# Notices

The purpose of this chapter is to provide requirements and policy regarding:

* Planned Action Notices (PANs) for client services;
* Other client notices

#### Ask the Expert

If you have questions or need clarification about the content in this chapter, please contact:

Kim Averill Interim Administrative Hearing Program Manager

(360) 725-3223 kimberly.averill@dshs.wa.gov

For specific program questions about PANs, contact the Program Manager who manages that program.

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## Background

Providing appropriate notice to clients and providers, prior to taking an adverse action in most instances, is required by statute/rule. While this chapter will not cover program specific notices, it covers general information about notice requirements that can be applied to particular situations.

For program specific planned action notice (PAN) or other notice questions, contact the Program Manager for that program and include the subject matter expert for this chapter as needed for additional consultation.

## General notice information

In general, notices to clients must include the following, when applicable.

1. **Action taken by the department**- the action the department took that impacted the client’s benefit.
2. **Reason for the action**- the reason the department took the action.

1. **Legal authority**- specific rule, Washington Administrative Code (WAC); law/statute, Revised Code of Washington (RCW); or Code of Federal Regulation (CFR) that supports the agency action.

**Important:** Planned Action Notices generated in CARE include some auto-populated fields, including WAC citations. Ensure this information is correct and applicable. Modify info as necessary before sending.

1. **Date of notice-** date the notice is completed and mailed.
2. **Effective date-** date the action takes effect.
3. **Contact information-** department representative’s name and contact information.
4. **Information about hearing rights-** when applicable, information in the notice informing the recipient about their hearing rights.
5. **Information about continued benefits-** when applicable, information in the notice informing the recipient about continued benefits.

## Type: Client Services PAN

This section describes the requirements and policy direction for completing PANs related to client services.

### Notice requirements

When a client applies for or receives benefits, the department is required to send timely written notice in the client’s primary language, when the department takes an action that impacts the client’s benefits.

1. [**Action**](#action)

Examples of Actions taken by the department include approvals, increases, withdrawals, denials, reductions, terminations, and changes.

Choose the **Action on the PAN** that most accurately reflects what the department is doing related to the client’s benefits.

*Use this table to assist you in selecting the correct Action.*

|  |  |
| --- | --- |
| Approved (includes renewals and changes) | * Initial eligibility decisions * Continued eligibility/services when there is no change * A change in services from one program to another, e.g. MPC to CFC * Adding a service |
| Increased | * Services/rate increase |
| Withdrawn | Requests for services that are withdrawn by the client after the assessment was initiated and before services were initiated or authorized.  ***Note:*** The Department does not complete withdrawal PANs for actions or changes the dept. is taking. |
| Denied | * Initial functional ineligibility * Not eligible for requested service/program and services were never initiated or authorized. If a service has been initiated and authorized, then select “Terminated.” |
| Reduced | Services/program/hours/rate reduced |
| Terminated | Services/program terminated |

1. [**Reason**](#reason)

Examples of **Reasons** for the actioninclude: functionally eligible, not functionally eligible, not financially eligible, change of functional impairment, change in unmet need level, etc.

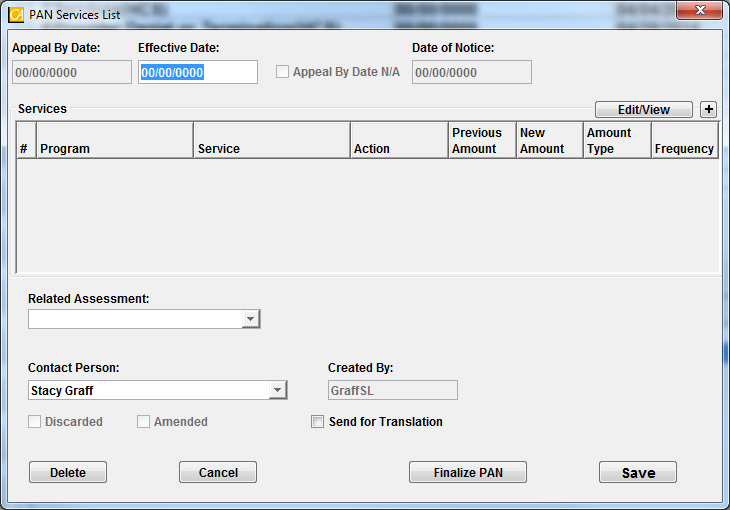
1. **[Legal authority](#authority)**

Include the specific WAC, RCW, or CFR that supports the action the agency took. WAC should be used first whenever possible. WACs related to LTC Services can be found in [Chapter 388-106](http://intra.altsa.dshs.wa.gov/).

1. [**Date of notice**](#dateofnotice)

This date is auto populated when the PAN is finalized in CARE.

**Example: Date of Notice**



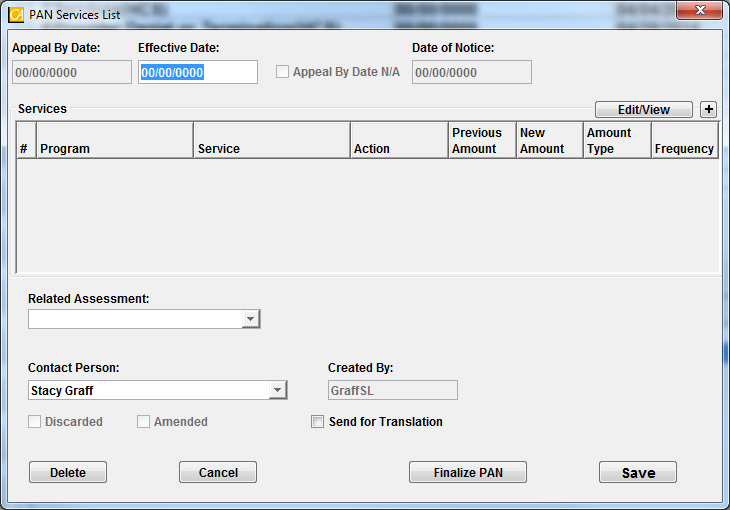
If the PAN is finalized on July 31, 2020, this is the date that will auto populate into the Date of Notice on the PAN. Every effort sould be made to mail the PAN on this date.

1. [**Effective date**](#effectivedate)

**Important:** To edit the effective date to allow more time for **translations**, complete an amended PAN. An amended PAN is currently the only way to edit the dates on a reduction or termination PAN.

This is the date the action takes effect. If a client is no longer functionally eligible for in-home care services, the services will be terminated on the effective date. This means the client will no longer receive services on or after that date. The Effective date auto-populates for reductions and terminations. **Note:** the end date of the authorization is one day before the effective date.

**Example: Effective Date**



If the effective date auto populated on the termination PAN is August 1, 2020, the client will no longer be eligible to receive services on or after this date. The end date of the authorization is July 31, 2020.

1. [**Contact information**](#contactinfo)**:**

The case manager’s name and contact information is auto populated into the PAN from CARE.

1. [**Hearing rights**](#hearingrights)

Clients have a right to a hearing when “aggrieved” by an agency decision. There must be an “action” to trigger a right to hearing. However, if a client asks for a hearing, regardless of whether the department made a decision or took an action, the department must assist the client in filing for an administrative hearing with the Office of Administrative Hearings (see chapter 26). In these cases, the department’s Administrative Hearing Coordinator will argue that the client does not have a right to a hearing. The local grievance policy should also be discussed with the client.

**Grievance Process:**

Each office has a written grievance policy and procedure. In situations where a client does not have a right to a hearing, he or she should be informed of the local grievance process. This may meet the client’s needs outside of the hearing process.

Clients have 90-days to appeal the department’s action. Information about how to request a hearing and a Request for Hearing Form is included on each Service PAN printed from CARE.

1. [**Continued Benefits**](#continuedbenefits):

For service reductions or terminations, clients are automatically entitled to continued benefits (unless he or she requests not to receive them), if a hearing is requested at least one day before the effective date listed on the PAN. This is known as the **Appeal-by**-**date** shown on the PAN. The Appeal-by-date is auto populated.

When a client requests a hearing before the effective date on the PAN (by the Appeal-by date), inform the client that:

* + They are entitled to receive benefits at existing levels pending the results of the appeal;
  + Continuation of benefits terminates immediately if Office of Administrative Hearings (OAH) rules in favor of the department in the Initial Order; and
  + He or she may be subject to an overpayment for the first 60-days of continued benefits if OAH rules in favor of the department.

**Example: Appeal-by-Date and Continued Benefits**

If the effective date auto populated on the PAN is August 1st, the **appeal-by-date** is July 31st. This means the client must ask for a hearing by July 31st to be eligible for **continued benefits**.

### Notice Timeframes

PANs should be completed and sent immediately after completing an assessment. 10-to-the-end policies, continued benefits, and hearing rights all offer clients protections and options if they disagree with a department decision.

#### Reductions and Termination:

When an Annual or Significant Change CARE assessment results in a **decrease** in residential rate, in-home units or other service, or a **termination** of a service, the department must provide clients at least 10-days’ notice prior to implementing the reduction or termination. This is called the **10-to-the-end policy**.

This means the change in benefit becomes effective the first day of the month following the month in which the ten-day notice (PAN) was finalized and sent to the client (Date of Notice). If there are fewer than ten days between the Date of Notice and the last day of the month, the effective date is the first day of the following month.

Refer to WAC 182-518-0025 for *certain exceptions to the 10-day notice requirements* including incarceration, returned mail, death, receipt of Medicaid from another state, etc.

**Examples: Reductions and Terminations**

When there are 10-days left in the month after the PAN is finalized:

**PAN finalized**: July 10. (The rest of the dates are auto populated based on this date).

**Date of Notice:** July 10, 2020

**Appeal-by-Date:** July 31, 2020

**Effective Date**: August 1, 2020

**Current Authorization End Date:** July 31, 2020.

When there are NOT 10-days left in the month after the PAN is finalized:

**PAN finalized**: July 23, 2020 (The rest of the dates are auto populated based on this date).

**Date of Notice**: July 23, 2020

**Appeal-by-Date**: August 31, 2020

**Effective Date**: September 1, 2020

**Current Authorization End Date:** August 31, 2020.

#### Denials (advance notice is not required):

When a client is found not to be eligible for services, send a denial of service PAN. The effective date is auto-populated and is the same as the date of notice. The 10-to-the-end policy does not apply to denials.

Denial PANs have no appeal-by-date because continued benefits are not relevant. A client will still have a right to request a hearing.

#### Approvals and Increases:

When an Annual or Significant Change assessment results in the approval (new service) or an increase in residential rate or in-home units or other service approval, the department is required to send notice, but is not required to give 10-days’ advanced notice. The 10-to-the-end policy does not apply. The **effective** date can be the beginning of the following month or immediately, if needed, upon completion of the new assessment and client approval. If an approval or increase in hours begins prior to the first of the month following the completion of the new assessment, follow the instructions in the ***Social Service Authorization Manual (SSAM)*** related to mid-month hour adjustments to avoid an over authorization and/or overpayment.

Approval and increase PANs have no appeal-by-date because continued benefits are not relevant. Clients will continue to have a right to request a hearing.

## Type: other client Notices

This section describes the policy direction for completing other types of notices.

### When a client cannot be reached to complete the intake process

When a client makes a request for in-home services or services in a residential facility and the department is unable to reach the client to complete the intake process, send a [10-Day Form Letter - Intake](http://intra.altsa.dshs.wa.gov/hcs/translations/10DayFormLetterIntakeTranslations.htm)  requesting contact within 10-days so the intake process can be completed. A PAN is not required.

### When a client cannot be reached to schedule an assessment

When a client makes a request for in-home services or services in a residential facility and the department is unable to reach the client to schedule an assessment, send a [10-Day Form Letter - Assessor](http://intra.altsa.dshs.wa.gov/hcs/translations/10DayFormLetterTranslations.htm) requesting contact within 10-days so an assessment may be scheduled. A PAN is not required.

### Notice of Decision on Request for an In-Home Personal Care Exception to Rule

Refer to LTC manual Chapter 3, Exception to Rule (ETR) process for information on this type of notice.

### When a client becomes financially ineligible for LTC services

When a client is or becomes **financially ineligible**, **HCS financial staff *may* send the required notice** to the client, depending upon the ACES coverage group the client is on and the LTC program/service the client is receiving. The financial notice includes the required information, including hearing rights.

When financial sends notice to a client, a SS PAN is not required and should not be sent[[1]](#footnote-1).

|  |  |
| --- | --- |
| Use this table to determine when a SS PAN is required when a client is **financially ineligible**. | |
| **Program** | **Send PAN?** |
| MPC | YES |
| CFC Classic | NO |
| MAGI-based | YES[[2]](#footnote-2) |
| CFC + Waiver | NO |
| Waiver (COPES or New Freedom) | NO |
| RCL | NO |
| PACE | NO |
| HWD | In home-YES, Residential-No |
| MCS | YES |
| Non-Citizen Program (45 slot) | NO |
| Fast Track | YES |

## Resources

### Related WACs and RCWs

RCW [43.20B.675](http://app.leg.wa.gov/RCW/default.aspx?cite=43.20B.675) Vendor overpayments—Goods or services provided on or after July 1, 1998—Notice—Adjudicative proceeding—Enforcement—Collection—Rules.

RCW [43.20b.010](https://app.leg.wa.gov/rcw/default.aspx?cite=43.20b.010) Definitions.

[42 CFR § 433.304](https://ecfr.io/Title-42/Section-433.304) Definitions

### Other resources

[Social Service Authorization Manual](http://intra.dda.dshs.wa.gov/ddd/p1servicecodes/)Payment Issues

## Revision History

|  |  |  |  |
| --- | --- | --- | --- |
| **Date** | **Made By** | **Change(s)** | **MB #** |
| 3/27/2023 | Stacy Graff | Removed references and sections that were related to contracted Individual Providers including: rejection of client choice of provider PAN, IP PANs, Stop Work Notices, IP payments and overpayments. |  |

## Where to find Notice documents

|  |  |
| --- | --- |
| Name of document | Where to find it |
| Client Services PAN | CARE |
| 10-Day Form Letter – Intake | In Translated Docs |
| 10-Day Form Letter- Assessment | In Translated Docs |
| Notice of Decision on Request for an In-Home Personal Care Exception to Rule #05-246 | CARE |

1. If a financial notice and a SS PAN are sent on the same action the client will be given hearing rights in both instances for the same issue. [↑](#footnote-ref-1)
2. The Health Care Authority (HCA) sends notices to clients about their WA Apple Health benefits but the notice does not include information about LTC services. CMs receive a H002 tickler in Barcode to alert them that a MAGI client’s benefits may be changing. Please refer to MB 16-050 for more information. [↑](#footnote-ref-2)