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| **MONTCALM CARE NETWORK DRAFT**  **611 North State Street, Stanton, MI 48888** | **PROCEDURE** |
| SUBJECT: Grievance and Appeals | Section: 8800A |
| Effective Date: May 6, 1998 | Revised Date: April 26, 2023 |

Any consumer (including primary consumer, guardian if applicable, parent in the case of a minor child, and/or authorized representative if applicable) may file a grievance or appeal regarding their dissatisfaction with services, service decisions, or service providers, or service denial, unreasonable delays, reduction, termination, or suspension. Consumers may also have a service provider, acting on their behalf (and with the consumer’s written consent), file an appeal and/or a request for a Fair Hearing or Alternative Dispute Resolution. Consumers may pursue their complaints/grievances by utilizing any or all of the following options (either verbally or in writing):

* Local Resolution Process
* Second Opinion
* Mediation
* Office of Recipient Rights (for mental health code protected rights)
* MDHHS Medicaid Fair Hearing (Medicaid recipients only)
* MDHHS Alternative Dispute Resolution (Non-Medicaid recipients only, and only after all local processes have been exhausted)

Consumers are given reasonable assistance to complete forms and to take other procedural steps to file a grievance, appeal and/or State Fair Hearing request. This includes, but is not limited to, providing interpreter services and toll-free numbers that have adequate interpreter capability.

A contracted service provider, in addition to the consumer, must be provided notice of any decision by MCN to deny a service authorization request or to authorize a service in an amount, duration or scope that is less than requested. The notice of action to the provider is not required to be in writing.

# ADVANCE & ADEQUATE NOTICE OF ADVERSE BENEFIT DETERMINATION:

1. If services are requested but denied through the access department as a result of not meeting medical necessity, severity of illness, and/or intensity of service criteria, the access department staff will provide Adequate Notice through a Denial of Service Letter).
2. When it is determined that a covered service is suspended, reduced, or terminated, staff shall provide the consumer with one of the following forms in keeping with Medicaid and MDHHS requirements:
   * Adequate Notice for Medicaid Recipients Form
   * Advance Notice for Medicaid Recipients Form
   * Adequate Notice for Non-Medicaid Recipients For
   * Advance Notice for Non-Medicaid Recipients Form
3. Notices will be provided in the language or format needed by the individual to understand its content and in accordance with the table below:

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| **Action** | **ADVANCE**  **Notice** | **ADEQUATE**  **Notice** | **Time frame for Notice** |
| Denial of Service Request |  | **X** | At the time of the decision |
| PCP developed |  | **X** | At the time of the PFCP |
| Reduction, Suspension, or Termination of Service(s) currently  being received (PFCP/Addendum) | **X** |  | 10 calendar days BEFORE the action or 30 calendar days BEFORE the action if open to psychiatric services |
| Denial of payment for a service |  | **X** | At the time of the decision |
| Standard Authorization Decision  that denies/limits service(s) requested |  | **X** | Within 14 calendar days of the request |
| Expedited/Quickened  Authorization Decision that denies/limits services requested |  | **X** | Within 72 hours |
| Change in Medical Services by MCN Physician (for Physician  services only) |  | **X** | At the time of the decision |
| Consumer is deceased, admitted to an institution and no longer Medicaid eligible, indicated in writing services were no longer wanted, whereabouts were unknown with no forwarding address, was accepted for Medicaid services by another jurisdiction, or the date of action occurred in less than 10 calendar  days |  | **X** | At the time of the decision |

If the consumer receives notice and disagrees with the action, he/she may request an informal resolution; request a formal Local Appeal Resolution, file a Recipient Rights complaint and/or request a MDHHS Fair Hearing (Medicaid) or MDHHS Alternative Dispute Resolution (Non- Medicaid). A Fair Hearing may be requested in lieu of or in addition to all of the other options. Alternative Dispute Resolution may only be accessed after all local resolution processes have been exhausted.

# LOCAL RESOLUTION PROCESS:

1. Any consumer, his or her representative or the legal representative of the estate of a deceased consumer, may request the local resolution process by calling Customer Services.
2. Customer Services staff logs the request in Mont-e and sends an acknowledgement letter to the consumer.
3. Customer Services staff will involve the appropriate resources to investigate the complaint (i.e. Recipient Rights Officer, Primary Worker, Supervisor, etc.) and resolve the issue.
4. The consumer is provided with:
   * reasonable opportunity to present evidence and allegations of fact or law in person as well as in writing;
   * opportunities before and during the appeals process to examine the consumer’s case file, including medical records and any other documents or records considered during the appeals process;
   * opportunity to include as parties to the appeal the consumer and his or her representative or the legal representative of a deceased consumer’s estate.
5. Once a resolution is determined, Customer Services sends a disposition letter to the consumer no more than thirty (30) calendar days after the receipt of the appeal. A disposition letter is provided to the consumer in no more than three (3) working days after receipt of the appeal, if an expedited appeal has been requested. The disposition notice shall include an explanation of the results of the resolution and the date the resolution was completed.
6. The consumer has the right to request an expedited appeal if waiting the standard time of thirty (30) calendar days for the appeal decision would seriously jeopardize their life, health, or ability to attain, maintain, or regain maximum function. The consumer’s provider may also ask for an expedited appeal on their behalf. An expedited appeal will automatically be granted if the consumer’s doctor supports the request. If an expedited appeal is requested without the support from a doctor, Customer Services will decide if the request requires an expedited appeal. If the request is approved, Customer Services will give the consumer a disposition letter within seventy- two (72) hours of receiving the appeal. If an expedited appeal is not granted, the consumer will receive a disposition letter within thirty (30) calendar days.
7. If a request for an expedited appeal is denied, Customer Services will make reasonable efforts to provide prompt oral notice of the denial to the consumer. A follow-up written notice will be sent to the consumer within two (2) calendar days. The consumer has sixty (60) calendar days from the date of the notice of action to request a local appeal. The denial of an expedited appeal transfers the appeal to the standard resolution time frame.
8. Customer Service may extend the resolution and notice timeframe by up to 14 calendar days if the consumer requests an extension, or if the MCN shows to the satisfaction of the State that there is a need for additional information, and how the delay is in the consumer’s interest. If MCN extends resolution/notice timeframes, they must make reasonable efforts to give the consumer prompt oral notice of the delay; within two calendar days give the consumer written notice of the reason for the decision to extend the timeframe and inform them of the right to file a grievance if they disagree with the decision; resolve the appeal or grievance as expeditiously as the person’s served health condition requires and not later than the date the extension expires.

# SECOND OPINION (see also Procedure #8913A):

1. Any consumer, or his or her representative may request a second opinion by speaking to Customer Services or sending a written request for a second opinion to MCN
2. Customer Services will notify the Montcalm Care Network (MCN) Executive Director or designee, as to the nature of the request.
3. Customer Services will involve the appropriate internal resources to provide the second opinion.
   1. Hospitalization & Crisis Residential: (MCL 330.1409 & 330.1498(e)):
      1. If a consumer is screened for inpatient psychiatric hospitalization or crisis residential services and is denied access to either, they may request a second opinion (see Policy #8913).
      2. The request for the second opinion shall be processed in accordance with of the Mental Health Code:
         1. Within three (3) days of the request for a second opinion (excluding Sundays and legal holidays), the Executive Director shall arrange for an additional evaluation by a psychiatrist, other physician or licensed psychologist not involved in the previous level of determination.
         2. If the conclusion of the second opinion is different from the initial decision, the Executive Director, in conjunction with the Medical Director, shall make a determination based upon the clinical information available within three (3) business days.
         3. Customer Services is notified as to the results of the second opinion.
         4. The consumer is notified of the results of the second opinion in writing.
   2. All Other Services: (MCL 330.1705):
      1. The request for the second opinion shall be processed in compliance with §330.1705 of the Michigan Mental Health Code. Upon request for a second opinion regarding services, the Executive Director will obtain a second opinion from a physician, licensed psychologist, master’s level psychologist, master’s level social worker, or registered professional nurse not involved in the previous level of determination. If the conclusion of the second opinion determines the individual to have a serious mental illness, serious emotional disturbance, or developmental disability, or if the individual is experiencing an emergent/urgent situation, mental health services will be provided.
      2. The Executive Director (or designee) will complete their determination within the following time frames:
         1. Standard Determinations: MCN staff has fourteen (14) calendar days from the receipt date to make a determination and notify the consumer of the decision.
         2. (Consumer requested) Expedited Determinations: MCN staff has 72 hours from receipt date to make a determination and notify the consumer of the decision.
         3. Customer Services is notified as to the results of the second opinion
         4. The consumer is notified of the results of the second opinion in writing.

**RECIPIENT RIGHTS COMPLAINTS** (see also Policy #8901)**:**

If Customer Services staff are made aware, or if they suspect that a rights violation has occurred, they will:

1. Immediately contact the MCN Recipient Rights Officer.
2. Complete (or assist the consumer in completing) a complaint form (MDHHS #0030).
3. Forward the completed complaint form to the Recipient Rights Officer.

# MEDICAID FAIR HEARING PROCESS:

1. All Medicaid beneficiaries will be informed of their right to access the Fair Hearing process. Information on how to access this is provided in the MDHHS “Medicaid Fair Hearing Brochure” and includes:
   1. The Right to a State Fair Hearing
      * The method of obtaining a hearing
      * The rules that govern representation at the hearing
      * The timeline to request a hearing (120 days) following written notification of action.
   2. The Right to file grievances and appeals
      * The requirements and time frames for filing a grievance or appeal
      * The availability of assistance in the filing process
      * The toll-free number that beneficiaries can use to file a grievance or appeal by phone
   3. The Right to continued benefits when requested by the beneficiary. Benefits may continue if he/she files an appeal within ten (10) days of notice for action, or if the request is for a Fair Hearing within ten (10) days of the mailing the notice of disposition.
   4. Services previously authorized are continued while an appeal and/or a State Fair Hearing are pending, if the consumer requests, and if reduction, termination, or suspension of a previously authorized service is involved and the period covered by the authorization has not expired. The beneficiary may be required to pay the cost of services furnished, if the final decision is adverse to the beneficiary.
2. MCN staff shall not limit or interfere with the applicant’s or consumer’s right to make a request for a hearing and will assist the consumer in submitting the appeal when requested.
3. Consumers of service or service providers who assist a consumer in the dispute resolution process, shall be protected from discrimination and/or retaliation.
4. MCN must reinstate and continue services until a hearing decision if any of the following occurs:

* Action was taken without the required Advance Notice
* The consumer requests a hearing within ten (10) calendar days of the mailing of the action
* MCN determines that the action resulted from factors other than the application of Federal or State law or policy

1. A consumer may request a Fair Hearing by filling out the MDHHS Hearing Request Form (MDHHS-0092) with assistance from MCN staff, if requested.
2. A Fair Hearing Officer will be designated by the Executive Director, whose responsibilities will include:

* Serving as the MCN representative.
* Scheduling a private room and ensuring that all the equipment is available for the Administrative Law Judge to conduct the Fair Hearing.
* Contacting the Administrative Law Judge if it is anticipated that someone critical to the case will be late for the hearing.
* Ensuring that all witnesses relevant to the case and all documents supporting MCN’s case are available at the hearing.

1. An Administrator or Legal Counsel shall be designated by the Executive Director as the individual representing MCN at the Fair Hearing whose responsibilities will include:

* Completing a Hearing Summary Report (MDHHS-0367). This Report and all relevant documents to be entered into evidence will be submitted to the Administrative Law Judge ten (10) days prior to the Fair Hearing date. A copy of these materials will be forwarded to the consumer prior to the Fair Hearing.
* Assisting the consumer (when requested) with contacting the Administrative Tribunal to reschedule the Fair Hearing meeting if the consumer cannot attend the scheduled Fair Hearing.
* Making the opening and closing statements representing MCN’s position, calling and questioning the witnesses relevant to the case, and ensuring that all MCN evidence is presented for consideration by the Administrative Law Judge.

1. The Primary Worker is responsible for:

* Assisting the consumer with transportation needs if requested so that the consumer can attend the hearing.
* Modifying the PFCP when the hearing results are available and when applicable.

1. The Administrative Tribunal will notify MCN and the consumer as to the date of the Fair Hearing.
2. In instances where medical issues are involved, the Administrative Law Judge may determine that a medical assessment other than that completed by the original treating physician is necessary. In these cases, MCN will be responsible for obtaining the additional assessment at no expense to the consumer. The assessment will be maintained by MCN in the consumer’s case record.
3. The consumer may withdraw a request for a Fair Hearing in writing by submitting a Hearing Withdrawal Form (MDHHS-0093). MCN staff will ensure the consumer understands that, at no point, are they required to withdraw their request for a Fair Hearing. Only the consumer or their legal representative can withdraw the Fair Hearing request.
4. If MCN’s action is supported by the Fair Hearing decision, MCN may seek reimbursement from the consumer for the cost of any services provided to the consumer during this period of time, up to the consumer’s ability to pay (see also Policy #6355).

# MDHHS ALTERNATIVE DISPUTE RESOLUTION PROCESS:

(For Non-Medicaid Consumers and Consumers Receiving Medicaid Alternative Services)

1. Consumers must begin with the local resolution process first. The consumer is entitled to the MDHHS Alternative Dispute Resolution Process only after completion of the local appeal resolution process. (Refer to the “Local Resolution Process” section of this procedure).
2. The Appeal Disposition Letter or Second Opinion Action Notice to a consumer will include information on the consumer’s right to request access to the MDHHS Alternative Dispute Resolution process. This notice will also include information regarding the consumer’s right to file a Recipient Rights Complaint alleging a violation of the right to treatment suited to condition.
3. Consumers interested in accessing the Alternative Dispute Resolution Process must request a review in writing within five (5) business days of the written outcome of the Local Appeal Resolution or Second Opinion. The request should include the following (as applicable):
   * Name of consumer
   * Name of Guardian legally empowered to make treatment decisions or parent of minor child
   * Daytime phone number where the consumer, guardian legally empowered to make treatment decisions, or parent of a minor child may be reached
   * Name of the Agency/Program where services have been denied, suspended, reduced or terminated
   * Description of the service being denied, suspended, reduced or terminated
   * Description of the adverse impact on the consumer caused by the denial, suspension, reduction, or termination of service
4. The Executive Director or designee will work with the MDHHS representative (from the division of Program Development, Consultation, and Contacts) to complete the Alternative Dispute Resolution process.
5. The MDHHS representative will refer the dispute to the appropriate MDHHS Bureau of Community Mental Health Services representative for contractual action within one (1) business day if the denial, suspension, termination, or reduction of services and/or supports will pose an immediate and adverse impact upon the individual’s health and safety. Contractual action will be taken consistent with the applicable provisions of the MDHHS/CMHSP contract. This referral will be communicated in writing to the consumer, guardian, or parent of a minor child within twenty-four (24) hours.
6. The assigned MDHHS representative will complete his/her review within fifteen (15) business days in cases that do not pose an immediate danger to the individual’s health and/or safety. Written notice of the resolution shall be submitted to the consumer, his/her guardian, or parent of a minor.

# DENIAL OR TERMINATION OF FAMILY SUPPORT SUBSIDY (see also procedure #8147C):

1. The responsible MCN employee will review all applications for the Family Support Subsidy and promptly approve or deny the application.
2. MCN staff will provide written notice to the applicant of the action and the right of the parent or guardian to administratively appeal the decision if it is adverse.
3. If the application is denied due to insufficient information on the application form or the required attachments, the MCN staff shall identify the insufficiency in the written notification.
4. If an application for a Family Support Subsidy is denied or terminated by MCN, the parent or legal guardian will be informed of their right to request a Local Resolution Process.
5. The request for a Local Resolution Process must be submitted in writing within two (2) months of the notice of termination or denial. MCN staff will provide assistance if requested by the consumer.
6. A Local Resolution Process will be conducted in the same manner as provided for contested case hearings under chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws.

# RECORDS:

Records of all notices grievances, appeals, and complaints are logged into Mont-e Grievances and Appeals database.