



United Behavioral Health

<b>Consumer Rights and Responsibilities</b>		<b>Policy Identifier/Number:</b> CR-01	
<b>Annual Review Completed Date:</b> February 2018			
<b>Policy Category:</b> Government – Pierce Regional Support Network	<b>Applicable Lines of Business:</b> Medicaid	<b>Entity/Plan:</b> Optum Pierce Behavioral Health Organization	<b>State:</b> Pierce County, Washington
<b>Approved by:</b> Bea Dixon, Executive Director		<b>Signature:</b> 	

**Policy Statement and Purpose**

All Optum Pierce Behavioral Health Organization (BHO) staff and contracted behavioral health care providers are responsible for recognizing the rights and responsibilities of BHO-funded Individuals and maintaining compliance with applicable Washington State and federal laws and regulations as detailed in WAC 388-865 and 42 CFR 438.100.

All contracted providers are responsible for developing and implementing policies and procedures that ensure that Individuals understand their rights and responsibilities on an ongoing basis as applicable within the organization or service.

To establish the definition of Individual participant rights specified by Washington State and federal requirements and Optum Pierce BHO, and to define the responsibilities of the clinical and administrative staff and of Individuals as associated with the recognition of these rights.

**Policy Audience and Applicability**

This policy is applicable to the Optum Pierce BHO and benefits administered through the Washington State Department of Social and Health Services (DSHS) current Prepaid Inpatient Health Plan (PIHP).

**Policy Definitions**

N/A

**Policy Provisions**

1. Rights of Individuals
  - 1.1. Optum Pierce BHO affirms the right of each person involved in services to make decisions regarding his or her medical care, including the decision to discontinue treatment (to the extent permitted by law. Optum Pierce BHO assists the individual in the exercise of his or her rights and informs the individual of any responsibility incumbent upon him or her in the exercise of those rights.

1.2. The Optum Pierce BHO does not prohibit or restrict a health care professional  
 Optum is responsible for adhering to all applicable state and/or federal laws governing activities within the scope of this policy, including the Mental Health Parity and Addiction Equity Act (MHPAEA ) and the Health Insurance Portability and Accountability Act (HIPAA) privacy requirements, as well as the applicable requirements, standards and regulations as set forth by the Employee Retirement Income Security Act (ERISA), the Center for Medicare and Medicaid Services (CMS), the Department of Labor (DoL), and any applicable accrediting organizations.

acting within the lawful scope of practice from advising or advocating on behalf of an individual regarding:

- 1.2.1. The individual's health status, medical care or treatment options, including any alternative treatment that may be self-administered;
  - 1.2.2. Any information the individual needs in order to decide among all relevant treatment options;
  - 1.2.3. The risks, benefits and consequences of treatment or non-treatment; and
  - 1.2.4. The individual's right to participate in decisions regarding his or her health care, including the right to refuse treatment and to express preferences about future treatment decisions.
- 1.3. Optum Pierce BHO requires contracted behavioral health care providers to protect the individual's right to exercise his or her rights so that the person's rights and/or treatment are not adversely affected.
- 1.4. The Optum Pierce BHO ensures that Medicaid-enrolled individuals are not charged or held liable for:
- 1.4.1. Covered services provided to the individual for which Washington State does not pay the Optum Pierce BHO;
  - 1.4.2. Any service provided on referral that exceeds what the Optum Pierce BHO would cover if provided within the network;
  - 1.4.3. Services in community psychiatric hospital or an Evaluation & Treatment facility (E&T) in the event of insolvency;
  - 1.4.4. Nonpayment by the Optum Pierce BHO to the contracted behavioral health care provider; and/or
  - 1.4.5. The cost of a second opinion provided by a qualified behavioral health care professional within the contracted behavioral health care provider network.
- 1.5. Optum Pierce BHO requires subcontracted behavioral health care providers to:
- 1.5.1. Involve individuals in decisions about their behavioral health treatment;
  - 1.5.2. Provide access to clinical records for individuals;
  - 1.5.3. Ensure that individuals and their families understand their rights;
  - 1.5.4. Advise individuals of their rights in their primary language as needed;
  - 1.5.5. Provide individuals with a copy of their rights at designated times, including with respect to any particular service within 30 days of adopting any policy change; and
  - 1.5.6. Ensure that Individuals in residential facilities receive behavioral health services consistent with their individual service plan, and that they are advised of their rights, including long-term care rights in accordance with *RCW 70.129* and *WAC 388-865*
  - 1.5.7. Provide eligible individuals with outpatient and/or residential SUD services according to the requirements in *WAC 388-865*.
- 1.6. Optum Pierce BHO ensures contracted behavioral health care provider compliance through:
- 1.6.1. An administrative monitoring review;
  - 1.6.2. A review of behavioral health care providers' policies and procedures

- on access to clinical records;
- 1.6.3. A review of behavioral health care providers' Individual access logs; and
- 1.6.4. An annual Individual satisfaction survey.
- 1.7. Statement of Individual Rights
  - 1.7.1. Individuals are informed at the time of admission or enrollment in services of the Optum Pierce BHO policy titled *Consumer Rights and Responsibilities*.
  - 1.7.2. Individuals have the right to receive care without regard to race, language, age, creed, disability, socioeconomic status, marital status, gender, culture, national origin, sexual orientation, education, or religious background.
  - 1.7.3. Individuals have the right to practice the religion of their choice as long as the practice does not infringe on the rights and treatment of others or the treatment service. Individual participants have the right to refuse participation in any religious practice.
  - 1.7.4. Individuals are to be free from any sexual exploitation or harassment.
  - 1.7.5. Individuals have the right to be free of exploitation, including physical and financial exploitation.
  - 1.7.6. Individuals have the right to be treated with respect, dignity, and privacy, except that staff may conduct reasonable searches to detect and prevent possession or use of contraband on the premises.
  - 1.7.7. Individuals are to be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience or retaliation.
  - 1.7.8. The individual has the right to help develop a plan of care and services that meets his or her unique needs.
  - 1.7.9. Individuals are entitled to information about an agency's mechanism for the initiation, review, and resolution of grievances, including but not limited to, quality of care.
  - 1.7.10. If the individual has reason to believe that his or her rights have been violated, he or she may file a grievance with the provider or with Optum Pierce BHO without losing service, suffering discrimination, or being mistreated. The Ombuds Service may, at the individual's request, assist in filing a grievance. The Ombuds Service number is **253-302-5311**.
  - 1.7.11. Individuals have the right to receive information on available treatment options and alternatives appropriate to their condition and ability to understand.
  - 1.7.12. The individual has the right to request and receive a copy of his or her medical records and request amendment or correction in accordance with State and federal regulations.
  - 1.7.13. Individuals have the right to receive the amount and duration of medically-necessary health care services consistent with the scope of the Optum Pierce BHO's contracted services and in accordance with Washington state and federal requirements.
  - 1.7.14. Individuals have a right to receive services in a barrier-free (accessible) location and to be reasonably accommodated in case of sensory or physical disability, limited ability to communicate, limited English proficiency, and cultural differences.

- 1.7.15. Individuals have a right to receive information about names, locations, phone numbers and non-English languages for local agencies.
- 1.7.16. Individuals have a right to request information about the structure and operation of the Optum Pierce BHO.
- 1.7.17. Individuals have a right to a second opinion from a qualified behavioral health professional within the BHO area.
- 1.7.18. Individuals have the right to receive a written Notice of Adverse Benefit Determination from the BHO if services are denied, limited, reduced, suspended or terminated, or if they disagree with the Individual Services Plan.
- 1.7.19. Individuals have a right to file an appeal based on a Prepaid Inpatient Health Plan written *Notice of Adverse Benefit Determination*.
- 1.7.20. Individuals have a right to file a request for a Fair Hearing any time they feel there has been a violation of the *Washington Administrative Code*.

## 1.8. Consent

- 1.8.1. The individual has a right to the information necessary to give informed consent or refuse a course of treatment and to collaborate with his or her practitioner in decisions involving their treatment.
- 1.8.2. The individual has the right to accept care or refuse treatment, to the extent permitted by law, and to be informed of the medical consequences of such refusal.
- 1.8.3. The individual has the right to formulate advance directives and appoint a surrogate to make health care decisions on his or her behalf to the extent permitted by law.
- 1.8.4. The individual has the right to know who is responsible for authorizing and performing procedures or treatment and the professional status of individuals providing services.
- 1.8.5. The individual has the right to receive an explanation of all medications prescribed, including the side effects.
- 1.8.6. The individual (or the parent/guardian of a child under 13 years) has the right to choose a contracted behavioral health care provider.
- 1.8.7. The individual has a right to change behavioral health care providers at any time and for any reason.
- 1.8.8. The individual is informed if the behavioral health care provider proposes to engage in research or educational projects affecting his or her care or treatment and has the right to refuse to participate in any such activity.

## 2. Respect and Dignity

- 2.1. The individual has the right to be treated with respect and dignity.
- 2.2. The individual has the right to considerate, respectful care at all times and under all circumstances with recognition of his or her personal dignity and privacy.
- 2.3. This care includes consideration of the psychosocial, spiritual, and cultural variables that influence perceptions of illness.

## 3. Privacy and Confidentiality

- 3.1. The individual has the right to wear appropriate personal clothing and religious or other symbolic items as long as they do not interfere with his or her

treatment.

- 3.2. The individual has the right to expect that any discussion or consultation involving his or her case will be conducted discreetly.
  - 3.3. The individual has the right to have his or her medical record accessed only in accordance with applicable laws.
  - 3.4. The individual has the right to expect all communications and other records pertaining to his or her care will be treated as confidential unless the law requires the sharing of information including, but not limited to, danger to self, danger to others, or a court order.
4. Personal Safety
    - 4.1. The individual has the right to expect reasonable safety insofar as the contracted behavioral health care provider practices and environment are concerned.
5. Communication
    - 5.1. When the individual does not speak or understand the predominant language of the community, he or she will have access to a certified language interpreter or sign language interpreter, at no cost, and to linguistically competent written materials in an alternate format in compliance with federal regulations.
    - 5.2. Written materials include, but are not limited to, the *DSHS Benefits Booklet* and the *Optum Pierce BHO Consumer Handbook*.
    - 5.3. Contracted behavioral health care providers maintain a signed acknowledgment by the individual of receipt of the *DSHS Benefits Booklet* and the *Optum Pierce BHO Consumer Handbook*.
    - 5.4. The Optum Pierce BHO monitors documentation of individual receipt of the *DSHS Benefits Booklet* and the *Pierce BHO Consumer Handbook* during annual administrative reviews.
      - 5.4.1. The Optum Pierce BHO requires contracted behavioral health care providers to ensure that individuals are informed of and understand their rights.
      - 5.4.2. Optum Pierce BHO requires contracted behavioral health care providers to inform individuals of their rights at intake and every 180 days thereafter.
6. Individual Responsibilities
    - 6.1. The individual has the responsibility to provide, to the best of his or her knowledge, accurate and complete information about present complaints, past illnesses, hospitalizations, and other matters relating to his or her health to the appropriate practitioners.
    - 6.2. He or she has the responsibility to report unexpected changes in his or her condition to the responsible practitioner.
    - 6.3. An individual is responsible for making it known whether he or she clearly comprehends a contemplated course of action and what is expected of him or her.
    - 6.4. The individual is expected to participate in the development of his or her unique treatment plan in collaboration with the primary practitioner.
    - 6.5. The individual is responsible for keeping appointments, and when he or she is unable to do so for any reason, for notifying the practitioner or agency.

7. Individual Rights as posted on the Washington Department of Social and Health Services web site

You have the right to:

- Receive medically necessary behavioral health services, consistent with access to care standards adopted by the department in its managed care waiver with the federal government. Access to Care Standards provide minimum standards and eligibility criteria for behavioral health services.
- Receive the name, address, telephone number, and any languages offered other than English, of behavioral health providers in your BHO.
- Receive information about the structure and operation of the BHO.
- Receive emergency or urgent care or crisis services.
- Receive post-stabilization services after you receive emergency or urgent care or crisis services that result in admission to a hospital.
- Receive age and culturally appropriate services.
- Be provided a certified interpreter and translated material at no cost to you.
- Receive information you request and help in the language or format of your choice.
- Have available treatment options and alternative explained to you.
- Refused any proposed treatment.
- Receive care that does not discriminate against you.
- Be free of any sexual exploitation or harassment.
- Receive an explanation of all medications prescribed and possible side effects.
- Make a mental health advance directive that states your choices and preferences for mental health care.
- Receive information about medical advance directives.
- Choose a behavioral health provider for yourself and your child, if you child is under thirteen years of age.
- Change behavioral health care providers at any time for any reason.
- Request and receive a copy of your medical or behavioral health service records, and be told the cost for copying.
- Be free from retaliation.
- Request and receive policies and procedures of the BHO and behavioral health agency as they relate to your rights.
- Receive the amount and duration of services you need.
- Receive service in a barrier-free (accessible) location.
- Receive medical necessary services in accordance with the early periodic screening, diagnosis, and treatment (EPSDT) under WAC 182-534-0100, if you are twenty years of age or younger.
- Receive enrollment notices, informational materials, materials related to grievances, appeals, and administrative hearings, and instructions materials relating to services provided by the BHO, in an easily understood format and non-English language that you prefer.

- Be treated with dignity, privacy, and respect, and to receive treatment options and alternatives in a manner that is appropriate to your conditions.
  - Participate in treatment decisions, including the right to refuse treatment.
  - Be free from seclusion or restraint used as a means of coercion, discipline, convenience, or retaliation.
  - Receive a second opinion from a qualified professional within your BHO area at no cost, or to have one arranged out the network at no cost to you, as provided in 42 C.F.R. Sec. 438-206(b) (3) (2015).
  - Receive medical necessary behavioral health services outside of the BHO if those services cannot be provided adequately and timely within the BHO.
  - (File a grievance with the BHO if you are not satisfied with a service.
  - Receive a notice of adverse benefit determination so that you may appeal any decision by the BHO that denies or limits authorization of a requested service, that reduces, suspends, or terminated a previously authorized service, or that denies payment for a service, in whole or in part.
  - File an appeal if the BHO fails to provide services in a timely manner as defined by the state.
  - Request an administrative (fair) hearing if your appeal is not resolved in your favor or if the BHO does not act within the grievance or appeal process time frames described in WAC 388-877-0660 and 388-877-0670.
  - Request services by the behavioral health Ombuds office to help you file a grievance or appeal, or request an administrative hearing.
8. An independent Ombuds Service is available to help individuals who experience dissatisfaction.
9. Individuals who receive behavioral health care in a hospital have additional rights.
10. Statements of Individual Rights are posted in public areas at contracted provider sites with copies available to individuals on request and available in the prevalent languages designated by the State of Washington.

#### **Related Policies, Procedures & Materials**

- Pierce Behavioral Health Organization Policy: CR-02A - *Grievance and Appeal System: Grievance Process*
- Pierce Behavioral Health Organization Policy: CR-02B - *Grievance and Appeal System: Medicaid Enrollee's Right to Appeal Notices of Averse Benefit Determination*
- Pierce Behavioral Health Organization Policy: CR-02C - *Grievance and Appeal System: Medicaid Enrollee's Notice of Adverse Benefit Determination*
- Pierce Behavioral Health Organization Policy: CR-06 - *Ombuds Services*
- Pierce Behavioral Health Organization Policy: CR-07 - *Advance Directives*

#### **Attachments**

N/A

#### **Approval History**

- Policy created and effective: 07/2009

- Policy and Procedure Committee review and approval: 08/23/2010
- Policy and Procedure Committee review and approval: 09/26/2011
- Policy and Procedure Committee review and approval: 08/27/2012
- Policy and Procedure Committee review and approval: 12/02/2013
- Policy and Procedure Committee review and approval: 09/22/2014
- Policy and Procedure Committee review and approval: 09/28/2015
- Policy and Procedure Committee review and approval: 02/24/2016
- Operation Procedures and Standards Committee reviewed and accepted: 01/25/2017
- Optum Pierce BHO reviewed and accepted: January 2018