

Grievance & Appeals Training for Provider Staff

Community Mental Health Partnership
of Southeastern Michigan

CJ Witherow

Fair Hearings Officer for CMHPSM

Purpose of the G&A Training

This training will explain both the grievance process and the appeals process that are available to the consumers we serve.

The training provides basic information about consumers' rights to grievances and appeals. So you can help consumers understand their rights and the places/people that can give them more help if they need it.

Grievance & Appeals

Introduction

Since the late 1990s, both the federal government and the state of Michigan have laws that give consumers, guardians, or parents of minors the right to challenge when something happens with their services and they disagree with it.

The federal government set up these rights for consumers with Medicaid.

The state set up similar rights for people who do not have Medicaid.

These rights apply to the consumers we serve in the community mental health and substance abuse systems

Grievance & Appeals Policy

The purpose of the grievance & appeals processes is to give consumers ways they can:

- 1) Ask for and receive a second opinion.
- 2) Ask for an appeal if the services they want are denied, limited, or taken away.
- 3) File a grievance if they are not happy with other parts of their services/supports.

All staff, students, and volunteers in our system and our affiliation are responsible for making sure consumers have these rights and have the information they need to act on these rights.

Grievance & Appeals

General Information

- ◆ Providers or consumers who file a grievance or appeal are free from discrimination or retaliation.
- ◆ The grievance and appeal processes support resolving people's concerns & improve the quality of services.
- ◆ The goal is to resolve concerns **locally** as much as possible.
- ◆ Consumers need to be informed of their right to file a grievance or appeal at any time they wish while receiving services.
- ◆ Consumers must be given **reasonable assistance** in filing an appeal or grievance. They must be provided with things like interpreters, toll free numbers, TTY/TTD.

Grievance and Appeal Options

There are three basic options*** consumers have to express concerns with their services:

- ◆ Second Opinion
- ◆ Grievance (always local)
- ◆ Local Level Appeal (called a Local Dispute Resolution Process for both Medicaid and Non-Medicaid consumers)
- ◆ State Level Appeal (called a Medicaid Fair Hearing for Medicaid consumers and an Alternative Dispute Resolution Process for Non-Medicaid consumers)

***These options would occur when their concerns are not related to a possible violation of their rights that the Office of Recipient Rights would handle

Second Opinions

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Second Opinion

- ◆ Consumers must be offered a **Second Opinion** when they are denied being able to enter mental health services at a CMH, or when they are denied hospitalization. This is a requirement of the Michigan Mental Health Code.
- ◆ A second opinion must be provided by a physician, licensed psychologist, registered professional nurse, master's level psychologist, or master's level social worker.

Second Opinion (continued)

- ◆ Consumers have 30 days to request second opinion
- ◆ For denial of service, 2nd opinion must be done within 5 business days
- ◆ For denial of hospitalization, 2nd opinion must be done within 3 working days (or in 24 hours if emergency)
- ◆ A 2nd Opinion is given by the CMH at no cost to consumer

Grievances

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Grievance

A **Grievance** is a consumer's ability to express when they are not happy with some part of their services or supports,

AND

it is not related to something they could appeal or a protected right that would be handled by Recipient Rights.

Examples of a Grievance

- ◆ “I don’t like the lobby where I get my services – it’s filthy and gross”
- ◆ “I waited a long time to be seen”
- ◆ “There’s a consumer in my group who takes over conversations and swears a lot; it makes me uncomfortable and I don’t feel like the counselor/ staff is dealing with it.”
- ◆ “I don’t like the way my PCP meeting went – I feel like it was rushed and I don’t feel like all my questions got answered.”

Grievance Process

- ◆ A grievance can be filed by a consumer, guardian, or parent of a minor
- ◆ A grievance can be filed verbally or in writing
- ◆ The grievance process is only done on the local level by the local CMH
- ◆ There is no time limit on when a grievance can be filed
- ◆ Grievances are handled by the Customer Services department of your local CMHA
- ◆ Customer Services must complete the grievance in 60 days & give a written response

Appeals

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Appeals

An appeal is a consumer's request to review a decision that has been made about their services/service request. An appeal can happen when:

- ◆ A consumer is denied a service they asked for; OR
- ◆ A consumer does not get the amount of services they asked for, and they are not satisfied with why they didn't get everything they asked for; OR
- ◆ It takes more than 14 days to answer a consumer's request for a service; OR
- ◆ It takes longer than 14 days to provide a service to a consumer when they have been approved for the service (unless the consumer agrees to a different start date); OR
- ◆ A consumer already gets a service and it is being suspended, reduced, or ended.

Consumer's Appeal Rights

- ◆ Federal law gives Medicaid consumers appeal rights for all Medicaid services
- ◆ The state of Michigan gives similar appeal rights for all Non-Medicaid consumers
- ◆ Consumers can ask for either an appeal to the local CMH or an appeal to the state.
- ◆ Medicaid consumers can ask for a local or state appeal in any order.
- ◆ Non-Medicaid consumers must go to a local appeal with the CMH before the state will hear their case.

Consumer's Appeal Rights

- ◆ Only a consumer, guardian, or parent of a minor can file an appeal
- ◆ They have 90 days to file an appeal once they get notice
- ◆ They can ask someone to be their **Authorized Hearing Representative (AHR)**. This can be anyone they choose. The AHR will present their case at the appeal. The consumer must say in writing who they choose as their AHR. They can still come to the hearing with their AHR.
- ◆ Consumers have the same appeal rights with Medicaid HMO's, and FIA/DHS.

Access to Record

Consumers have the right to access their record in order to prepare for their appeal.

They can have copies of their record without being charged for it. If the amount to be copied would be a financial or cost to the agency, or take a lot of staff time, the agency may try to charge for it. You can help the consumer by contacting the Office of Recipient Rights to see if there should be a charge.

Provider's Involvement in Appeals

Providers can be involved in appeals in two ways:

1) They can appeal, on behalf of a consumer, any utilization review decision made by the WCHO or the CMH.

Providers can also request an **expedited appeal** (a faster appeal) if a consumer's life, health, or safety is in jeopardy.

2) With written permission by a consumer, guardian, parent of a minor, a provider can be an **Authorized Hearing Representative** on behalf of a consumer.

**Providers may also be requested to attend appeals to give information/testify at the local or state level appeal.

Providing Notice of a Consumer's Right to Appeal

Giving Notice

Whenever something is going to happen with a consumers' services/supports (this is called an "action"), that consumer (and the guardian or parent if it applies) must be given a written notice of what is happening.

Which ever agency is taking that "action" is the one required to give notice. Most of the time this will be the Community Mental Health Agency, the WCHO, or the Coordinating Agency.

When Consumers Will Get Notice of Their Appeals Rights

Consumers will get notice when they are approved for services (including during their Person Centered Plan) and when they are denied services in any of the ways described earlier.

Consumers only need to do something with the notice if they disagree with what is happening with their services.

If they are okay with what's happening with their services, they don't have to do anything

Local Appeal Process



Local Dispute Resolution Process (Local Level Appeal)

A local appeal happens at the local CMH/CA.

The process for a local appeal is called a Local Dispute Resolution Process.

- ◆ A local appeal is available to all consumers, guardians, or parent of a minor
- ◆ They can give written permission for an **Authorized Hearing Representative** to request an appeal or represent their case.
- ◆ Consumers have 45 days from the date of notice to file a local appeal
- ◆ Medicaid recipients can request a local or a state level appeal at any time
- ◆ Non-Medicaid recipients **must** go through the local appeal before they can take their case to a state-level appeal

Local Dispute Resolution Process

- ◆ When they are presenting their case or giving information to support their case, the consumer can bring who ever they want. Sometimes they may bring provider staff.
- ◆ The consumer meets with the local CMH staff who have the ability to make decisions for the CMH, but were not involved in the case.
- ◆ The goal of a local appeal review is to reach an agreement that is acceptable to all parties.
- ◆ The consumer/guardian/parent of a minor will get a written outcome of the local appeal within 10 days after meeting.

State Level Appeal Processes

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Types of State Level Appeals

There are two types of state level appeals:

1) One for **Non-Medicaid** consumers, called an Alternative Dispute Resolution Process

AND

2) One for **Medicaid** consumers, called an Administrative Hearing of a Medicaid Fair Hearing

Alternative Dispute Resolution Process (Non-Medicaid State Appeal)

- ◆ The state gives non-Medicaid consumers state-level appeal rights through the DCH Alternative Dispute Resolution Process.
- ◆ This type of appeal can **only** happen *after* they have had a Local Dispute Resolution Committee (LDRC) meeting.
- ◆ The state level appeal is reviewed by staff at the state's Contract Department that manages all contracts between the state and Community Mental Health Authorities (CMHAs).
- ◆ The state Contract Department makes an objective review of the appeal and sends a decision in writing to both the consumer and the CMHA.

Administrative Hearing (Medicaid State Appeal)

- ◆ Consumers with Medicaid can request a right to a Medicaid **fair hearing** before an Administrative Law Judge.
- ◆ The Administrative Law Judge (ALJ) formally hears each party present their case/argument and then makes a decision.
- ◆ A hearing can either happen over the phone (the judge is on the phone), or at a hearing with the judge present, in-person.
- ◆ At an in person hearing the judge comes directly to the CMH/county where the appeal-able action occurred to hear the case.
- ◆ A consumer must ask for an in person hearing; if they don't request an in person hearing they will get a phone hearing.

Administrative/Medicaid Fair Hearing Process

- ◆ The Tribunal (the department that manages hearings at the state) sets the schedule for when a hearing will take place.
- ◆ Only the person who requested a hearing can ask to have the date changed, or cancel their hearing if they decide they don't want a hearing.
- ◆ The judge completes an impartial review of the action taken by the local CMH or Substance Abuse agency & gives written decision.
- ◆ The judge will send his/her decision in writing to both the consumer and the CMH, Coordinating Agency, or substance abuse agency.
- ◆ The judge's decision is legally binding for both parties.
- ◆ As with all types of appeals, consumers, guardians, or parents of minors can have an **Authorized Hearing Representative** request/present their case on their behalf.

Role of Regional Fair Hearings Officer

- ◆ To represent all four affiliate CMHA's at all state level hearings; present the case before the judge.
- ◆ To decide if or when a case would go to hearing, or if it needs to be resolved in a different way.
- ◆ To review a case and write a hearing summary to present before the judge on behalf of the CMHA
- ◆ To prepare staff who will testify at hearing
- ◆ To provide training and consultation to all staff as needed
- ◆ To chair Regional G&A Committee

Where to Go for Help or for More Information

The following departments in your local CMH system can give you or consumers more information on grievance & appeal rights:

The Fair Hearings Officer (CJ Witherow) or your local G&A representative (see the next slide)

Customer Services

Office of Recipient Rights

CJ Witherow

Regional Fair Hearings Officer

(734) 544-6819

witheroc@ewashtenaw.org

For information or assistance, you can
also consult your local G&A
representative:

Jan Baltzell – Washtenaw

Larry Newberg- Livingston

Bridgitte Gates – Monroe

Melinda Perez – Lenawee

Or your local Customer Services Department