

COPPER COUNTRY MENTAL HEALTH SERVICES BOARD

POLICY AND PROCEDURE

DATE: June 28, 2017 Grievance & Appeal - Non-Medicaid.P6

RESCINDS: April 27, 2016

CATEGORY: Recipient Rights

SUBJECT: Grievance & Appeal Processes - Non-Medicaid

POLICY: It is the policy of the Copper Country Mental Health Services Board, hereafter referred to as Community Mental Health Services Provider (CMHSP), that all recipients have the right to a fair and efficient process for resolving disputes regarding their services and supports managed and/or delivered by CMHSP and its provider network. A recipient of, or applicant for, public mental health services may access several options simultaneously to pursue the resolution of disputes. Consumers will receive notice of their rights, information about the grievance and appeal process, and be assisted, as necessary or requested, in achieving resolution of service delivery disputes.

PURPOSE: The purpose of this policy is to outline the grievance and appeals processes for non-Medicaid recipients of services provided by CMHSP or through its provider network, in order to promote the resolution of recipient concerns, and support and enhance the overall goal of improving the quality of care.

DEFINITIONS:

Action (Adverse Action): A decision that adversely impacts a recipient's claim for services due to:

- A. Denial or limited authorization of a requested service;
- B. Reduction, suspension, or termination of a currently provided service, outside the person-centered planning process;
- C. Failure to make an authorization decision and provide notice about the decision within standard time frames;
- D. Failure to provide services within standard time frame.

Adequate Notice: A written notice, mailed or directly provided, to a recipient or his/her guardian or legal representative at the time a request for services is denied or at the time of signing of the individual plan of services/supports.

Advance Notice: A written notice that is provided to the recipient or his/her guardian or legal representative prior to the action, when a

service, currently being provided, is reduced, suspended or terminated.

Appeal: A request for a review of an action (as defined above) relative to a service.

Authorized Representative: Whomever the recipient selects to represent them during the Grievance and Appeal process.

Grievance: An expression of dissatisfaction about any matter relative to a service, other than an action, as defined above.

Hearings Coordinator: Person or his/her designee appointed by the Executive Director to coordinate the Local Hearing process.

Michigan Department of Health and Human Services Alternative Dispute Resolution Process: An impartial review, conducted by a MDHHS representative, regarding a decision by the CMHSP to deny, terminate, reduce or suspend a non-Medicaid recipient's service.

Resolution Notice: Notice to the recipient that is required to be provided within established time frames relative to the disposition of disputes, complaints and grievances, and resolution of the disputes, complaints and grievances.

Rights Complaint: A written or verbal statement by a recipient or anyone acting on behalf of a recipient alleging a violation of a Mental Health Code protected right cited in Chapter 7, which is resolved through the processes established in Chapter 7A.

Utilization Review: A process, in addition to the person-centered plan, in which established criteria are used to recommend or evaluate services provided in terms of cost-effectiveness, necessity and effective use of resources.

PROCEDURES:

I. Notification of the Grievance and Appeal Process

All recipients of, or applicants for, public mental health services shall be informed of the grievance and appeals process and their right to access the process, including their ability to express dissatisfaction at any point in services. CMHSP staff shall assist individuals with grievances and/or appeals. Individuals will be provided assistance in completing forms and taking procedural steps as necessary and/or requested. This includes, but is not limited to, providing interpreter services and toll-free numbers that have adequate TTY/TTD and interpreter capability.

II. Notice Requirements

A. Notice is given whenever a service is denied, reduced, suspended or terminated. This notice must be in writing and must be provided in the language format needed by the individual to understand the content (i.e., the format meets the needs of those with limited English proficiency, and/or limited reading

proficiency.)

B. The written notice must contain the following:

1. A statement of what action the CMHSP intends to take;
2. The reasons for the intended action;
3. The date of the intended action;
4. The specific justification for the intended action;
5. An explanation of the Local Dispute Resolution Process.
6. If access to services or hospitalization is denied, the right to request a second opinion and an explanation of the process.
7. The recipient's right to file an appeal, grievance, and/or rights complaint and the time frames for doing so.
8. The procedures for exercising the resolution options.
9. The circumstances under which expedited resolution is available and how to request it.

C. Adequate Notice

1. During the person-centered planning process, adequate notice will be provided at the time the individual plan of service, developed or modified through a person-centered planning process, is finalized with the recipient or his/her guardian or authorized representative.

2. Denial of Service Outside the PCP Process

When an individual is denied initial access to services, or denied access to inpatient psychiatric hospitalization, the individual will be informed of this denial with the Denial of Service form. The form may be presented directly or mailed to the individual or his/her guardian or authorized representative at the time of denial. A non-Medicaid recipient may file an appeal pursuant to the Local Appeal Resolution Process described below.

D. Advance Notice

Whenever existing services or support are to be suspended, reduced, or terminated, or reduced by an agency or unit performing a Utilization Review (UR) function or when the action is taken outside the person-centered planning process when the CMHSP does not have an identifiable UR unit, the CMHSP will issue an Advance Notice to the recipient. The Advance Notice will be mailed **at least ten (10) business days** before the date of action.

If a recipient's physician decides that a particular mental health

service is not needed, an Advance Notice is not required.

III. Grievance and Appeal Resolution Processes

An individual receiving mental health services may pursue appeals or grievances using the following processes.

A. Denial of Hospitalization

1. Request a second opinion

- a. If a preadmission screening unit or children's diagnostic and treatment service of a CMHSP denies hospitalization, the individual, his/her guardian or his/her parent in the case of a minor child, may request a second opinion from the Executive Director of the CMHSP.
- b. The Executive Director shall arrange for an additional evaluation by a psychiatrist, other physician, or licensed psychologist to be performed within three (3) days, excluding Sundays and legal holidays, after the Executive Director receives the request. If the determination of the second opinion is different from the determination of the preadmission screening unit, the Executive Director, in conjunction with the Medical Director, shall make a decision based on all clinical information available within one (1) business day.
- c. The Executive Director's decision shall be confirmed in writing to the individual who requested the second opinion, and the confirming document shall include the signatures of the Executive Director and Medical Director or verification that the decision was made in conjunction with the Medical Director.
- d. If an individual is assessed and found not to be clinically suitable for hospitalization, the preadmission screening unit shall provide appropriate referral services.

2. File a Rights Complaint

- a. If the request for a second opinion is denied, the individual or someone on his/her behalf may file a recipient rights complaint with the Recipient Rights Office of CMHSP.
- b. If the initial request for inpatient admission is denied and the individual is a current recipient of other CMHSP services, the individual or someone on his/her behalf is informed that they may file a Recipient Rights Complaint with the Recipient Rights Office alleging a violation of his/her right to treatment suited to condition.
- c. If the second opinion determines the individual is not clinically suited for Hospitalization and the individual is a current recipient of other CMHSP services, and a recipient

rights complaint has not been filed previously on behalf of the individual, the individual or someone on his/her behalf may file a complaint with the Recipient Rights Office of CMHSP.

3. Request a local appeal

See Local Dispute Resolution Process section.

4. If a non-Medicaid recipient is not satisfied with the outcome of the Local Dispute Resolution then the recipient can request a State level appeal.

See MDHHS Alternative Dispute Resolution Process section.

B. Denial Of Access To Community Mental Health Program Services

If an initial applicant for CMHSP services is denied such services, an appropriate referral may be provided.

1. Request a Second Opinion

a. If an initial applicant for CMHSP services is denied such services, the applicant or his/her guardian, or the applicant's parent in the case of a minor, must be informed of their right to request a second opinion of the Executive Director or designee. The request shall be processed in compliance with Section 705 of the Michigan Mental Health Code and must be resolved **within five (5) business days**.

1. The Executive director or designee shall secure the second opinion from a physician, licensed psychologist, registered professional nurse, or master's level social worker, or master's level social worker or master's level psychologist.

2. If the individual providing the second opinion determines that the applicant has a serious mental illness, serious emotional disturbance, or a developmental disability, or is experiencing an emergency situation or urgent situation, the community mental health services program shall direct services to the applicant.

2. Rights Complaint

The applicant or his/her guardian may **not** file a recipient rights complaint for denial of services suited to condition, as he/she does not have standing as a recipient of mental health services. The applicant or his/her guardian may, however, file a rights complaint if the request for a second opinion is denied.

3. File a local appeal

See Local Dispute Resolution Process section.

4. If a non-Medicaid recipient is not satisfied with the outcome of the Local Dispute Resolution then the recipient can request a State level appeal

See MDHHS Alternative Dispute Resolution Process section.

C. Denial of Service

Denial through the service authorization process of the request for service or support or denial of the requested amount, scope or duration of a service.

1. Rights Complaint

The recipient or his/her guardian may file a rights complaint for treatment suited to condition.

D. Unreasonable Delay of Services

Unreasonable delay of a service beyond the start date agreed upon during the person-centered planning process and as authorized by the CMHSP. Unreasonable delay is defined as **14 or more calendar days**.

1. Rights Complaint

The recipient or his/her guardian may file a rights complaint for treatment suited to condition.

E. Suspension, Reduction, or Termination of a Currently Provided Service.

1. File a Rights Complaint

The recipient or his/her guardian may file a rights complaint for treatment suited to condition.

2. Request a local appeal

See Local Dispute Resolution Process section.

3. If a non-Medicaid recipient is not satisfied with the outcome of the Local Dispute Resolution then the recipient can request a State level appeal

See MDHHS Alternative Dispute Resolution Process section.

F. Dissatisfaction With Program, Provider, Other

Dissatisfaction about any matter relative to a service other than an action as described above.

1. Grievance

See Grievance Process

2. Rights Complaint

If a complaint alleges a violation of a Mental Health Code protected right.

IV. Grievance Process

1. A recipient, guardian, or parent of a minor child or his/her legal representative may file a grievance at any time regarding dissatisfaction with any aspect of service provision other than an adverse action, as defined in this requirement, or an allegation of a recipient rights violation. The recipient must be given reasonable assistance in completing the forms for filing a grievance. The grievance shall be filed with CMHSP Customer Services, for facilitating resolution of the grievance.
2. Upon receipt of a grievance, the Customer Service Office shall:
 - a. Log receipt of the verbal or written grievance for reporting to the CMHSP Quality Improvement Program.
 - b. Submit the written grievance to appropriate staff including a CMHSP administrator with the authority to require corrective action, none of whom shall have been involved in the initial determination.
 - c. Notify the recipient, guardian, or parent a minor child of the outcome of the process.

V. Local Appeal Resolution Process

A. Local Appeal Process

Within **five (5) business days** of receipt of the advance notice, the recipient or his/her legal representative, or the parent of a minor child, may file an appeal with the CMHSP Recipient Rights Office. The Recipient Rights Office shall then:

1. Log receipt of the appeal for reporting to CMHSP Quality Improvement Program.
2. Submit the written dispute to appropriate staff, including a CMHSP administrator with the authority to require corrective action, none of whom shall have been involved in the initial determination.
3. Facilitate resolution of the dispute within **fifteen (15) business days** of receipt.
4. Assure an expedited review of the dispute involving an emergent situation where the standard fifteen (15) day time frame would seriously jeopardize the individual's health or safety. Such a review shall be completed within **twenty-four**

(24) hours of receipt of all necessary information by relevant CMHSP staff involved in the dispute resolution.

- 5. Upon a decision by CMHSP staff involved in the local dispute resolution process and within the 24-hour or 15-day time frame, provide written notification of the outcome of the process to the individual, guardian, or parent of a minor child. The written notification shall include:
 - a. Information regarding the individual, guardian, or parent of a minor child's ability to access the MDHHS Alternative Dispute Resolution Process and an offer of assistance in doing this;
 - b. Information on the individual, guardian, or parent of a minor child or his/her legal representative's right to file a recipient rights complaint with the Recipient Rights Office alleging a violation of the recipient's right to treatment suited to his/her condition.

VI. MDHHS Alternative Dispute Resolution Process

- A. Within ten (10) days after receiving notice of the decision reached during the Local Dispute Resolution Process, the individual may request access to the MDHHS Alternative Dispute Resolution process. Access to this process does not require agreement by the CMHSP and may be initiated solely by the recipient.
- B. Requests may be received in any written form, but must include the following information:
 - 1. Name of the CMHSP recipient;
 - 2. Name of the guardian legally empowered to make treatment decisions or a parent of a minor child;
 - 3. Daytime phone number where the recipient, legal guardian, or parent of a minor child may be reached;
 - 4. Name of the CMHSP where services have been denied, suspended, reduced or terminated;
 - 5. Description of the service being denied, suspended, reduced, or terminated;
 - 6. Description of the adverse impact on the recipient caused by the denial, suspension, reduction or termination of service.
 - 7. The request should be directed to:

Request for MDHHS Level Dispute Resolution
 Division of Program Development, Consultation and Contracts
 Bureau of Health and Human Services
 Lewis Cass Building - 6th Floor

Lansing, MI 48913

C. MDHHS responsibilities regarding the Alternative Dispute Resolution Process for Persons not receiving Medicaid.

1. If the MDHHS representative, using a "reasonable person" standard, believes that the denial, suspension, termination or reduction of the services and/or supports will pose an immediate and adverse impact upon the recipient's health and safety, the issue is to be referred within **one (1) business day** to the Health and Human Services Division within Mental Health and Substance Abuse Services for contractual action consistent with Section 8.0 of the MDHHS/CMHSP contract.
2. In all other cases, the MDHHS representative shall attempt to resolve the issue with the individual and the CMHSP within **fifteen (15) business days**. The recommendations of the MDHHS representative are non-binding in those cases where the decision poses no immediate impact to the health and safety of the individual.

D. The Office of Recipient Rights will:

1. Provide information about the process for filing;
2. Offer to assist the individual with filing;
3. On the day of the request for Alternative Dispute Resolution is received:
 - Date stamp the request
 - Fax the request to MDHHS
 - Mail the request to MDHHS
 - Forward a copy of the request to be logged
 - Forward a copy of the request to the Hearings Coordinator

VII. Recordkeeping and Reporting Requirements

The CMHSP must maintain a record of appeals and grievances and their disposition that is available for review by MDHHS upon request.

Reports of disputes, complaints and grievances will be:

- A. Reviewed by the CMHSP Quality Improvement Program to identify opportunities for improvement periodically;
- B. Periodically provided to the CMHSP governing body for review.

CROSS REFERENCE:

PA 516 of 1996
PA 258 of 1974