

North Sound Mental Health Administration

Section 1000 – Administrative: Complaint, Grievance, Appeal, Fair Hearing & Notice – General Policy Requirements

Authorizing Source: See references below

Cancels: Executive Director approval 11/29/2005

See Also:

Providers are required to adopt or have a policy “consistent with” this policy

Responsible Staff: Quality Manager

Approved by: Executive Director

Signature:

Date: 2/5/2009

POLICY# 1001.00

SUBJECT: COMPLAINT, GRIEVANCE, APPEAL, FAIR HEARING and NOTICE – GENERAL POLICY REQUIREMENTS

PURPOSE

To outline the North Sound Mental Health Administration (NSMHA) complaint, grievance, appeal, fair hearing and notice policy for both Medicaid enrollees and state-funded consumers in the North Sound Region and to ensure that the policy is used consistently throughout the North Sound Region.

The NSMHA policy also outlines the rights, responsibilities, and requirements of NSMHA, consumers, providers, designees, and other involved parties at all levels of the complaint, grievance, appeal, and fair hearing system.

In addition, the NSMHA policy outlines the types of notices that consumers will receive when they are seeking authorization of services and the NSMHA policy regarding Notice of Action and Notice of Determination from NSMHA or its designee.

The policy also outlines the use of complaint, grievance, appeal, denial and fair hearing information for continuous quality improvement.

Consumers will be informed of NSMHA customer service, independent Ombuds services, and other supports available to them at each level of the process. (See 1002 NSMHA Complaint and Grievance Policy, 1003 NSMHA Appeals Policy, 1004 NSMHA Fair Hearing Policy, and 1005 Notice Requirement Policy, and 1547 NSMHA Customer Services Policy for additional requirements.)

GENERAL POLICY

It is the policy of NSMHA to resolve complaints, grievances and appeals at the lowest possible level, in a confidential manner and without retaliation. The NSMHA policy is to resolve or rule upon, if necessary, consumers’ (see definition of “consumer” below) complaints, grievances, or appeals honoring consumer voice, choice, and rights while considering the most effective clinical practices, Statewide Access to Care Standards, medical necessity, laws and Federal/State/NSMHA contractual requirements.

Throughout the complaint, grievance, appeal, fair hearing and notice policies the term consumer will include both state-funded consumers and Medicaid enrollees. When the policies refer only to state-funded consumers or Medicaid enrollees, these terms will be used. (See definition section below.)

Consumers may pursue a complaint or grievance with a provider, formal designee, or with NSMHA. Medicaid enrollees may also appeal “actions” by NSMHA or its formal designee. Appeals of actions are pursued at NSMHA.

Consumers or their representatives may request a fair hearing if they are dissatisfied with the NSMHA resolution of a grievance or following receipt of a Notice of Adverse Determination by NSMHA or formal designee. Medicaid enrollees may also request a fair hearing if they are dissatisfied with a NSMHA decision regarding an appeal. Consumers or their representatives may request a fair hearing at any time if they believe there has been a

violation of the WA State Department of Social and Health Services (DSHS) rules or timelines or they are dissatisfied with their services.

- 1) Consumers will be informed of their right to initiate a complaint or grievance or request a fair hearing. Medicaid enrollees will also be informed of their right to initiate an appeal or expedited appeal. State funded consumers will receive this information through NSMHA-produced materials, and Medicaid enrollees will receive information through the Medicaid Benefits Booklet and NSMHA-produced materials at the time of their assessment. Providers will provide every enrollee at the time of an intake evaluation a copy of the Mental Health Benefits Booklet published by Mental Health Division (MHD). The booklet can be downloaded from: <http://www1.dshs.wa.gov/Mentalhealth/benefits.shtml>. The Medicaid Benefits booklet will also be provided to Medicaid enrollees in the NSMHA service area on an annual basis and within 15 days of enrollment. NSMHA complaint, grievance, appeal, fair hearing and notice policies will be published and made available to all current and potential users of publicly funded mental health services.
- 2) Consumers will receive written Notices of Determination when routine services have been authorized by NSMHA or their formal designee. Consumers will receive a written Notice of Adverse Determination that outlines their right to a second opinion, grievance, and/or fair hearing for adverse authorization determinations.

Medicaid enrollees will also receive a written Notice of Action that outlines their right to appeal actions, as defined in the definition section below, including all denial, reduction, suspension and termination of services by NSMHA or their formal designee.

- 3) NSMHA will provide customer service toll free at 1-800-684-3555 to assist callers with their options to pursue complaints, grievances, appeals, second opinions and fair hearings, and will assist in distinguishing between a complaint, Third Party Insurance issue, appeal, grievance, second opinion or request for information. NSMHA customer service staff will assist callers to triage their concern to the appropriate party and outline available supports for the process.
- 4) Independent, confidential Ombuds services are available to provide advocacy, assistance, and investigation to consumers, family members and other interested parties throughout the complaint, grievance, appeal and fair hearing process in accordance with Washington Administrative Code (WAC). Ombuds services may be reached toll free at 1-888-336-6164. Ombuds services will be offered to assist consumers at all levels of the process.
- 5) All providers and formal designees will appoint a complaint and grievance contact person to assist with the process. A list of provider/ designee complaint and grievances toll free contact numbers will be maintained on the NSMHA website at www.nsmha.org. Provider, formal designee and NSMHA staff are also available to provide consumers with assistance in completing forms and taking other procedural steps. This includes, but is not limited to, provision of Ombuds services, interpreter services and toll-free numbers with adequate TTY/TTD capability.
- 6) Consumers may elect to have participation of others of their choice throughout the process. Consumers may also have a representative who acts on their behalf (with written permission) throughout the process.
- 7) Consumers (state-funded and enrollees) may have their previously authorized services continue or be reinstated during the complaint, grievance, and fair hearing process at their request. Previously authorized services will continue if the original period covered by the original authorization has not expired. Medicaid enrollees may also request their previously authorized benefits continue or be reinstated during the appeals process under certain circumstances (see NSMHA Appeals policy). When services are reinstated or continued due to this requirement and when grievances or appeals are not resolved in consumer's favor, in certain circumstances, they may be asked to pay for these services. Consumers will receive notice for any circumstances where they may be asked to pay for these services.
- 8) Complaints, grievances, and appeals will be handled in a confidential manner. The NSMHA Notice of Privacy Practices will contain: a statement that individuals may complain to NSMHA and to the Secretary

of Health and Human Services if they believe their privacy rights have been violated; a brief description of how the individual may file a complaint with the covered entity; and a statement that the individual will not be retaliated against for filing a complaint.

- 9) Individuals may initiate complaints concerning noncompliance with the requirements for advance directive for psychiatric care with the Mental Health Division (MHD) at 1-888-713-6010.
- 10) The NSMHA customer service, complaint, grievance, appeal, and fair hearing process will be age, culturally and linguistically competent. NSMHA, its formal designee and providers will provide oral or manual interpreter services or written translation free of charge in all non-English languages for all steps necessary to file a complaint, grievance or appeal. (See NSMHA Interpreter and Translation Policy #1515 for additional requirements)

Notices of Action will be available in English and the (8) prevalent DSHS non-English languages. These languages are Cambodian, Chinese, Korean, Laotian, Russian, Somali, Spanish and Vietnamese. Oral interpretation services regarding notices will be available in all non-English languages. Notices will also be available in alternative formats and in an appropriate manner that takes into consideration the special needs of those who, for example, are visually limited or have limited reading proficiency.

NSMHA and each provider/designee will provide toll free numbers that have adequate TTY/TDD, and oral or manual interpreter services. For NSMHA, Oral or manual interpreter services may be reached at 1-800-684-3555 and TTY/TDD services at 1-800 833-6388 or by dialing 711. In-person interpreter services are also available through NSMHA, providers and designees. Mental health specialists are available throughout the process to assist in providing culturally competent processes.

- 11) Complaints, grievances, and appeals and fair hearings must be followed up on even if consumers are no longer receiving services.
- 12) There will be no retaliation or punitive action of any kind against a consumer who initiates a complaint, expedited grievance, grievance, appeal, expedited appeal or request for fair hearing. There will be no retaliation against providers who initiate appeals or grievances on behalf of consumers. Ombuds services, providers and NSMHA staff are available to assist if concerns about retaliation occur. Consumers or their representatives (including providers) may also contact identified provider or designee complaint and grievance contacts if concerns about retaliation occur. Consumers or their representatives (including providers) may also contact NSMHA Executive Director if concerns about retaliation occur (see NSMHA policy 4503-Retaliation Policy).
- 13) Aggregate information about types of complaints, grievances, appeals, fair hearing requests, denials and other actions will be used to analyze patterns or trends, identify system implications, identify areas for quality improvement, outline plans to address system implications or trends, and improve the RSN system. Information will also be used as part of NSMHA's quality strategy. Information about individual complaints, grievances, appeals, or fair hearings that have system implications, or patterns or clusters of complaints, grievances, appeals or fair hearings may also be used for quality improvement.
- 14) The definitions below will apply to 1001 NSMHA Complaint, Grievance, Appeal, and Fair Hearing Policy General Policy Requirements, 1002 NSMHA Complaint and Grievance Policy, 1003 NSMHA Appeals Policy, 1004 NSMHA Fair Hearing Policy, and 1005 NSMHA Notice Requirement Policy.

DEFINITIONS

Action

Actions apply to covered Medicaid mental health services for Medicaid enrollees and are defined as:

1. NSMHA (or formal designee) decisions to:
 - a. Deny or limit authorization of a requested service, including type or level of service;
 - b. Reduce, suspend, or terminate a previously authorized service; or
 - c. Deny in whole or in part, payment for a service.

2. The failure to:
 - a. Provide services in a timely manner as defined by the state;
 - b. Act within timeframes provided in 42CFR438.408 (b) including:
 - i. The disposition of grievances within 30 days from receipt at NSMHA unless extended by NSMHA or Medicaid enrollee;
 - ii. The disposition of an appeal within 45 days from receipt at NSMHA, unless extended by NSMHA or the Medicaid enrollee;
 - iii. The disposition of an expedited appeal (if accepted) within 3 working days of receipt at NSMHA unless extended by NSMHA or the Medicaid enrollee.

The denial, suspension, reduction, and termination of services are defined as follows:

Denial - The decision by NSMHA or its formal designee not to authorize a covered Medicaid mental health service that has been requested by a provider or inpatient provider on behalf of an eligible Medicaid Enrollee. It is also a denial if an intake is not provided upon request by a Medicaid Enrollee.

Suspension – The decision by NSMHA or its formal designee to temporarily stop an enrollee’s previously authorized covered Medicaid mental health services described in the Level of Care Guidelines. The decision by a Community Mental Health Agency (CMHA) to temporarily stop or change a covered service in the Individualized Service Plan is not a suspension.

Reduction – The decision by NSMHA to decrease an enrollee’s previously authorized covered Medicaid mental health service described in our Level of Care Guidelines. The decision by a CMHA to decrease or change a covered service in the Individualized Service Plan is not a reduction.

Termination – The decision by NSMHA or its formal designee to stop an enrollee’s previously authorized covered Medicaid mental health services described in our Level of Care Guidelines. The decision by a CMHA to stop or change a covered service in the Individualized Service Plan is not a termination.

(For inpatient services NSMHA or designee will not reduce, suspend or terminate previously authorized services.)

Appeal

An **appeal** is a request by a Medicaid enrollee, provider, or representative on behalf of the enrollee and with the enrollee’s written permission to NSMHA for review of an action outlined in a written notice of action. For appeals that involve inpatient services, inpatient providers may also request an appeal on behalf of the consumer, with the enrollee’s written permission.

An **expedited appeal** is a request by a Medicaid enrollee, provider, or representative on behalf of the enrollee and with the enrollee’s written permission to NSMHA for expedited review of an action outlined in a written notice of action. For appeals that involve inpatient services, inpatient providers may also request an expedited appeal on behalf of the enrollee, with the enrollee’s written permission.

Complaint

A **complaint** is a verbal statement of dissatisfaction with any aspect of mental health services.

Consumer/State Funded Consumer/Medicaid Enrollee

Consumers are people who have applied for, are eligible for, enrolled in or who have received publicly funded mental health service from the NSMHA service network. This definition includes Medicaid enrollees and state funded consumers.

For a child under the age of thirteen, or for a child age thirteen or older whose parents or legal representatives are involved in the treatment plan, the definition of consumer includes parents or legal representatives.

Additional representatives who act on a consumer's behalf with the consumer's signed written permission including providers, family members and other interested parties can also utilize this process.

(Throughout the policy, the term “Consumer” will be used to describe the above group).

Medicaid enrollees are Medicaid recipients with a mental health benefit who are currently enrolled in NSMHA.

Potential Medicaid enrollees are Medicaid recipients with a mental health benefit who are not currently enrolled in the NSMHA.

(Throughout the policy, the term “Medicaid enrollee” or “enrollee” will be used to describe the above group).

State funded consumers are people who have applied for, are eligible for, enrolled in or who have received publicly funded mental health service from the NSMHA service network who are not Medicaid enrollees.

(Throughout the policy, the term “State funded consumer” will be used to describe the above group).

Family

For adults, **family** is those the consumer defines as family or those appointed/assigned (e.g., guardians, siblings, caregivers and significant others).

For children, **family** is a child's biological parent, adoptive parent, foster parent, guardian, legal custodian pursuant to Title 26 RCW, a relative with whom a child has been placed by DSHS, or a tribe.

Fair Hearing

A **fair hearing** is a hearing conducted through the auspices of the state Office of Administrative Hearings (OAH) in accordance with Washington Administrative Code (WAC) 388-02. The term "fair hearing" is synonymous with administrative hearing.

Grievance

For Medicaid enrollees, **grievances** are an expression of dissatisfaction about any matter other than an “action” as defined in NSMHA policy. For state funded consumers, **grievances** are an expression of dissatisfaction about any matter. (Possible subjects for grievances include, but are not limited to, the quality of care or services provided, aspects of interpersonal relationships such as rudeness of a provider or employee, or failure to respect the enrollee's rights).

A **Grievance** is a more formal way to express dissatisfaction than a complaint and may be pursued at the provider/designee level and/or NSMHA level. **Grievances** may be initiated orally by consumers or their authorized representatives but are followed up with a signed written request by the consumer or authorized representative.

An **Expedited grievance** is a request for a more immediate response to a grievance. Expedited grievances are not expected to be followed up on in writing by the consumer or authorized representative. **Expedited grievances** may be pursued at the provider/formal designee or NSMHA level.

Grievance System

The term **grievance** is also used to refer to the overall system that includes grievances and appeals at NSMHA and access to the State fair hearing process.

Notice of Action and Notice of Adverse Determination

Medicaid enrollees will receive a written **Notice of Action** that will outline an action NSMHA or its formal designee has taken or is planning to take concerning Medicaid funded mental health services. The **Notice of Action** will outline a Medicaid Enrollee's right to appeal these actions. It will also outline the process for appeal of these actions.

Consumers (State funded and Medicaid Enrollees) will receive a written **Notice of Adverse Determination** regarding adverse service determinations. The Notice of Adverse Determination will outline the right to request a second opinion, grievance, and/or fair hearing and the process for doing so.

Community Mental Health Agency (CMHA)/Provider/Inpatient Provider/Formal Designee

A **provider** is any NSMHA contracted CMHA licensed to provide mental health services covered in the NSMHA PIHP and SMHC Program Agreement, or a provider contracted to provide crisis services or crisis line services covered under the SMHC Program Agreement. An **inpatient provider** is any community inpatient facility that may be utilized for psychiatric hospitalization as certified and authorized by NSMHA's formal designee. A **formal designee** is an entity contracted by NSMHA to make authorization decisions on behalf of NSMHA.

ADDITIONAL GRIEVANCE SYSTEM REQUIREMENTS

NSMHA, formal designees, providers and any other contracted individuals and agencies shall comply with all requirements outlined in NSMHA policies 1001-1005 and in references cited below. The providers and formal designees will adopt NSMHA policies or develop Complaint, Grievance, Appeal, Notice Requirements and Fair Hearing Policies consistent with the NSMHA Policy. To ensure the NSMHA policy is consistently applied throughout the region, NSMHA will monitor these policies and complaint and grievance files and processes through the administrative audit process.

NSMHA will oversee the provider, and formal designees' complaint and grievance process. NSMHA, providers, formal designees, sub-contractors and any other contracted individuals and agencies will cooperate with and promptly abide by all complaint, appeal, grievance and fair hearing decisions. NSMHA will require this in contracts and will monitor compliance with this requirement through the administrative audit process.

The providers, formal designees, Ombuds and NSMHA will assist with methods to collect information for quality improvement efforts and to assist NSMHA in complying with reporting requirements to the Mental Health Division (MHD).

The providers, formal designees, Ombuds Services, and NSMHA will submit quarterly reports to NSMHA within 15 days of the end of the quarter. The reports will include: 1) The number and nature of grievances and fair hearings; 2) the timeframes within which they were disposed or resolved; 3) the nature of the decisions; 4) the number and nature of appeals; and 5) the number and types of denials or other actions.

Semi-annual reports will also include complaint data and:

- A summary and analysis of the implications of the data;
- Identification of system implications;
- Identification of areas for further study and review or quality improvement;
- A summary of how information related to complaints, grievances, appeals or fair hearings was used on provider/designee quality management plan; and
- Measures that may be taken to address quality improvement or undesirable patterns.

The providers, formal designees and NSMHA will also utilize complaint, grievance, denial, appeal and fair hearing information to analyze trends or identify areas for quality improvement through strategies outlined in the NSMHA Quality Management Plan.

NSMHA, providers and formal designees will not charge consumers or their representatives for copies of their records requested for the complaint, grievance, appeal, or fair hearing process.

NSMHA, providers and formal designees will keep full records of complaints, grievances and appeals, and the NSMHA will keep records of fair hearings during the term of the NSMHA Program Agreements with the MHD and for six (6) years following termination or expiration of the Agreement, or, if any audit, claim, litigation or other legal action involving the records is started before expiration of the six year period, the records will be maintained until completion and resolution of all issues arising there from or until the end of the six year period, whichever is later.

Records of complaints, grievances or appeals will be kept in confidential files separate from clinical records. These records will not be disclosed without the consumer's written authorization, except as necessary to resolve the complaint, grievance or appeal, to DSHS if a fair hearing is requested, or for review as part of the state quality strategy. Complaint, grievance and appeal records maintained by NSMHA are included in the NSMHA-defined designated record set.

The requirements outlined in 1001 Complaint, Grievance, Appeal, Fair Hearing, and Notice Policy General Policy Requirements apply to – 1002 NSMHA Complaint and Grievance Policy, 1003 NSMHA Appeal Policy, 1004 NSMHA Fair Hearing Policy and 1005 NSMHA Notice Requirements Policy.

REFERENCES

1. 2006-08 Federal 1915 (b) Capitated Waiver Renewal and Proposal for a Section 1915(b) Capitated Waiver Program Waiver Renewal-Requested effective date April 1, 2008
2. State Mental Health Program Agreement (SMHC) 10-2007-9-2009 and Prepaid Inpatient Health Plan Program Agreement (PIHP) 10-2007-9-2009 between The State of Washington DSHS and NSMHA including the Community Psychiatric Inpatient Instructions and Requirements
3. 45 CFR Health Insurance Portability and Accountability Act (HIPAA).
4. Washington Administrative Code (WAC) 388-865, 388-02, 388 550 2600
5. NOTICE OF ACTION Medicaid-Funded Mental Health Services-Washington State Mental Health Division.
6. Benefits Booklet for People Enrolled in Medicaid Public Mental Health System, – Washington State Mental Health Division.
7. Code of Federal Regulations (CFR) – 42 CFR 438 Subpart F, (400-424), 42 CFR 438.100, 210,218, 228, 230 240, 242

ATTACHMENTS

None