|  |
| --- |
| **MONTCALM CARE NETWORK****611 North State Street, Stanton, MI 48888** |
| SUBJECT: Grievance and Appeals | Section: 8800 |
| Effective Date: May 6, 1998 | Revised Date: April 25, 2023 |

It is the policy of Montcalm Care Network (MCN) that all consumers will have the right to a fair and efficient process for resolving complaints regarding their services and supports which are managed and/or delivered by MCN.

MCN will maintain procedures for assuring a timely, fair, accessible, and understandable process for resolving consumer grievances and appeals based on the relevant Michigan Department of Community Health (MDHHS) technical requirement.

1. Definitions:

*Action:*

* Denial or limited authorization of a requested Medicaid or non-Medicaid service, including the type or level of service
* Reduction, suspension, or termination of a previously authorized Medicaid or previously provided non-Medicaid covered service
* Denial, in whole or in part of payment for a Medicaid or non-Medicaid covered service
* Failure to make a standard authorization decision and provide notice about the decision within fourteen (14) calendar days
* Failure to make an expedited authorization decision within three (3) working days from the date of receipt of a request for expedited service authorization
* Failure to provide services within fourteen (14) calendar days of the start date agreed upon during the PCP process and as authorized
* Failure to act within thirty (30) days from the date of a request for a standard appeal
* Failure to act within three (3) working days from the date of a request for an expedited appeal

Failure to provide disposition and resolution notice of a local grievance/complaint within ninety (90) calendar days

*Adequate Notice:* refers to written notice mailed or delivered at the time of the action or at the time of the signing of the individual plan of services/supports,including a statement of the action, reason for the action, regulations that support the action, and explanation of the consumer’s right to request an Administrative Fair Hearing.

*Administrative Law Judge:* refers to a qualified individual designated by MDHHS to conduct a hearing in accordance with rules of evidence, Department rules, and state and federal regulations and statutes.

*Administrative Tribunal:* refers to a division of MDHHS responsible for oversight, operations, and decisions of the Administrative Law Judges carrying out their responsibility conducting Fair Hearings as required by the Michigan Mental Health Code, Public Health Code, Social Welfare.

Act, Administrative Code, Administrative Procedures Act, and/or federal law/ regulation.

*Administrative Tribunal Hearing:* An evidentiary hearing for a Medicaid consumer conducted by an Administrative Tribunal regarding a decision by MCN to deny, terminate, reduce or suspend services.

*Advance Notice:* refers to a written notice mailed or delivered ten (10) calendar days in advance of the action or (30) calendar days in advance of the action if open to psychiatric services, when previously authorized or provided services are reduced, suspended or terminated, that includes a statement of the action MCN intends to take, reason for the intended action, regulations supporting the intended action, an explanation of the individual’s right to request an evidentiary hearing, and an explanation of the circumstances under which services are continued if a hearing is requested.

*Alternative Dispute Resolution Process:* refers to the MDHHS dispute resolution process established to provide an Administrative forum for grievances and disputes by consumers of Community Mental Health services who are not covered by the Federal standards related to Fair Hearing. If a non-Medicaid consumer is dissatisfied with a decision of MCN related to a local appeal regarding a suspension, reduction or termination of services he/she may request this review within five (5) business days of the decision.

*Alternative Services:* refers to a set of MDHHS-approved, flexible services that are offered to beneficiaries in lieu of Medicaid state plan services, and for which Medicaid-Capitated funds may be used to pay under the authority of the Section (A) (1) (a) of the Social Security Act and approved for use via Michigan’s 1915 (b) waiver by the federal Centers for Medicare and Medicaid.

*Appeal:* refers to a request for a review of an adverse action (as defined above) relative to a Medicaid-covered service or non-Medicaid covered service with which the consumer does not agree.

*Mediation:* an impartial process where a neutral third-party mediator contracted through Oakland Mediation Center and funded by MDHHS will guide persons receiving mental health services through a confidential information sharing and decision-making process, ensuring that all parties have a voice and will work to reach a resolution agreeable to the individuals involved.

*Authorized Hearing Representative:* refers to an individual who stands in for (or represents) the consumer in the hearing process. The legal right to do so comes from one of the following sources (an individual who assists, but does not stand in for the beneficiary in the hearing process does not need to meet the criteria):

* Written authorization, signed by the beneficiary, giving the individual authority to act for the beneficiary in the hearing process;
* Court appointed guardian or conservator;
* Legal parent of a minor child;
* The beneficiary’s spouse, or a deceased beneficiary’s widow or widower, only when no one else has the authority to represent the beneficiary.

*Consumer:* refers to a person receiving services, or the individual’s authorized representative

(if applicable), or the individual’s parent (if they are a minor child), and/or guardian (if applicable). Also referred to as “Recipient” or “Customer”.

*Fair Hearing:* refers to an impartial review conducted by an impartial Administrative Law Judge of MDHHS regarding a consumer’s dissatisfaction with an MCN decision related to actions taken (see above).

*Grievance:*  refers to an expression of dissatisfaction about any matter relative to a Medicaid or non-Medicaid covered service, other than an action as defined above, which does not involve a rights complaint as defined below (e.g. activities provided, aspects of interpersonal relationships between a service provider and the consumer, etc).

*Local Resolution Process:* refers to a process by which the consumer may resolve grievances or appeals directly with the worker, supervisor or administrator. This may be initiated verbally or in writing.

*Legal Representative:* refers to an individual who has been appointed by the court to exercise specific powers over an individual who is a minor, legally incapacitated, or developmentally disabled.

*Person Centered Plan (PCP):* refers to a plan for treatment that includes clearly stated goals, measurable objectives and methodology that is derived from the assessment of the individual’s condition, the persons’ wishes and desires and considering health and safety factors. This plan is developed in the context of Person/Family Centered Planning.

*Primary Worker:* refers to the staff with primary responsibility for the coordination of the consumer’s services. This may be a Case Manager, Supports Coordinator, Family Support/Respite Services Worker, Outpatient Therapist or Homebased Therapist.

*Recipient:*  refers to a person receiving services, or the individual’s authorized representative (if applicable) or the individual’s parent (if they are a minor child), and/or guardian (if applicable). Also referred to as “Consumer”.

*Residential Facility:* refers to a specialized residential, 24-hour supervised, program where treatment is provided and is operated under contract with MCN.

*Rights Complaint:* Statements or allegations, verbal or written, by the consumer or anyone acting on his/her behalf that alleged a violation of a Mental Health Code protected right cited in Chapter 7 will be resolved through processes established in Chapter 7A of the Michigan Mental Health Code.

*Unreasonable Delay:* is defined as fourteen (14) or more calendar days for the delivery of services upon completion of the consumer’s PFCP.

Acronyms:

*MSHN* – Mid-State Health Network

*ADA* – Americans with Disabilities

*CMHSP* – Community Mental Health Service Provider

*MCN* – Montcalm Care Network

*MDHHS* – Michigan Department of Health & Human Services

*MMHC* – Michigan Mental Health Code

*OBRA* – Omnibus Budget Reconciliation Act

*PCP* – Person Centered Plan

*PIHP* – Prepaid Inpatient Health Plan

*RRO* – Recipient Rights Officer

1. Requirements

All Medicaid and Healthy Michigan Plan recipients have the following rights:

* 1. Receive information in accordance with CFR 438.10
	2. Be treated with respect and with due consideration for his or her dignity and privacy.

(In accordance to MDHHS contract section 3.4.2, Federal Regulation 42 CFR

438.206(c) (2), (b)(4), 45 CFR 160 and 164 (HIPAA Privacy) and Michigan Mental Health Code (330.1752&330.1753)

* 1. Receive information on available treatment options and alternatives, presented in a manner appropriate to the enrollee’s condition and ability to understand. (In accordance to MDHHS Contract section 6.3 and, Federal Regulations 42 CFR 438.10).
	2. Participate in decisions regarding his or her health care, including the right to refuse treatment. (In accordance with MDHHS contract sections 3.4, 6.3.3, 6.4.6, 6.8.6 and Federal Regulations 42 CFR 438
	3. Be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience, or retaliation as specified in other federal regulations. (In accordance with Michigan Mental Health Code 330.1752 Regarding Policies and Procedures and Federal Regulation 42 CFR 438.100
	4. Receive a copy of his or her medical records and request that they be amended or corrected as specified in 45 CFR 164.524 and 164.526. (In accordance with MDHHS Contract 6.3.3 and Federal Regulations 42 CFR 438.104
	5. Receive health care services in accordance with 438.206 availability of services, 438.207 adequate capacity, 438.208 coordination and continuity and 438.210 coverage and authorization. (In accordance with MDHHS contract 3.4.5, 3.4.6, MDHHS PCP Practice Guidelines, Federal Regulations 42 CFR 438.206, 208 and 210.
	6. Be free to exercise his or her rights and that the exercise of those rights does not adversely affect the enrollee’s services. (In accordance with Federal Regulations 42 CFR 438.100 (3c), 42 CFR 438.210
1. Education:

Customers and/or legal representatives will receive written and verbal education about all available options at various stages of treatment, including access screening, intake evaluations, annual planning meetings, interim treatment planning, and as requested. It will be provided in a language format needed by the individual to understand the content. Customers and/or legal representatives will also be informed that no retaliation will occur if they access the appeal, grievance, and/or informal dispute resolution processes.

All enrollees eligible for services will receive a Customer Handbook called “Your Guide to Services,” and all applicable customer orientation materials during their initial face to face contact with MCN, and then annually, or as requested. The handbook will refer enrollees to contact the Customer Services, if they have any questions or concerns regarding these rights.

1. Appeal:

Customers or legal representatives may request an appeal whenever a service is denied, suspended, reduced, terminated, or experiences an unreasonable delay of the start of services, when the action is taken at initial eligibility determination as an applicant, or when the action is outside of the treatment planning process as an established customer. All appeals will be managed by Customer Services.

1. Grievance:

Customers and/or legal representatives may file a grievance with Customer Services at any time regarding dissatisfaction with any aspect of service provision other than an adverse action or an allegation of a Recipient Rights violation. If the dissatisfaction is related to an adverse action, the customer and/or legal representative will be directly linked to the appeal process. If the dissatisfaction is related to a Recipient Rights violation, the customer and/or legal representative will be directly linked to the Recipient Rights process.

1. Recipient Rights Complaint:

Customers and/or legal representatives may file a recipient rights complaint any time that it is felt their rights, as defined in the MMHC or MDHHS substance abuse licensing rules, are violated.

1. Second Opinion Processes:

Customers and/or legal representatives may request a second opinion of the Executive Director if they would like reconsideration of a denial of psychiatric hospitalization and/or denial of mental health services.

1. Informal Conflict Resolution Processes:

Customers and/or legal representatives may seek conflict resolution from their primary care coordinators (i.e. case managers, support coordinators, therapists, etc.) and the care coordinator supervisors.

1. Michigan Department of Community Health Processes (MDHHS):

Customers and/or legal representatives may seek one of two processes available through MDHHS. For those customers with Medicaid or Healthy Michigan Plan, they may access the MDHHS State Fair Hearing process concurrently with other above processes in relation to adverse actions by the CMHSP or CA provider. For those customers without Medicaid, they may access the MDHHS Dispute Resolution Process only if they have exhausted local processes in relation to adverse actions by the CMHSP or CA provider.

1. Freedom from Retaliation and/or Discrimination:

Service providers who participate in an appeal, grievance, recipient rights, second opinion request, and/or informal conflict resolution request shall be free from discrimination and/or retaliation. Customers and/or legal representatives who access the appeal, grievance, Recipient Rights, second opinion, and/or informal conflict resolution processes shall be free from discrimination and/or retaliation.

AUTHORITIES:

* MDHHS Medicaid Managed Specialty Supports and Services Concurrent 1915(b)/(c) Waiver Program: Attachment P.6.3.2.1: The Appeal and Grievance Resolution Processes Technical Requirement, 2011.
* Michigan Mental Health Code (ACT 258 of the Public Acts of 1974 as amended)
* Michigan Department of Community Health - Non-pregnant Childless Adults Waiver (ABW) Section 1115 Demonstration Program
* Michigan Department of Community Health / Community Mental Health Services Programs Managed Mental Health Supports and Services Contract: Attachment C6.3.2.1: CMHSP local dispute resolution process
* Michigan Department of Community Health; Mental Health and Substance Abuse Program licensing rules, Recipient Rights, R 325.14301 - 325.14306.
* 42 CFR Chapter IV, Sub-part E, Sections 431.200 et seq
* 42 CFR Chapter IV, Sub-part F, Sections 438.402 to 424
* Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112)