within 6 months of the date of this notice.

C. Process if SHP Vacates Dismissal Based on an External Request:
i. Once SHP makes a favorable good cause determination, it will vacate its prior dismissal action and perform an initial determination consistent with the timeframes for standard and expedited organization determinations. Specifically:
a. If the initial request was for a standard organization determination, SHP will process the dismissal request in accordance with standard processing timeframes. Please refer to Policy HS-037: Standard Organization Determinations for specific guidance.
b. If the initial request was an expedited organization determination, SHP will process the dismissal request in accordance with expedited processing timeframes. Please refer to Policy HS-038: Expedited Organization Determinations for specific guidance.
ii. Where a finding for good cause is made, the plan should document the reason for making that determination in the case file.

D. Process if SHP does not Vacate the Dismissal:
i. If SHP does not find good cause to vacate the dismissal, the dismissal remains in effect.
ii. The plan issues a letter (not a dismissal notice) explaining that good cause has not been established and the dismissal cannot be vacated.
iii. The plan should explain in clear language why the information submitted with the request to vacate the dismissal does not establish good cause to vacate the dismissal action.

VI. Documentation Requirements

A. All dismissed requests will be thoroughly documented in the member's record, include:
i. The date of the request for an organization determination.
ii. The reason for the dismissal, including any relevant information about the enrollee's death and financial interests (if applicable).
iii. The date the dismissal notice was sent to the enrollee, provider, and/or representative.
iv. All communications with the enrollee, provider, and/or representative regarding the dismissal.

B. The documentation should be stored according to SHP's (CO-017) Record Retention Policy and the HSD's Record and Document Management policy (HSD-006) and available for audit or regulatory review.

C. Reporting Requirements:
i. Per CMS requirements, SHP will ensure that withdrawn requests and dismissals are reported separately in their distinct categories per existing Part C (and D) reporting requirements.

Attachment(s): N/A

Statutory Reference(s):

- **Federal:**
  - 42 CFR § 422.566 - Organization determinations
  - 42 CFR §422.568 - Standard Timeframes and Notice Requirements for Organization Determinations
  - 42 CFR § 422.570 - Expediting Certain Organization Determinations

- 42 CFR §422.572 – Timeframes and Notice Requirements for Expedited Organization Determinations
- 42 CFR § 422.590 - Timeframes and Responsibility for Reconsiderations
- 42 CFR § 422.592 - Reconsideration by an Independent Entity
- Medicare Managed Care Manual: Enrollee Grievances, Organization Determinations, and Appeals Guidance Manual
- CMS CY 2022 Parts C & D Dismissal and Withdrawal Qs & As of December 9, 2021

Contract Reference(s): N/A

Document Reference(s):

- CMS Model Notice of Dismissal of Coverage Request
- Part C – Model Notice of Dismissal of Appeal Request