


CHAPTER: 4	SECTION: 46	SUBJECT: <b>INDIVIDUAL CARE TO CONSUMERS</b>
TITLE: <b>GRIEVANCE AND APPEAL</b>		
EFFECTIVE DATE: <b>05/18/2021</b>	REVISED DATE: <b>05/18/2021; 02/22/2022</b>	
ISSUED AND APPROVED BY:  EXECUTIVE DIRECTOR		

I. **POLICY:**

Community Mental Health of Ottawa County (CMHOC) will establish and maintain a due process system that is compliant with the State, Federal and Balanced Budget Act regulations as indicated in the Michigan Department of Health and Human Services (MDHHS) Contract and Prepaid Inpatient Health Plan (PIHP) Contract to ensure all beneficiaries the right to a fair and efficient process for resolving disagreements regarding their services and supports. Grievances and Appeals will be coordinated through the Customer Services Department.

This policy and any corresponding policies in no way requires the beneficiary to utilize due process prior to the filing of a Recipient Rights complaint pursuant to Chapter 7 and 7a of the Michigan Mental Health Code.

II. **PURPOSE:**

To ensure all individuals receiving services from CMHOC have access to due process for resolving grievances and disputes related to the denial, reduction, suspension, or termination of services and supports.

III. **APPLICATION:**

All mental health programs, services, and facilities directly operated by or under contract with CMHOC.

IV. **DEFINITIONS:**

- A. **Adverse Benefit Determination:** A decision that adversely impacts a consumer’s claim for services due to denial, reduction, suspension, termination, or limited authorization of a service. *42 CFR 438.400*
- B. **Adequate Notice of Adverse Benefit Determination:** Written statement advising the consumer of a decision to deny or limit authorization of services requested, which notice must be provided on the same date the Adverse Benefit Determination takes effect. *42 CFR 438 (c)(2)*
- C. **Advance Notice of Benefit Determination:** Written statement advising the

- consumer of a decision to reduce, suspend or terminate services currently provided, which notice must be provided/mailed to the individual at least ten (10) calendar days prior to the proposed date the Adverse Benefit Determination is to take effect. *42 CFR 438.404 (c)(1); 42 CFR 431.211*
- D. **Date of Action:** The date on which CMHOC proposes to deny, suspend, reduce, or terminate a service.
- E. **Due Process:** The process CMHOC implements to handle appeals of an Adverse Benefit Determination and/or grievances, as well as process to collect and track information about them. *LRE Due Process Policy 6.6*
- F. **Expedited Appeal:** The expeditious review of an Adverse Benefit Determination, requested by a beneficiary or the beneficiary's provider, when the time necessary for the standard appeal review process could seriously jeopardize the beneficiary's life or health or ability to attain, maintain, or regain maximum function. *42 CFR 48.410(a)*
- G. **Grievance:** An expression of dissatisfaction about service issues other than an Adverse Benefit Determination. Possible subjects for grievances include but are not limited to: quality of care of services provided, aspects of interpersonal relationships between a service provider and the individual, failure to respect the individual's rights regardless of whether remedial action is requested, or an individual's dispute regarding an extension of time proposed by CMHOC to make a service authorization decision. *42 CFR 438.400; LRE Due Process Policy 6.6*
- H. **Local Appeal:** A review at the local level by CMHOC or the Lakeshore Regional Entity, the PIHP for CMHOC, of an Adverse Benefit Determination as defined above. A written decision from the PIHP will be provided to the consumer within thirty (30) calendar days after the appeal is received. *42 CFR 438.408(b)(2)*
- I. **MDHHS Alternative Dispute Resolution Process:** Impartial State level review, presided over by the MDHHS, of an appeal. This process is available to Non-Medicaid consumers, only after the Local Appeals Resolution Process has been exhausted.
- J. **Michigan Office of Administrative Hearings and Rules (MOAHR):** The entity charged by the MDHHS with the responsibility for conducting State Fair Hearings.
- V. **PROCEDURE:** All grievances and appeals received by Community Mental Health of Ottawa County will be resolved following the processes outlined in the "Grievance and Appeal Technical Requirement – PIHP Grievance and Appeal System for Medicaid Beneficiaries" for Medicaid beneficiaries and the "CMHSP Local Dispute Resolution Process" for non-Medicaid consumers. The Notice of Adverse Benefits Determination Crosswalk provides guidance on timelines for providing adequate and advance notices when services have been denied, reduced, suspended, terminated, or limited an authorization of services. Substance Use Disorder (SUD) treatment services provided by the SUD Provider Network also follow the same process.

Only in the following circumstances can an exception to the Advance Notice definition occur:

- a. CMHOC has factual information confirming the death of a beneficiary
- b. CMHOC receives a clear, written statement signed by the beneficiary that:
  - i. They no longer want services; or

- ii. Gives information that requires termination or reduction of services and indicates they understand that this must be the result of supplying that information
- c. The beneficiary has been admitted to an institution where they are ineligible under the plan for further services
- d. The beneficiary's whereabouts are unknown, and the post office returns CMHOC mail directed to them indicating no forwarding address
  - i. Should the beneficiary's whereabouts become known during the time they are eligible for services, the agency will follow 42 CFR 431.231—  
Reinstating Services
- e. CMHOC establishes the fact that the beneficiary has been accepted for Medicaid services by another local jurisdiction, State, territory, or commonwealth
- f. A change in the level of medical care is prescribed by the beneficiary's physician
- g. The notice involves an adverse determination made with regard to the preadmission screening requirements of section 1919(e)(7) of the Social Security Act
- h. The date of action will occur in less than ten (10) days, in accordance with 42 CFR 483.15(bh)(4)(ii) and (b)(8), which provides exception to the thirty (30) days notice requirements of 42 CFR 483.15(b)(4)(i)
- i. The CMHSP has facts (preferably verified through secondary sources) indicating that action should be taken because of probably fraud by the beneficiary (in this case, CMHOC may shorten the period of advance notice to five (5) days before the date of action.)

In the event a consumer requests a second opinion, in addition to following the resolution processes outlined in the "Grievance and Appeal Technical Requirement – PIHP Grievance and Appeal System for Medicaid Beneficiaries" and the "CMHSP Local Dispute Resolution Process", CMHOC will also follow all second opinion resolution processes identified in the Michigan Mental Health Code, MCL 300.1705, and the Code of Federal Regulations, 42 CFR 438.206(b)(3).

In the event the aforementioned "Grievance and Appeal Technical Requirement – PIHP Grievance and Appeal System for Medicaid Beneficiaries" and the "CMHSP Local Dispute Resolution Process" guidelines are revised, Community Mental Health of Ottawa County will evaluate the grievance and appeals processes for compliance to these documents and update policies and procedures as necessary.

VI. **ATTACHMENTS:**

- A. Notice of Adverse Benefits Determination Crosswalk

VII. **REFERENCES:**

- A. Medicaid Managed Specialty Supports and Services Program—Appeal and Grievance Resolution Process Technical Requirement
- B. MDHHS/CMHSP Managed Mental Health Supports and Services Contract –

Attachment C6.3.2.1: CMHSP Local Dispute Resolution Process

- C. PA 516 of 1996
- D. Social Security Act
- E. 42 CFR 431.213—Exceptions from advance notice
- F. 42 CFR 431.213—Notice in cases of probable fraud
- G. 42 CFR 431.211—Advance Notice
- H. 42 CFR 431.231—Reinstating Services
- I. 42 CFR 438.408(b)(2)—Resolution and Notification: Grievances and Appeals
- J. 42 CFR 438(c)(2)—Managed Care: Enrollee Rights and Protections
- K. 42 CFR 438.400—Statutory Basis, Definitions, and Applicability
- L. 42 CFR 438.404—Timely and Adequate Notice of Adverse Benefit Determination
- M. Michigan Mental Health Code
- N. Lakeshore Regional Entity Policy # 6.6: Due Process