

## **CMHSP LOCAL DISPUTE RESOLUTION PROCESS**

### **I. SUMMARY BACKGROUND**

All consumers have the right to a fair and efficient process for resolving local disputes and complaints regarding their services and supports managed and/or delivered by Community Mental Health Services Programs (CMHSPs) and their provider networks. A consumer of or applicant for public mental health services may access several options to pursue the resolution of local disputes and complaints. These options are defined through the Recipient Rights requirements referenced in the Michigan Mental Health Code (hereafter referred to as the Code) for all recipients of public mental health services, and the MDHHS/CMHSP contract. [*Additional options for Medicaid beneficiaries are explained in the Appeal and Grievance Technical Requirement located in Attachment P.6.3.1.1 of the MDHHS contracts with the Pre-paid Inpatient Health Plans (PIHPs).*] It is important to note that a consumer receiving mental health services and supports may pursue his/her dispute through the local appeals or grievance processes described below in this attachment or the consumer may pursue his/her complaint through the Recipient Rights process referenced in the next paragraph. The intent here would be to not duplicate processes.

Chapters 7, 7a, 4 and 4a of the Code describe the broad set of rights and protections for recipients of public mental health services as well as the procedures for the investigation and resolution of recipient rights complaints. For details on the Recipient Rights processes refer to C6.3.2.5. For Family Support Subsidy appeals refer to Attachment C6.3.2.2.

For the purposes of this attachment, the focus will be on those disputes related to an “action” the denial, reduction, suspension or termination of services and supports or a “grievance” which relates to the general satisfaction with services and/or the process, for the non-Medicaid consumer. Specifically, the purpose of this document is to provide operational guidance to CMHSPs to meet the requirements of the MDHHS/CMHSP contract regarding grievance and local appeal systems for consumers who are not Medicaid eligible, contained in Section 6.3.2.1 - CMHSP Local Dispute Resolution Process.

All consumers of public mental health services will receive notice of their rights and an explanation of the local dispute processes. This attachment in no way requires the exhaustion of local dispute or alternative dispute resolution processes prior to the filing of a recipient rights complaint pursuant to Chapter 7 and 7a of the Code.

### **II. UNDERLYING VALUES AND PRINCIPLES**

Properly structured local dispute processes for consumers should promote the resolution of concerns, as well as support and enhance the overall goal of improving the quality of care. The local dispute processes should be:

- Timely
- Fair to all parties
- Administratively simple

- Objective and credible
- Accessible and understandable
- Cost and resource efficient
- Subject to quality review

In addition, the process should:

- Not interfere with communication between consumers and his/her CMHSP service provider(s).
- Assure that service providers who participate in the local dispute process, on behalf of consumers should be free from discrimination or retaliation.
- Assure that consumers who file local disputes should be free from discrimination or retaliation.

### **III. DEFINITIONS**

- A. Local dispute – For the purposes of this attachment, a local appeal or local grievance. (Recipient rights complaints would be referred to that process)
- B. Local appeal – dispute related to the denial, suspension, termination or reduction of services and/or supports
- C. Local grievance – An expression of dissatisfaction about any matter, service related, other than an action.
- D. Expedited review – The review of an appeal that must be done within 3 working days.
- E. Recipient Rights complaint - a written or verbal statement by a recipient or anyone acting on behalf of a recipient alleging a violation of a Mental Health Code protected right cited in Chapter 7, which is resolved through the processes established in Chapter 7A.

### **IV. REQUIRED LOCAL DISPUTE RESOLUTION PROCESS**

- A. The CMHSP must have a local dispute resolution process, to address decisions by the CMHSP and/or its provider network that impact the consumer's access to, or satisfaction with, services and supports.

Each CMHSP must have a written description of its local dispute resolution process available for review by MDHHS. The description must reflect all of the requirements below and indicate if the local dispute process should be used or if it is more appropriate that the CMHSP ORR system is to be used.

- B. The local dispute resolution process at a minimum must possess the following characteristics:
  - 1. Provides for a timeframe in which a consumer has to initiate a local dispute – thirty (30) days from the time Notice is received (for reduction, suspension or termination)
  - 2. Provides for prompt resolution; 45 calendar days for local appeals and 60 calendar days for local grievances

3. Assures the participation of individuals with the authority to require corrective action. Someone with the authority to act upon the recommendations of the dispute resolution process must be involved. This would include the executive director or designee.
4. Assures that the person reviewing the local appeal or local grievance will not be the same person(s) who made the initial decision that is subject to the dispute.
5. Provides a mechanism for expedited review of a local appeal involving denial of psychiatric hospitalization.  
*NOTE: Applicants and consumers are entitled to a second opinion, under the Code, for this same type of denial. Please see C3.1.1.*
6. Provides the consumer with written notification of the local dispute resolution process decision and subsequent avenues available to the consumer if he or she is not satisfied with the result, including the right of consumers without Medicaid coverage to access the MDHHS Alternative Dispute Resolution process after exhausting local dispute resolution procedures.
  - a. Provides reports of local disputes, i.e., local appeals and grievances, periodically to the CMHSP governing body.
  - b. Reports of local disputes will be reviewed by the CMHSP Quality Improvement Program to identify opportunities for improvement.
  - c. Records of local disputes must be made available to the MDHHS for review upon request.

## **V. SPECIFIC PROCESSES**

### **A. Expedited Processes for Psychiatric hospitalization Denials:**

1. In the event that a physician or licensed psychologist, external to the CMHSP, attests in writing that the individual meets the definition of an emergency situation as defined in Section 100a (29(a) or (c) of the Code, the CMHSP must assess the individual to determine if he/she meets the inpatient admission certification criteria, as defined in the Code. If psychiatric inpatient services are denied, the individual his/her guardian, or his/her parent in the case of a minor child, must be informed of their right to the Local Dispute Resolution Process, with the decision from that process to be reached within three (3) business days.
2. If the CMHSP does not recommend hospitalization and an alternative service requested by the individual, his/her guardian, or in the case of a minor child, his/her parent is denied, the CMHSP must inform the individual, his/her guardian, or in the case of a minor child, his/her parent, of his/her ability to access the Local Dispute Resolution Process.

3. The CMHSP must communicate the decision of the Local Dispute Resolution Process and inform the individual, his/her guardian, or his/her parent of a minor child of the right to access the MDHHS Alternative Dispute Resolution Process, if not satisfied with the outcome of the local dispute resolution process.

B. Processes for Suspension, Reduction or Termination of Existing Services:

1. Whenever a currently authorized service or support or currently authorized services are to be suspended, terminated, or reduced by the CMHSP or its provider network provider, (whether through a utilization review (UR) function, or when the action is taken outside of the person-centered planning process when the CMHSP does not have an identifiable UR unit), the CMHSP must inform the consumer with written notification of the change at least 30 days prior to the effective date of the action. The notice shall include:
  - a. A statement of what action the CMHSP intends to take;
  - b. The reasons for the intended action;
  - c. The specific justification for the intended action;
  - d. An explanation of the Local Dispute Resolution Process

Actions taken as a result of the person-centered planning process or those ordered by a physician are not considered an adverse action.

2. In the event that the individual utilizes the Local Dispute Resolution Process the CMHSP must communicate in writing the outcome of that process to the individual. That communication must include notification to the person of his/her right to request access to the MDHHS Alternative Dispute Resolution Process, after having exhausted the local appeal process, by sending such request to:

Department of Health and Human Services  
Division of Contracts & Quality Management  
Bureau of Specialty Behavioral Health Services  
ATTN: Request for MDHHS Level Dispute Resolution  
400 S. Pine St., 6<sup>th</sup> Floor  
Lansing, MI 48913

Access to the MDHHS ADR process does not require agreement by both parties but may be initiated solely by the individual.

The individual has 10 calendar days from the written notice of the Local Dispute Resolution Process outcome to request access to the MDHHS Alternative Dispute Resolution Process.

C. MDHHS responsibilities regarding the Alternative Dispute Resolution Process for persons not receiving Medicaid.

1. MDHHS shall review all requests within two (2) business days of receipt.
2. If the MDHHS representative, using a “knowledge of mental health services access” standard believes that the denial, suspension, termination or reduction of services and/or supports will pose an immediate and adverse impact upon the consumer’s health and safety, the issue is referred within one (1) business day to the Community Services Division within Mental Health and Substance Abuse Services for contractual action consistent with Section 8.0 of the MDHHS/CMHSP contract.
3. In all other cases, the MDHHS representative shall attempt to resolve the issue with the consumer and the CMHSP within 15 business days. The recommendations of the MDHHS representative are non-binding in those cases where the decision poses no immediate impact to the health and safety of the consumer. If MDHHS agrees with the CMHSP the consumer may be required to pay for the extended services.