	<b>Shasta County Health and Human Services Agency Mental Health Plan</b>	
	<b>Adverse Benefit Determination, Appeals, and State Hearings</b>	No. 2023-06
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### **Purpose**

This policy outlines the responsibilities of the Shasta County Mental Health Plan (MHP) to meet state and federal requirements for Notices of Adverse Benefit Determination, Appeals, and State Hearings.

### **Scope**


Applies to all specialty mental health services provided to Medi-Cal beneficiaries by MHP staff and contracted providers.

### **Definitions**

**Adverse Benefit Determination** - The Final Rule replaced the term “Action” with “Adverse Benefit Determination.” The definition of an “Adverse Benefit Determination” encompasses all previous elements of “Action” under federal regulations with the addition of language that clarifies the inclusion of determinations involving medical necessity, appropriateness and setting of covered benefits, and financial liability. An Adverse Benefit Determination is defined to mean any of the following actions taken by a Plan:

1. The denial or limited authorization of a requested service, including determinations based on the type or level of service, medical necessity, appropriateness, setting, or effectiveness of a covered benefit,
2. The reduction, suspension, or termination of a previously authorized service,
3. The denial, in whole or in part, of payment for a service
4. The failure to provide services in a timely manner,
5. The failure to act within the required timeframes for standard resolution of grievances and appeals, or
6. The denial of a beneficiary’s request to dispute financial liability.

**Appeal** - Under federal regulations, an “Appeal” is a review by the Plan of an Adverse Benefit Determination.

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## **Policy**

### **I. Notice of Adverse Benefit Determination**

The MHP will provide a beneficiary with a Notice of Adverse Benefit Decision (NOABD) if any of the above listed actions are taken. The MHP will give beneficiaries timely and adequate notice of an adverse benefit determination in writing.

#### **Format and Content of the Notice**

The MHP will use the NOABD templates provided by the Department of Health Care Services (DHCS) and will have any modifications to the template approved by DHCS prior to using the modified template.

The NOABD will include the following information:


1. The adverse benefit determination the MHP has made or intends to make.
2. A clear and concise explanation of the reason(s) for the decision. For determinations based on medical necessity criteria, the NOABD will include the clinical reasons for the decision. The MHP will clearly state why the beneficiary's condition does not meet medical necessity criteria for specialty mental health services.
3. A description of the criteria used. This includes medical necessity criteria and any processes, strategies, or evidentiary standards used in making the determination.
4. The beneficiary's right to be provided reasonable access to and copies of all documents, records, and other information relevant to the beneficiary's adverse benefit determination upon request and free of charge.

The MHP will communicate its decisions to the beneficiary in writing. Decisions will also be communicated to the provider initially by telephone or facsimile, and then in writing, except for decisions made retrospectively. For written notice to the provider, the MHP will include the name and direct telephone number of the decision-maker.

For provider notification, the MHP will provide effective processes to allow the provider to easily contact the decision-maker by providing a direct number to the MHP Utilization Management Unit that handles provider and beneficiary appeals. The effectiveness of this process is monitored.

All Notices will be accompanied by the NOABD "Your Rights" document. The "Your Rights" document provides beneficiaries and providers with the following information:

1. The beneficiary's or provider's right to request an internal appeal with the MHP within 60 calendar days from the date on the NOABD.

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2. How to request an appeal.
3. When an expedited review is available and how to request it.
4. The beneficiary's right to have benefits continue pending resolution of the appeal and how to request continue of benefits in accordance with 42 CFR §438.420.
5. The beneficiary's right to request a State hearing only after filing an appeal with the MHP and receiving a notice that the Adverse Benefit Determination has been upheld; and
6. The beneficiary's right to request a State hearing if the MHP fails to send a resolution notice in response to the appeal within the required timeframe.

### Timing of the Notice

The MHP will mail the NOABD to the beneficiary within the following timeframes:

1. For termination, suspension, or reduction of a previously authorized specialty mental health service, at least ten (10) days before the date of the action, except as permitted as outlined in the MHP Contract, Exhibit A, Attachment 12, section C.
2. For denial of payment, at the time of any action denying the provider's claim.
3. For decisions resulting in denial, delay, or modification of all or part of the requested specialty mental health services, within two business day of the decision.

The MHP will also communicate the decision to the affected provider within 24 hours of making the decision.

## II. Appeals


Beneficiaries and providers both have the right to request an appeal.

### A. Timeframes for Filing

- A beneficiary has 60 calendar days from the date on the NOABD to request an appeal.

### B. Method of Filing

- A beneficiary or a provider and/or authorized representative, may request an appeal either orally or in writing.
- Appeals filed by the provider on behalf of the beneficiary require written consent from the beneficiary.
- An oral request for an appeal (excluding expedited appeals) will be followed by a written appeal signed by the beneficiary. The date of the oral appeal is considered the filing date of the appeal.

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- The MHP will request that the beneficiary's oral request for a standard appeal be followed by a written confirmation unless the beneficiary or provider requests an expedited resolution in accordance with federal regulations.
- The MHP will assist the beneficiary in completing forms and taking other steps to file an appeal, including preparing a written appeal, notifying the beneficiary of the location of the form on the MHP's website or providing the form to the beneficiary upon request.
- The MHP will advise and assist the beneficiary in requesting continuation of benefits during an appeal in accordance with federal regulations.
- If the MHP does not receive a written signed appeal from the beneficiary, the MHP will not dismiss nor delay the resolution of the appeal.

### C. Authorized Representatives

With written consent of the beneficiary, a provider or authorized representative may request an appeal on behalf of the beneficiary. Providers and authorized representatives cannot request continuation of benefits, as specified in 42 CFR §438.420(b)(5).

## III. Standard Resolution of Appeals

### A. Acknowledgment

The MHP will provide the beneficiary written acknowledgment of receipt of the appeal. The acknowledgment letter will include the date of receipt, as well as the name, telephone number, and address of the MHP representative who the beneficiary may contact about the appeal. The written acknowledgment to the beneficiary will be postmarked within five calendar days of the receipt of the appeal.


### B. Standard Resolution Timeframe

The MHP will resolve the appeal within 30 calendar days of the receipt of the appeal.

### C. Extension of Timeframes

The MHP may extend the resolution timeframes for appeals by up to 14 calendar days if either of the following conditions apply:

- a. The beneficiary requests the extension, or
- b. There is a need for additional information and the delay is in the best interest of the beneficiary. The MHP must be able to demonstrate to the satisfaction of

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DHCS upon request, of the need for additional information and how the delay is in the best interest of the beneficiary.


- For any extension not requested by the beneficiary, the MHP will provide the beneficiary with written notice of the reason for the delay. The MHP will comply with the following federal guidelines:
  - a. Make reasonable efforts to provide the beneficiary with prompt oral notice of the extension,
  - b. Provide written notice of the extension within two calendar days of making the decision to extend the timeframe and notify the beneficiary of the right to file a grievance if the beneficiary disagrees with the extension,
  - c. Resolve the appeal as expeditiously as the beneficiary's health condition requires and in no event extend the resolution timeframe beyond the 14-calendar day extension, and
  - d. In the event the MHP fails to adhere to the notice and time requirements, the beneficiary is deemed to have exhausted the MHP's appeal process and may initiate a State Fair Hearing.

#### **IV. Expedited Resolution of Appeals**

A beneficiary has the right to request an expedited appeal. The MHP will review appeal requests by the beneficiary or provider to determine if taking time for a standard resolution could seriously jeopardize the beneficiary's mental health disorder condition and/or the beneficiary's ability to attain, maintain, or regain maximum function. For expedited resolution of an appeal and notice to affected parties, the MHP will resolve the appeal and provide notice as expeditiously as the beneficiary's health condition requires, no longer than 72 hours after the MHP receives the expedited appeal request.

##### **A. General Requirements**

- If the MHP denies a request for expedited resolution of an appeal, it will transfer the appeal to the timeframe for standard resolution. In addition, the MHP will complete the following actions:
  - a. Make reasonable efforts to provide the beneficiary with prompt oral notice of the decision to transfer the appeal to the timeframe for standard resolution,
  - b. Provide written notice of the decision to transfer the appeal to the timeframe for standard resolution within two calendar days of making the decision and notify the beneficiary of the right to file a grievance if the beneficiary disagrees

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with the extension, and

- c. Resolve the appeal as expeditiously as the beneficiary's health condition requires and within the timeframe for standard resolution of an appeal.

#### **B. Timeframes for Resolving Expedited Appeals**

- For expedited resolution of an appeal and notice to the beneficiary and provider, the MHP will resolve the appeal within 72 hours from receipt of the appeal.
- The MHP will log the time and date of the appeal receipt when an expedited resolution is requested as the specific time of the receipt drives the timeframe for resolution.
- The MHP may extend the timeframe for expedited appeals resolution by 14 calendar days in accordance with federal regulations.

#### **C. Notice Requirements**

- In addition to the written Notice of Appeal Resolution, the MHP will make reasonable efforts to provide prompt oral notice to the beneficiary of the resolution.

#### **V. Notice of Appeal Resolution (NAR)**

A NAR is a formal letter informing a beneficiary that an Adverse Benefit Determination has been overturned or upheld.


##### **A. Adverse Benefit Determination Upheld**

For appeals not resolved wholly in favor of the beneficiary, the MHP will use the DHCS template, or the electronic equivalent generated from the MHP's electronic health record, for upheld decisions. The notification is comprised of two components: 1) NAR and 2) "Your Rights" attachments. The MHP will send these documents in conjunction to comply with all requirements of the NAR.

##### **1. NAR**

The MHP will send written NARs to beneficiaries. The written NAR will include the following:

- a. The results of the resolution and the date it was completed,
- b. The reason for the MHP's determination, including the criteria, clinical guidelines, or policies used in reaching the determination,
- c. For appeals not resolved wholly in the favor of the beneficiary, the right to request a State hearing and how to request it,

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- d. For appeals not resolved wholly in the favor of the beneficiary, the right to request and receive benefits while the hearing is pending and how to make the request, and
- e. Notification that the beneficiary may be held liable for the cost of those benefits if the hearing decision upholds the MHP's adverse benefit determination.

## 2. NAR "Your Rights" Attachment

The NAR "Your Rights" attachment provides beneficiaries with the following required information pertaining to NAR:

- a. The beneficiary's right to request a State hearing no later than 120 calendar days from the date of the MHP's written appeal resolution and instructions on how to request a State hearing, and
- b. The beneficiary's right to request and receive continuation of benefits while the State hearing is pending and instructions on how to request continuation of benefits, including the timeframe in which the request will be made in accordance with Title 42, CFT, Section 438.420.

## B. Adverse Benefit Determination Overturned


For appeals resolved wholly in favor of the beneficiary, written notice to the beneficiary will include:

- a. The results of the resolution and the date it was completed,
- b. A clear and concise explanation of the reason, including why the decision was overturned.

The MHP will authorize or provide the disputed services promptly and as expeditiously as the beneficiary's condition requires if the MHP reverses the decision to deny, limit or delay services that were not furnished while the appeal was pending. The MHP will authorize or provide services no later than 72 hours from the date and time it reverses the determination.

## VI. State Hearings

Beneficiaries have the right to request an administrative hearing before a State administrative law judge if the MHP denies a beneficiary's appeal. Beneficiaries must exhaust the MHP's appeal process prior to requesting a State hearing. A beneficiary has the right to request a State hearing only after receiving notice that the MHP is upholding an adverse benefit determination.

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#### **A. Deemed Exhaustion of the Appeals Process**

If the MHP fails to adhere to the notice and timing requirements in 42 CFT, §438.408, the beneficiary is deemed to have exhausted the MHP's appeals process. The enrollee may then initiate a State hearing.

#### **B. Timeframes for Filing**

Beneficiaries may request a State hearing within 120 calendar days from the date of the NAR, which informs the beneficiary that the Adverse Benefit Decision has been upheld by the MHP.

The parties to the State hearing include the MHP, the beneficiary and his or her authorized representative or the representative of a deceased beneficiary's estate.

#### **C. Standard Hearings**

The MHP will notify beneficiaries that the State must reach its decision on the hearing within 90 calendar days of the date of the request for the hearing.

#### **D. Expedited Hearings**

The MHP will notify the beneficiaries that the State must reach its decision on the State fair hearing within three working days of the date of the request for the hearing.

#### **E. Overturned Decisions**

The MHP will authorize or provide the disputed services promptly and as expeditiously as the beneficiary's health condition requires, but no later than 72 hours from the date it receives notice reversing the MHP's adverse benefit determination.

### **VII. Language Assistance, Nondiscrimination Notice and Taglines**

#### **A. Translation of Notices**

Written materials that are critical to obtaining services including, at a minimum, appeal and grievance notices, and denial and termination notices, must be made available to beneficiaries in threshold languages and alternative formats.


#### **B. Nondiscrimination Notice and Language Assistance Taglines**

The MHP will include DHCS's Nondiscrimination Notice and Language Assistance taglines templates in all NOABD, appeal acknowledgment letter, and NAR communications, in accordance with Federal regulations.

If the MHP makes any modifications to the templates or creates new templates, the MHP will obtain DHCS review and approval prior to use.


### **VIII. Appeal System and Oversight**



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The MHP will establish, implement, and maintain an Appeal System to ensure the receipt, review, and resolution of appeals in accordance with all applicable federal regulations and MHP contract requirements. The MHP will:

- A. Have written policies and procedures regarding its appeal system and operate in accordance with those written policies and procedures.
- B. Notify beneficiaries about its appeal system and include information on the MHP's procedures for filing and resolving appeals, a toll-free number or a local telephone number, and the address for mailing appeals.
- C. Inform beneficiaries of the process for obtaining appeal forms.
- D. Make available to beneficiaries at all provider sites, the forms that may be used to file appeals and expedited appeals. These forms are pre-addressed with the MHP's appeal processing address. The forms will be available without the need for the beneficiary to make a verbal or written request to anyone.
- E. Make readily available a description of the procedure for filing appeals at all MHP facilities, the MHP's website, and at each contracting provider's site, posted in a location that is accessible to beneficiaries.
- F. Ensure that assistance in filing appeals will be provided at each location where appeals are submitted. Appeal forms will be provided promptly upon request.
- G. Ensure adequate and appropriate consideration of appeals, as well as rectification when appropriate. If the beneficiary presents multiple issues, the MHP will ensure that each issue is addressed and resolved.
- H. Maintain a written record of each appeal received by the MHP. The record of each appeal will be maintained in a log and include the following information:
  1. The date and time of the appeal,
  2. The name of the beneficiary filing the appeal,
  3. The name of the representative recoding the appeal,
  4. A description of the problem,
  5. A description of the action taken by the MHP or provider to investigate and resolve the appeal,
  6. The proposed resolution by the MHP or the provider,
  7. The name of the MHP provider or staff responsible for resolving the appeal,

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8. The date of notification to the beneficiary of the resolution.
- I. Submit the written record of appeals at least quarterly to the MHP's quality improvement committee for systematic aggregation and analysis for quality improvement. Appropriate action will be taken to remedy and problems identified.
  - J. Ensure decision-making by individuals with authority to require corrective action.
  - K. Address the linguistic and cultural needs of its beneficiary population, as well as the needs of beneficiaries with disabilities.
  - L. Ensure all beneficiaries have access to and can fully participate in the appeal system by assisting those with limited English proficiency or with a visual or other communicative impairment. Such assistance will include, but not be limited to, translations of appeal procedures, forms, and MHP responses to appeals, as well as access to interpreters, telephone relay systems and other devices that aid individuals with disabilities to communicate.
  - M. Ensure that there is not discrimination against a beneficiary because the beneficiary files an appeal.
  - N. Ensure that punitive action is not taken against a provider who requests an expedited resolution or supports a beneficiary's expedited appeal.
  - O. Ensure that the person making the final decision for the proposed resolution of the appeal has not participated in any prior decisions related to the appeal. Additionally, the decision-maker will be a health care professional with clinical expertise in treating a beneficiary's condition or disease of any of the following apply:
    1. An appeal of an Adverse Benefit Determination that is based on lack of medical necessity; or
    2. Any appeal involving clinical issues.
  - P. Ensure that individuals making decisions on clinical appeals consider all comments, documents, records, and other information submitted by the beneficiary or beneficiary's authorized representative, regardless of whether such information was submitted or considered in the initial Adverse Benefit Determination.
  - Q. Provide the beneficiary or beneficiary's authorized representative the opportunity to review the beneficiary's case file, including medical records, other documents and records, and any new or additional evidence considered, relied upon, or generated by the MHP in connection with any standard or expedited appeal of an Adverse Benefit Determination.

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This information must be provided free of charge and sufficiently in advance of the resolution timeframe.

- R. Provide the beneficiary or authorized representative a reasonable opportunity, in person and in writing, to present evidence and testimony. The MHP must inform the beneficiary or authorized representative of the limited time available for this sufficiently in advance of the resolution timeframe for appeals, as specified, and in the case of expedited resolution.

**References:**

MHSUDS Information Notice 18-010E

**Authorization**

The above policy has been reviewed and is authorized for immediate implementation.

DocuSigned by:  
  
12357C50B45D437...  
 Miguel Rodriguez, LCSW, Mental Health Director  
 Behavioral Health & Social Services  
 Shasta County Health & Human Services

05/15/2023 | 11:12 AM PDT  
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 Date

DocuSigned by:  
  
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 Christy Coleman, Compliance Officer  
 Administration, Assistant Director  
 Shasta County Health & Human Services Agency

05/19/2023 | 12:09 PM PDT  
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 Date

**Certificate Of Completion**

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Subject: Complete with DocuSign: NOABDs_Appeals_and_State_Hearings_Policy_FINAL_May_2023.docx.pdf	
Source Envelope:	
Document Pages: 11	Signatures: 1
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Enveloped Stamping: Enabled	Maureen Shannon
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	mshannon@co.shasta.ca.us
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ccoleman@co.shasta.ca.us  
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Senior Staff Analyst  
Security Level: Email, Account Authentication (None)

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Leah Shuffleton  
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<b>Witness Events</b>	<b>Signature</b>	<b>Timestamp</b>
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<b>Notary Events</b>	<b>Signature</b>	<b>Timestamp</b>
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<b>Envelope Summary Events</b>	<b>Status</b>	<b>Timestamps</b>
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Certified Delivered	Security Checked	5/19/2023 12:08:14 PM
Signing Complete	Security Checked	5/19/2023 12:09:13 PM
Completed	Security Checked	5/19/2023 12:09:15 PM

<b>Payment Events</b>	<b>Status</b>	<b>Timestamps</b>
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<b>Electronic Record and Signature Disclosure</b>
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## **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, County of Shasta (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

### **How to contact County of Shasta:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: [cao@co.shasta.ca.us](mailto:cao@co.shasta.ca.us)

### **To advise County of Shasta of your new email address**

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at [cao@co.shasta.ca.us](mailto:cao@co.shasta.ca.us) and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

### **To request paper copies from County of Shasta**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to [cao@co.shasta.ca.us](mailto:cao@co.shasta.ca.us) and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

### **To withdraw your consent with County of Shasta**

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;

ii. send us an email to [cao@co.shasta.ca.us](mailto:cao@co.shasta.ca.us) and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

### **Required hardware and software**

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

### **Acknowledging your access and consent to receive and sign documents electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

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