

## CARESOURCE PASSE PROVIDER PARTICIPATION PLAN

A Participating Provider subject to an Action proposed by or issued by the CareSource PASSE Family of Plans (“CareSource”) shall have the rights set forth in this CareSource PASSE Provider Participation Plan previously referred to as the CareSource PASSE Fair Hearing Plan and herein referred to as the “**Participation Plan**”. This Participation Plan applies only to Actions, as defined herein. Following the issuance of a Notice of Action by CareSource PASSE, the Participating Provider will be entitled to an appeal before the Hearing Panel

Except as set forth in Section II (B) herein, Participating Provider under review for failing to meet standards for quality or utilization in the delivery of health care service will generally retain his or her status as a Participating Provider during the Participating Provider's appeal under the provisions of this Participation Plan.

### **I. DEFINITIONS**

**Action.** Rejection of the Participating Provider's application for continued participation, or summary suspension or termination of the Participating Provider's Provider Agreement based on Participating Provider's failure to meet CareSource PASSE's standards for quality or utilization in the delivery of health care services. With respect to CareSource's Medicare Advantage, Part D, and Dual Special Needs Plans, “Action” includes the termination, suspension, or non-renewal of a Participating Provider's Provider Agreement. Exclusions are set forth in Section II, herein.

**CareSource Family of Plans.** The CareSource entities and affiliates within the CareSource Family of Companies that, through contracts with its participating providers, provides or arranges for the provision of medical services to its enrollees. This includes all CareSource Family of Companies health plans.

**Notice of Action.** A written notice of an Action issued by CareSource PASSE to Participating Provider, which shall include the nature of the Action including if applicable, the standards and profiling data used to justify the Action, and the Participating Provider's appeal rights.

**Participating Provider.** A health care professional or facility that has been credentialed or approved by CareSource PASSE and entered into a Provider Agreement with CareSource PASSE, to provide services to individuals enrolled with CareSource PASSE in accordance with CareSource PASSE requirements.

**Provider Hearing Panel (“PHP”).** The panel of voting members comprised of individuals as described in Section III(B) responsible for reviewing each case and rendering a Decision.

**PHP Decision.** The decision of the PHP, which may include affirmance, modification or reversal of the proposed Action.

**Provider Agreement.** The contract between Provider and CareSource for the provision of

services by Participating Provider to individuals enrolled with CareSource PASSE, including but not limited to contracts titled "Provider Agreement" and "Group Practice Services Agreement."

## **II. PROPOSED ACTION, NOTICE OF ACTION, AND EXCLUSIONS**

### **A. PROPOSED ACTION AND NOTICE OF ACTION**

Prior to finalizing an Action, CareSource PASSE will give Participating Provider notice of the reason or reasons for the proposed Action and an opportunity to take corrective action, if appropriate. If necessary, based on CareSource PASSE's sole discretion, CareSource PASSE will develop a performance improvement plan in conjunction with Participating Provider. If the Participating Provider declines to participate in a performance improvement plan or agrees to participate but fails to comply in the reasonable determination of CareSource PASSE, CareSource PASSE may finalize the Action. If CareSource PASSE finalizes the Action, the Chair of Credentialing or his or her designee will send a Notice of Action via certified mail, return receipt requested, to the Participating Provider. The Notice of Action will include information regarding the Participating Provider's further appeal rights.

### **B. EXCLUSIONS**

With respect to CareSource's Medicare Advantage, Part D, and Dual Special Needs Plans, a Participating Provider does not have a right to an appeal when the Participating Provider voluntarily agrees to leave CareSource's network. In such event, this Participation Plan shall not apply, and the Participating Provider shall have none of the rights set forth herein if the Action is related to any decisions, including regulatory body, federal or state agency or other third-party decisions, that were not within CareSource's purview and were not subject to CareSource's review.

Nothing in this Participation Plan will be construed as precluding CareSource PASSE from summarily suspending a Participating Provider's participation for the following reasons: (1) the Participating Provider's conduct presents an imminent risk of harm to an enrollee or enrollees; (2) there has occurred unacceptable quality of care, fraud, patient abuse, loss of clinical privileges, loss of professional liability coverage, incompetence, or loss of authority to practice in the Participating Provider's field; or (3) a governmental action has impaired the Participating Provider's ability to practice. In case of a summary suspension, the Action shall immediately go into effect, subject to the hearing, appeal, and/or due process rights contained herein.

## **III. PROVIDER HEARING PANEL**

If the Participating Provider receives a Notice of Action as described above in Section II(A), the Participating Provider may appeal the Action by requesting a hearing with the PHP. The Participating Provider must request such a hearing, in writing, within fourteen (14) days of receipt of the Notice of Action. The request must be addressed to the Chair of the Credentialing Committee or his or her designee as referenced in the Notice of Action and must be sent via certified mail, return receipt requested. Failure to file such a request within the required time period shall constitute the Participating Provider's complete and final waiver of

any right to a hearing, any appellate review, and/or any other procedural due process rights associated with the Action at issue.

**A. NOTICE OF HEARING WITH PROVIDER HEARING PANEL**

Upon receipt of a Participating Provider's request for a hearing, the Chair of the Credentialing Committee or his or her designee will promptly arrange for and schedule the hearing. Promptly after the hearing is scheduled, the Chair of the Credentialing Committee or his or her designee will send a notice to the Participating Provider, via certified mail, return receipt requested, of the date, time and place of the hearing, which may be held virtually or in-person.

**B. COMPOSITION OF THE PROVIDER HEARING PANEL**

The hearing will be conducted by the PHP. The PHP shall be composed of not less than three (3) practitioners with at least one being another Participating Provider in CareSource PASSE's network and one panelist possessing comparable or higher levels of education and training than the Participating Provider and not otherwise involved in CareSource PASSE's network management. All members of the PHP must be in attendance for the hearing in order to proceed with the hearing. Additionally, with respect to CareSource's Medicare Advantage, Part D, and Dual Special Needs Plans, the majority of the PHP must be comprised of panelists possessing comparable or higher levels of education and training than the Participating Provider. No one who has participated in the case or circumstances giving rise to the hearing, and no one in direct economic competition or professionally associated with the Participating Provider will be appointed to the PHP. Knowledge of the matter involved will not preclude any individual from serving as a member of the PHP.

A CareSource PASSE Medical Director or designee not involved in the original decision will serve as the Chairperson of the PHP. The Chairperson may also be a voting member of the PHP. The names of the other PHP members that are selected to serve will be communicated to the Participating Provider. Within three (3) business days of receiving the list of names, the Participating Provider may reasonably object to any PHP member. The objection must be in writing stating the basis of the objection. The decision as to whether to replace any PHP member will be at the sole discretion of the Chair of the Credentialing Committee or his or her designee.

**C. HEARING PROCEDURE**

1. **Appearances.** The Participating Provider is required to attend the hearing either in-person or virtually as stated in the Notice of Action. If the Participating Provider fails to appear without good cause, as determined by the PHP, the Participating Provider will be deemed to have completely and finally waived his/her rights to any additional CareSource PASSE hearings, reviews, and/or any other rights associated with the Action at issue.

2. **Presiding Officer.** The Chairperson of the PHP will preside at the hearing, determining the order of procedure and will make all rulings on other issues, including postponements and recesses.
  
3. **Rights of Parties.** During the hearing, each of the parties will have the right:
  - a. to submit information it deems relevant for consideration;
  - b. to rebut any information offered by the other party;
  - c. to make arguments regarding its case; and
  - d. to submit all relevant documentation and information for the PHPs consideration at least five (5) business days prior to the hearing.
  - e. to submit a written statement within five (5) business days of the close of the hearing.
  
4. **Procedure and Evidence.** The following rules of procedure and evidence will apply to the hearing:
  - a. Any relevant matter upon which responsible persons customarily rely upon in the conduct of their affairs may be considered regardless of the admissibility of such evidence in a court of law. The PHP will decide the appropriate weight to be accorded to all information. The PHP will have access to all documents and information the Credentialing Committee had when it made its initial Action.
  - b. The Participating Provider will be permitted to offer an oral statement to the PHP concerning any relevant information related to the Action at issue. Likewise, a representative of CareSource PASSE will be permitted to offer an oral statement to the PHP regarding the Action.
  - c. The Participating Provider will be permitted to offer any information to the PHP concerning any relevant topic related to the Action at issue. Including information that was not available to the Credentialing Committee at the time of its initial Action, but became available after the initial Action and prior to the hearing. Likewise, a representative of CareSource will be permitted to offer any information to the PHP concerning any relevant topic related to the Action.

- d. A CareSource PASSE representative will initially present information and statements on behalf of the CareSource, after which the Participating Provider will have the opportunity to present information and statements on the Participating Provider's behalf. Thereafter, the Chairperson of the PHP will have discretion to entertain any rebuttal or sur-rebuttal deemed necessary and appropriate.
- e. It will be the obligation of the CareSource PASSE representative to present appropriate evidence in support of the Action. The Participating Provider will thereafter have the burden of proving by clear and convincing evidence that the Action was arbitrary or capricious. With respect to no-cause, notice terminations under CareSource's Medicare Advantage, Part D, or DSNP lines of business, the Participating Provider will have the burden of proving by clear and convincing evidence that CareSource did not follow the proper regulatory and contractual procedures to effectuate the no-cause, notice termination.
- f. Within five (5) business days of the conclusion of the hearing, each party will have the opportunity to submit a written statement summarizing its position for consideration by the PHP. Such statement shall be submitted, if the party elects to do so, to the Chairperson of the PHP.
- g. In reaching a decision, the PHP may take official notice of any generally accepted technical or scientific matter relating to the issues under consideration.
- h. The PHP must have a two-thirds consensus in order to effectuate a final PHP Decision.
- i. The PHP may in its sole discretion remand a case back to the Credentialing Committee for reconsideration as a final PHP Decision where a Participating Provider submits new information to the PHP that was not available for the Credentialing Committee when it took its initial Action.

**D. TIMING AND NOTICE OF DECISION**

Within seven (7) business days of the conclusion of the hearing, the PHP shall render its decision which shall be deemed full and final and not subject to appeal. A three (3)-business day extension may be granted by the PHP Chairperson. The PHP Decision will be sent to the Chair of the Credentialing Committee. The Chairperson of the Credentialing Committee will, within five (5) business days of receipt of the PHP

Decision, send notice via certified mail, return receipt requested, to the Participating Provider, of the PHP Decision.

**V. ADOPTION AND AMENDMENT OF PARTICIPATION PLAN**

This Participation Plan will be effective upon adoption by the CareSource PASSE Credentialing Committee. In the event of any conflict between this document and any other CareSource rule, policy or agreement, including previous versions of the Fair Hearing Plan, the provision(s) of this Participation Plan will prevail. This Participation Plan may be amended by a majority vote of the Credentialing Committee at any meeting of the Committee at which a quorum is present.

AR-PAS-P-1553801