

Therefore, we have not added this review activity to the protocol. We are also not requiring the EQR to review informal communication with providers. Informal communications by their nature do not routinely involve written documentation, and we believe it would be burdensome to require reviewers to monitor verbal exchanges.

Comment: One commenter recommended that the interview questions address the MCO's process and criteria for extensions of the standard 14 days for regular prior authorization decisions.

Response: We disagree with the commenter: timeframes for standard prior authorization decisions are established by the State. The protocol addresses compliance with the standard requirements in the Medicaid managed care final rule. Because extensions to State-established timeframes for standard authorization decisions is not included in the regulations addressing enrollee services, it would be inappropriate to include it in the protocol.

12. Enrollment & Disenrollment

Comment: One commenter believes that the protocol should provide guidance to reviewers concerning when it is appropriate for enrollees to use the MCO's grievance process before the State makes a determination on the enrollee's disenrollment request.

Response: The Medicaid managed care regulation does not specify the circumstances under which it is appropriate for enrollees to use the MCO's/PIHP's grievance process before the State makes a determination on the enrollee's disenrollment request. The protocol is designed to address MCO/PIHP compliance with the regulatory provisions and is not intended as a vehicle for either specifying additional requirements or providing guidance.

Comment: One commenter recommended the protocol include comparisons of MCO disenrollment rates and default or automatic enrollment rates because high rates can signify quality or access problems in the former instance and information deficits in the latter.

Response: While we agree with the commenter that disenrollment rates and default or automatic enrollment rates may be correlated, we do not agree that a comparison of rates alone will suffice. Instead, we have revised the protocol to specify that the document review include the MCO/PIHP disenrollment rates, and that the review of the disenrollment sample determine if a relationship exists between the enrollees requesting disenrollment and

enrollees enrolled in the MCO/PIHP automatically or by default.

13. Grievance System

Comment: One commenter suggested that the protocol include review of policies and interview questions to ensure the MCO does not deter enrollees from requesting fair hearings. The commenter recommended further that the reviewer consider the number of grievances and fair hearings versus the population served, and determine whether grievances are held in suspense at certain levels of the review process or enrollees are deterred from filing or pursuing grievance or fair hearing requests. The commenter also suggested the reviewer convene focus groups concerning how the grievance system is working.

Response: We believe the protocol, in the portion addressing review of documents related to enrollee grievances, appeals and State fair hearings, addresses the MCO/PIHP compliance with the regulatory provisions, and in so doing, ensures that the MCO/PIHP does not deter enrollees from requesting fair hearings or pursuing grievance or fair hearing requests. The protocol specifies a review of logs, registries, or other MCO/PIHP documentation of appeals, grievances, and requests for State fair hearings made by Medicaid enrollees. Further, States are required to maintain records of grievances and appeals and review this information as part of the State quality strategy. If grievances are held in suspense, this should become evident to the State through this grievance and appeals review. We believe that focus groups, like provider and consumer interviews, are time and resource intensive. Therefore, we include consideration of other accessory information, such as beneficiary surveys that may offer information on how the grievance system is working but do not require in this protocol that the reviewer convene focus groups.

Comment: One commenter believes that notice of action requirements (for denial, reduction or termination of services) apply to all types of plans and asked that this be clearly stated in the protocol. The commenter further suggested the protocol include interview questions to probe the actions that trigger notices required by due process of the law, and a review of the MCO's notices to determine that the notices comply with the legal requirements for adequate notice of hearing rights, assure enrollees the care they receive will not be affected because a grievance has been filed, are in languages prevalent in the service area,

and clearly specify the action the MCO is taking.

Response: The protocol is designed to specifically determine MCO and PIHP compliance with provisions in the Medicaid managed care final rule, regardless of whether or not the provisions apply to other types of managed care plans. We have, therefore, addressed these two entities in assessing compliance with the requirements concerning notice of action. We believe a document review is more effective for this issue than interview questions as an approach to compliance determination. Furthermore, the protocol includes the review of a sample of MCO/PIHP notices to determine the extent to which notices include the legal requirements for adequate notice of hearing rights and specify the action the MCO/PIHP is taking. We agree with the commenter and have expanded this review to determine that notices include assurances that enrollees will not be treated differentially, and are in languages prevalent in the service area. We believe that by reviewing a sample of beneficiaries that have been denied services and the reasons for denials, reviewers will identify those actions that trigger notices required by due process of the law.

Comment: One commenter believes the protocol fails to ascertain the extent to which enrollees have realistic access to the grievance process. The commenter recommended that the protocol include interview questions concerning the process and frequency by which enrollees are informed of the grievance procedures. The commenter also suggested reviewers monitor the timeliness of grievance processing, interview enrollees regarding the free exercise of their rights, and review the MCO's procedures for supplying translation and interpretation services during the grievance process.

Response: As we noted in the prior response, we believe a document review is more effective than interview questions in determining compliance with these provisions. The protocol includes the review of the MCO/PIHP's administrative procedures and policies as well as a sample of MCO/PIHP notices. We agree with the commenter that reviewers should monitor the timeliness of grievance processing and review the MCO's/PIHP's procedures for supplying translation and interpretation services during the grievance process. Therefore, we have specified that in reviewing the sample of notices, the reviewer should determine the timeliness of grievance processing, and have included a review of the MCO's/PIHP's procedures for supplying