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North Sound Mental Health Administration

Section 1000 – Administrative: Appeal

Authorizing Source: See References Policy 1001

Cancels: Executive Director approval 11/29/2005

See Also:

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

Approved by: Executive Director

Date: 2/5/2009

Responsible Staff: Quality Manager

Signature:

POLICY # 1003.00

SUBJECT: APPEAL

PURPOSE

To outline the North Sound Mental Health Administration (NSMHA) appeal and expedited appeal process and requirements for Medicaid enrollees. (See 1001- NSMHA Complaint, Grievance, Appeal, Notice and Fair Hearing Policy General Policy Requirements, 1002 NSMHA Complaint and Grievance Policy, and 1004 NSMHA Fair Hearing and 1005 Notice Requirements Policy for information about additional policy requirements).

NSMHA APPEAL POLICY

Medicaid enrollees or providers or representatives on behalf of the enrollee and with the enrollee’s written permission may request an appeal of actions to NSMHA. They may also request an expedited appeal. For appeals of the denial of inpatient authorization or extension an inpatient provider may also request an appeal or expedited appeal with written permission of the consumer.

A. Appeals Process

Medicaid enrollees will receive a written Notice of Action that explains the action NSMHA or its formal designee intends to take or has taken, the reasons for the action, and the right to request an appeal or expedited appeal of these actions. The Notice of Action will also outline the process to appeal an action with NSMHA. Requesting providers or inpatient providers will also receive Notice (may be oral).

Appeals are requests to NSMHA for review and reconsideration of an action as outlined in the Notice of Action. Expedited appeals are requests to NSMHA for expedited review and reconsideration of an action.

Enrollees (including providers or representatives on behalf of the enrollee with the enrollee’s written permission) may initiate an appeal or expedited appeal orally or in writing. Requests for appeal that are initiated orally must be followed up with a signed written request by the enrollee or representative within seven days. Requests for expedited appeal are not required to be followed with a written request.

Enrollees or their representatives may request an expedited appeal if the enrollee and/or representative believe that the standard time for resolution would seriously jeopardize the enrollee’s life, health, or ability to attain, maintain or regain maximum function.

If an expedited appeal is requested and NSMHA determines, or a provider or inpatient provider indicates, that taking the time for a standard resolution could seriously jeopardize the enrollee’s life, health, or ability to attain, maintain or regain maximum function, NSMHA will meet the *additional* requirements for expedited appeal below:

Appeals must be initiated within 20 calendar days of the receipt of the NSMHA Notice of Action or by the intended effective date of the proposed action whichever is later. Enrollees or their representatives

may request that previously authorized services continue or be reinstated during the Appeals process. For previously authorized services to continue the appeal must be initiated within 10 calendar days of the receipt of the NSMHA Notice of Action or by the intended effective date of NSMHA's proposed action (whichever is later). (See section B below for additional information about the continuation of services/benefits during the appeals process).

Enrollees, providers or other representatives may contact Ombuds services for assistance or may initiate an appeal or expedited appeal verbally or in writing with NSMHA. Ombuds services are available to provide advocacy, assistance and investigation throughout the NSMHA appeals process. Ombuds services work to assist the consumer or representative with appeals through the NSMHA appeals and expedited appeals processes outlined below.

1. *Non expedited appeals*

- a. NSMHA staff will assist callers and provide follow up with the appeals process.
- b. If the Medicaid enrollee or their representative is not receiving assistance from Ombuds services, Ombuds services will be offered for assistance.
- c. The Medicaid enrollee may also have assistance from their provider or anyone of their choice throughout the process.
- d. NSMHA staff will document the appeal, including the date of receipt, actions taken, resolution by NSMHA, and date of notification to the consumer.
- e. If the appeal is done verbally, the Medicaid enrollee or representative will follow up within seven (7) days of the oral request with a written signed request (written requests are not required for expedited appeals). Oral inquiries related to appeal are treated as appeals and therefore establish the earliest possible filing date for appeals.
- f. Written requests for appeal should include the enrollee's name, address, how NSMHA can best contact the enrollee, reasons for appeal, and any evidence the enrollee or representatives wish to attach. The enrollee may send in supporting records, letters from their mental health provider, a list identifying qualified witnesses or other information that explains services should be provided. Enrollees may request information from their mental health provider.
- g. NSMHA will provide verbal acknowledgement (may be by telephone) of the receipt of the appeal within one (1) business day from the oral or written appeal (whichever is first) and mail a written acknowledgement within five (5) business days of receipt of the oral or written appeal (whichever is first).
- h. The written acknowledgement will include notice to the Medicaid enrollee or representative that previously authorized services will continue or be reinstated during the appeals process at the enrollee or representative's request if the requirements outlined in Section B below are met.
- i. The written acknowledgement will also include notice for any circumstances in which the enrollee may be asked to pay for the services received during the appeals process if the decision is not in their favor.
- j. Qualified mental health care professionals who have appropriate clinical expertise will conduct appeals and make decisions. A psychiatrist will review all inpatient appeals prior to upholding the original denial.
- k. NSMHA staff not involved in any previous level of review or decision-making (for the appeal) will decide all appeals.
- l. NSMHA will provide the enrollee a reasonable opportunity to present evidence and allegations of fact or law in person as well as in writing. Enrollees may also invite those of their choice to the meeting. Documentation will be provided five (5) days in advance

of the meeting to allow for review and the enrollee, representative and others of the consumer's choice may present their information at the meeting.

- m. The parties to the appeal may include the enrollee and his or her representative, or the legal representative of a deceased enrollee's estate.
- n. Enrollees and their representatives may examine their case file, including medical records, and any other documents and records considered during the appeals process (before and during the appeals process).
- o. NSMHA will mail a written notice of resolution as expeditiously as the enrollee's mental health condition requires, not exceeding 43 days of receipt of the oral or written notice of appeal. NSMHA may extend the prescribed timeframes for resolution of appeals by up to 14 calendar days if:
 - i. The enrollee (or provider or representative acting on behalf of the enrollee) requests the extension
 - OR
 - ii. NSMHA shows (to the satisfaction of the State agency, upon its request) that there is need for additional information and how the delay is in the enrollee's interest.

For extensions requested by the enrollee NSMHA will provide written notice of the request and related dates in writing. For extensions not requested by the enrollee NSMHA will give the enrollee written notice of the reason for the delay.

- p. Notices of resolution will include the reason for the decision, the results of the resolution process, the date it was completed, the process and available supports if the enrollee, provider or inpatient provider has any concerns about retaliation, and the right to request a fair hearing at any time if the enrollee believes there has been a violation of Washington State Department of Social and Health Services (DSHS) rules. For appeals regarding denial of service that are resolved in favor of the enrollee, the notice of resolution will include information about how the enrollee may obtain services, supports available to assist in obtaining service, and information that enrollees must initiate services within sixty days.
- q. For appeals not resolved wholly in favor of the enrollee, the notice will also include the right to request a State Fair Hearing, the process for requesting a Fair Hearing, the right to request to continue to receive services while the hearing is pending, how to make the request, and notice that the Enrollee may be asked to pay for the cost of those services if the hearing decision upholds the original action.
- r. When enrollees, providers or inpatient providers have concerns about retaliation they will be offered assistance by NSMHA.
- s. NSMHA will send a Notice of Action to the enrollee about their right to request a fair hearing if NSMHA fails to meet the timeline for disposition or extension of the appeal.

2. Expedited Appeals Process-Additional Requirements

Enrollees or their representatives may request an expedited appeal if the enrollee and/or representative believe that the standard time for resolution would jeopardize the enrollee's ability to maintain or regain maximum function.

If an expedited appeal is requested and NSMHA determines, or a provider or inpatient provider indicates (in making the request on the enrollee's behalf or supporting the enrollee's request), that taking the time for a standard resolution could seriously jeopardize the enrollee's

life, health, or ability to attain, maintain or regain maximum function, NSMHA will meet the *additional* requirements below:

- a. Requests for expedited resolution may be initiated orally and are not required to be followed by a written signed request by the enrollee or representative.
- b. NSMHA will make a decision on the request for expedited appeal and provide written notice as expeditiously as the enrollee's mental health condition requires, within three (3) working days. NSMHA will also make reasonable efforts to provide oral notice.
- c. NSMHA may extend the three (3) working days timeframe by up to 14 calendar days if:
 - i. The enrollee (or provider or representative acting on behalf of the enrollee) requests the extension
 - OR
 - ii. NSMHA shows (to the satisfaction of MHD, upon its request) that there is need for additional information and how the delay is in the enrollee's interest.

For extensions requested by the enrollee NSMHA will provide written notice of the request and related dates in writing. For extensions not requested by the enrollee NSMHA will give the enrollee written notice of the reason for the delay.

- d. NSMHA will provide the enrollee a reasonable opportunity to present evidence, and allegations of fact or law, in person as well as in writing and inform the enrollee of the limited time available for expedited resolutions.
- e. NSMHA will ensure that retaliation or punitive action is not taken against an enrollee or provider who requests an expedited resolution or supports an enrollee's appeal.
- f. If NSMHA denies a request for expedited resolution of an appeal, it will transfer the appeal to the timeframe for standard resolution, and make reasonable efforts to give the enrollee prompt oral notice of the denial, follow up within two (2) calendar days with a written notice, and inform the consumer of their right to file a grievance regarding the denial of expediency.

Enrollees or their representative may request a fair hearing, with the Office of Administrative Hearings (OAH) within 20 days of receipt of of NSMHA's notice of disposition of the appeal if the disposition is not favorable to the enrollee. The enrollee or representative may also request a fair hearing at any time if they believe there has been a violation of DSHS rules or timelines.

B. Continuation of Services/Benefits during the Appeals Process

NSMHA will continue the enrollee's benefits if all of the following apply:

1. The enrollee or the provider files the appeal on or before the later of the following:
 - a. Within 10 calendar days of receipt of the NSMHA notice of action, which for actions involving services previously authorized, must be delivered by a method which certifies receipt and assures delivery within three (3) calendar days of the intended effective date of NSMHA or formal designee's proposed action or
 - b. The intended effective date of NSMHA's proposed action;
2. The appeal involves the termination, suspension, or reduction of a previously authorized course of treatment;
3. Services were ordered by an authorized provider or inpatient provider;

4. The enrollee requests a continuation of services/benefits; and
5. The original period covered by the original authorization has not expired at the time of the request for continuation of benefits.

If, at the enrollee's request, NSMHA continues or reinstates the enrollee's benefits while the appeal is pending, the benefits must be continued until one of the following occurs:

1. The enrollee withdraws the appeal.
2. Ten days pass after NSMHA mails notice of disposition of an appeal and the resolution is not in favor of the enrollee, unless the enrollee, within the 10-day timeline, has requested a State Fair Hearing (with continuation of benefits until the DSHS Fair Hearing decision is reached),
3. The State Office of Administrative Hearings (OAH) issues a fair hearing decision adverse to the enrollee, or
4. The time period or service limits of a previously authorized service has been met.

Enrollees who request continuation of benefits will be notified that if the final resolution of the appeal is adverse to the enrollee (upholds NSMHA or formal designee's action), NSMHA may request the enrollee to reimburse the cost of the services furnished to the enrollee while the appeal was pending.

C. Effect of Reversed Resolutions of Appeals

1. If NSMHA or the State Administrative Hearing Officer reverses a decision to deny, limit, or delay services that were not furnished while the appeal was pending, NSMHA must authorize or provide the disputed services promptly, and as expeditiously as the enrollee's mental health condition requires.
2. If NSMHA or the State Administrative Hearing Officer reverses a decision to deny authorization of services, and the enrollee received the disputed services while the appeal was pending, NSMHA must pay for those services.
3. If the final resolution of the appeal upholds the NSMHA action, the regional support network may recover the amount paid for the services provided to the enrollee while the appeal was pending, to the extent that they were provided solely because of the requirement for continuation of services and in accordance with 42 CFR 431.230(b).

D. Notice of Action

NSMHA must issue written notices of actions for Medicaid enrollees that explain the action NSMHA intends to take, the reasons for the actions, and the right to file an appeal or expedited appeal of these actions. The notice of action will also outline the process to appeal an action (see 1005.00 Notice Policy for additional requirements).

ATTACHMENTS

None