



Grievance & Appeals Training for General Staff

Community Mental Health
Partnership of Southeastern
Michigan

Purpose of the G&A Training

This training is general information for Non-clinical staff who's job responsibilities do not include assessing eligibility or need for CMH services, recommending services, developing an individual plan of service, service authorization, or service denials for consumers. Clinical staff who have these roles must take a different training

This training will explain both the grievance process and the appeals process that are available to the consumers we serve. and criteria CMHs need to use in making service decisions

The training provides basic information about consumers' rights to grievances and appeals, so that you will be able to help consumers understand their rights and lead them to 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 whenever 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 all those we serve in the community mental health system of care (MH, ID/CI/DD, SUD)

Grievance & Appeals Policy

The purpose of grievance & appeals processes is to provide consumers with ways they can:

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

All staff, students, and volunteers in our system and our region 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.
- Grievances and appeal process need to 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 service decisions and their right to file 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 options*** consumers have to express concerns with their services:

1. Second Opinion
2. Grievance (always local)
3. Appeal
 - 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 Opinion

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/legal reps 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

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

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 doesn't get the amount of services they asked for (and aren't satisfied with why they didn't get everything they asked for); OR
- It takes longer than 14 days to answer a consumer's request for a service; OR
- It takes longer than 14 days in providing a service to a consumer when they've been approved for the service (unless the consumer agrees to a different start date); OR
- A service a consumer is already getting is suspended, reduced, or terminated.

Consumers' Appeal Rights

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

Consumers' 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 also ask someone to be their **Authorized Hearing Representative (AHR)**. This can be anyone they choose, who will present their case at the appeal on the consumer's behalf. They must put in writing who they choose as their AHR. They can still come to the hearing even with an AHR.
- Consumers have the same appeal rights with Medicaid HMO's, and DHHS.

Access to Record

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

They should be able to have copies without being charged in preparing for their appeal. If the amount to be copied would be a financial/staff cost to the agency, please contact the Office of Recipient Rights/your supervisor for further consultation on whether there should be a charge.

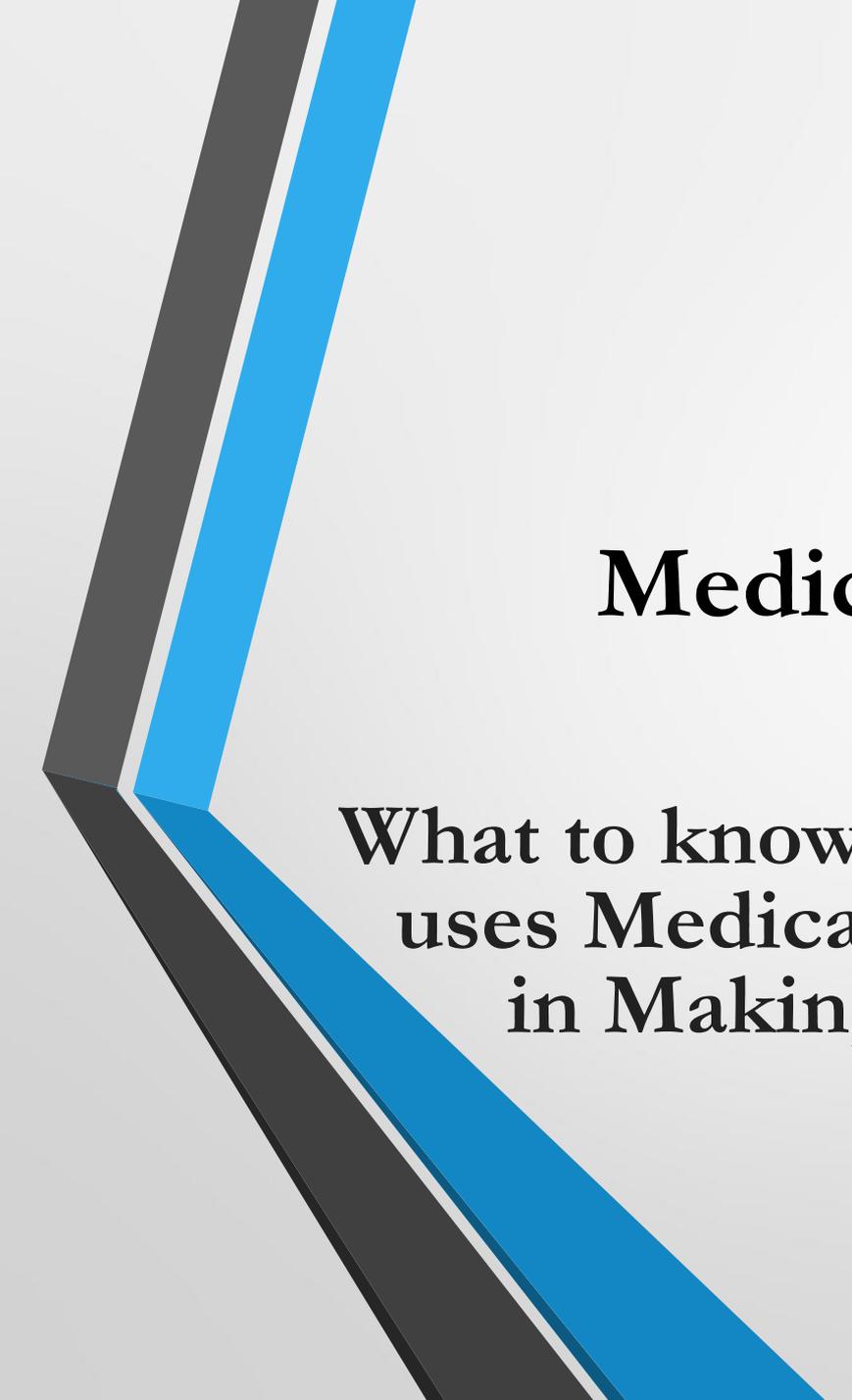
Providers' Involvement in Appeals

Providers can file a provider appeal when they are denied or limited authorization for services (appeal of a claim)

Providers can be involved in consumer appeals in two ways**:

- 1) Request an expedited appeal if a consumer's life, health, or safety is in jeopardy.
- 2) Providers, can only file an appeal on behalf of a consumer/applicant if the consumer/ legal representative has given them permission in writing to be the consumer's Authorized Hearing Representative.

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



Medical Necessity Criteria

**What to know about how a CMH
uses Medical Necessity Criteria
in Making Service Decisions**

Medical Necessity Criteria is the basis a CMH must use for approvals and denials. It determines how a CMH is to assess whether someone needs a service, what type of service one needs, and why they do or don't need it. This means the CMH must make sure that:

- The service is expected to treat a diagnosis/condition covered by CMH
- Assessments are done by appropriate/qualified clinician.
- Service decisions include information from others who know the consumer wherever possible.

Medical Necessity Con't

- Service can't be provided anywhere else/in any other ways
- The need for each service is assessed
- The person centered planning (PCP) process is followed
- Service needs are tied to a goal in consumer's Individual Plan Of Service (IPOS)
- Services are enough in amount, scope, and duration to reasonably be expected to achieve one's goals as identified in the IPOS and without which would be impossible to attain.

Medical Necessity Con't

- The services help consumers reach or maintain a sufficient level of functioning in order to achieve their goals of community inclusion/participation, independence, recovery, or productivity; Services are provided in the least restrictive, most integrated setting.
- The consumer's cultural or accommodation needs are met.
- Service are based on research findings/best practices where possible



**Providing Notice of a Consumer's
Right to Appeal CMH Service
Decisions**

Giving/Providing Notice

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

Which ever agency is taking that "action" is the one required to give notice. This most often is the Community Mental Health Service Provider, or the CMHSPM as the PIHP.

All decisions must use/incorporate the Person Centered Planning process

Giving Consumers Notice of Their Appeal Rights

Consumers/guardians/parents of minor will get a written form/notice when:

They are approved for services, and what services have been approved and included in their Individual Plan of Service (IPOS)

They are denied services. This includes being denied access to CMH, new services being requested, and any negative action taken on services they already receive. (also called an adverse action)

Consumers only need to do something with the notice /request an appeal they get if they disagree with what's happening with their services.

When Consumers Need To Receive Notice of Their Appeal Rights

- **Approved for CMH covered services**
- **When the Individual Plan of Service is done
(state requirement – not an actual denial)**
- **Denied entry to CMH services**
- **Denied for hospitalization**
- **Any time they request a service and are denied
OR get less than what they wanted (limited
authorization)**

AND...

When Consumers Need To Receive Notice of Their Appeals Rights, Continued

- **It takes more than 14 days to approve or deny a service request (Unreasonable delay)**
- **If it takes more than 14 days for an authorized service to start and consumer didn't agree to later appointment (Unreasonable delay)**
- **Whenever a service that is already being provided to a consumer will be reduced, suspended or terminated – requires advance action notice**

What Needs to be Included in Written Notice of an Adverse Action/Denial Decision

- What service(s) is/are being denied
- The effective date
 - Adequate Notice is sent on effective date of action when denying eligibility for CMH, a service request, or a new authorization
 - Advance Notice of Action required to be given at least 12 calendar days before a service currently provided is reduced, suspended, or terminated. (allows consumer to keep the service if they appeal within those 12 days)
- The reason for the denial that includes an explanation in language that is easily understood
- The legal basis for that specific decision



Local Appeal Process

**When a Consumer/Guardian Parent
wants to Appeal a CMH Service
Decision**

Local Dispute Resolution Process

(Local Level Appeal)

- Available to all consumers, guardians, or parent of a minor.
- Have 45 days from the date of notice to file a local appeal. (still gives time to file a state appeal in 90 days)
- Make request to the CMH. Meeting happens at the local CMH.
- Consumer/guardian/parent can give written permission for an Authorized Hearing Representative to request an appeal/represent their case.
- Consumers with Medicaid can request a local or a state level appeal at any time
- Consumers who don't have Medicaid must go through the local appeal before they can take their case to a state-level appeal

Local Dispute Resolution Process

- The consumer/guardian/parent brings who ever they want to in presenting their case or giving information to support their case.
- Meets with staff of the local CMH – staff to explain the decision plus staff who were not involved in the case and have the ability to make reverse decisions for the CMH if needed.
- 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 decision of the local appeal within 10 days after meeting, including next steps they can take if they disagree with local appeal findings.



State Level Appeal Processes

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 DHHS 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 department that manages all Contracts between the state and CMHAs.
- The state Contracts department makes an objective review of the appeal and sends its decision in writing to both the consumer and the CMHA.

Medicaid Fair Hearing (Medicaid State Appeal)

- Consumers with Medicaid can request a Medicaid Fair hearing **AT ANY TIME** (don't have to have local appeal first) before an Administrative Law Judge of the MI Administrative Hearings System (MAHS)
- 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 through a phone conference with the judge, or through an in person hearing.
- 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.

Medicaid Fair Hearing Process

- 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
- MAHS (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 adverse action made by the local CMH & gives written decision
- The judge will send his/her decision in writing to both the consumer and the CMH/agency.
- The judge's decision is legally binding for both parties

Role of Fair Hearings Officer

- Represents the CMHA/PIHP at all state level hearings; presents the case before the judge.
- Reviews case and develops hearing summary to present before the judge on behalf of the CMHA
- Makes recommendations if there are other ways to resolve the matter (but only consumer or judge can withdraw hearing)
- Prepares staff who will testify at hearing
- Provides training and consultation to all staff as needed
- Reports appeals data to PIHP/CMHPSM
- Member of CMHPSM UM/UR Committee

Fair Hearings Officers for CMHPSM

CJ Witherow

FHO for Livingston, Monroe, and Lenawee CMHs, and
CMHPSM SUD services

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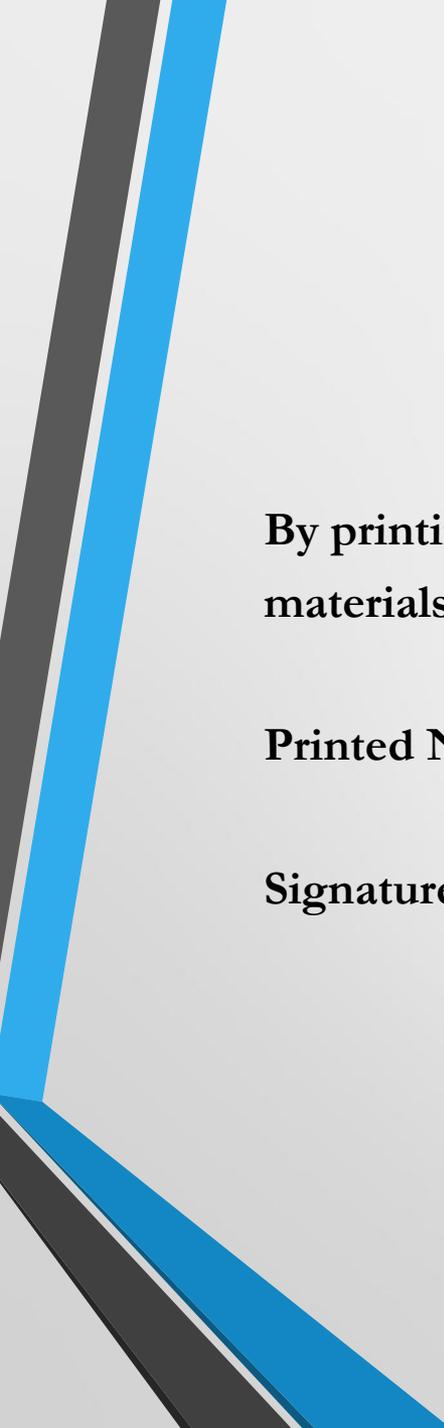
Where to Go for Help or More Information

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

Fair Hearings Officers

Customer Services

Office of Recipient Rights



CMHPSM Regional Grievance and Appeals Attestation

By printing and signing my name below, I attest that I reviewed the training materials on the date indicated below:

Printed Name: _____

Signature: _____ Date: _____