



United Behavioral Health

Grievance and Appeal System: Grievance Process		Policy Identifier/Number: CR-02A	
Annual Review Completed Date: March 2018			
Policy Category: Government – Pierce Regional Support Network	Applicable Lines of Business: Medicaid	Entity/Plan: Optum Pierce Behavioral Health Organization	State: Pierce County, Washington
Approved by: Bea Dixon, Executive Director		Signature:	

Policy Statement and Purpose

Optum Pierce Behavioral Health Organization (Optum Pierce BHO) and its contracted behavioral health care providers provide individuals access to a grievance process that promotes resolution of grievances at the lowest possible level, protects consumer rights, promotes quality improvement in the delivery of publicly funded community behavioral health services and maintains guidelines for the review and resolution of individual grievances that are in compliance with all applicable state and federal laws and requirements.

The Optum Pierce BHO ensures that individuals are provided with information about their right to file a grievance and makes available clearly written procedures about the grievance process. The process is culturally, age, and linguistically competent and includes provisions for enrollee assistance.

To outline the processes and requirements for receiving and resolving grievances.

Policy Audience and Applicability

This policy is applicable to the Optum Pierce 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

- **Administrative Hearing:** a proceeding before an administrative law judge to review an adverse benefit determination or a BHO decision to deny or limit authorization of a requested non-Medicaid service communicated on a notice of determination.
- **Adverse Benefit Determination:** in the case of Medicaid services administered by the BHO, any one or more of the following:
 - The denial or limited authorization of a requested service, including determinations based on the type or level of service, requirements for medical necessity, appropriateness, setting, or effectiveness of a covered benefit;

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.

- The reduction, suspension, or termination of a previously authorized service;
 - The denial, in whole or in part, of payment for a service;
 - The failure to provide services in a timely manner, as defined by the state;
 - The failure of a BHO to act within the grievance and appeal system time frames as provided in *WAC 388-877-0660 through 388-877-0670* regarding the standard resolution of grievances and appeals;
 - For a resident of a rural area with only one BHO, the denial of and individual's request to exercise their right to obtain services outside the network;
 - The denial of an individual's request to dispute a financial liability, including cost sharing, copayments, premiums, deductibles, coinsurance, and other enrollee financial liabilities.
- **Appeal:** a review by the behavioral health organization (BHO) of an adverse benefit determination.
 - **Grievance:** an expression of dissatisfaction about any matter other than an adverse benefit determination. Grievances may include, but are not limited to, an individual's right to dispute an extension of time proposed by the BHO to make an authorization decision, the quality of care or services provided, aspects of interpersonal relationships such as rudeness of a behavior health provider or employee, and failure to respect the individual's rights regardless of whether a specific action is requested by the individual.
 - **Grievance and Appeal System:** the processes a BHO implements to handle appeals of adverse benefit determinations and grievances as well as the processes to collect and track information about them. The BHO must establish the grievance and appeal system and meet the requirements of *42 C.F.R. Sec. 438, Subpart F (2017)*.
 - **Individual:** According to *WAC 388-877-0655*, means a person who applies for, is eligible for, or receives behavioral health organization (BHO) authorized behavioral health services from an agency licensed by the Division of Behavioral Health and Recovery as a behavioral health agency. For the purposes of accessing the grievance system, the definition of individual also includes the following if another person is acting on the individual's behalf:
 - In the case of a minor, the individual's parent or, if applicable, the individual's custodial parent;
 - The individual's legal guardian; or
 - The individual's representative if the individual gives written permission.
 - In the case of minors, a parent or legal guardian has the rights of an Individual, including the right to file a grievance on behalf of the minor until the age of 18 per *RCW 26.28.015*. However, per Washington State law, the age of consent for both substance use and mental health treatment is 13 per *RCW 70.96A.095, and RCW 71.34.530*. Youth who are 13 and older have the right to the confidentiality of their behavioral health information.
 - If the youth is 13 or older, a parent may file a grievance. The Optum Pierce BHO or Behavioral Health Agency (BHA) should accept and acknowledge the parent's grievance. The response to the parent(s) should state that due to confidentiality restrictions, the Optum Pierce BHO or BHA can neither confirm nor deny the identity of the patient and the fact of treatment. A consent to release information form should be provided by the BHO or BHA. Appropriate efforts should be made to seek consent from the minor. If the minor over age 13 provides consent, the grievance process may proceed to resolution. If the consent of the minor is not obtained, the grievance will be closed as not

pursued.

- Note that the grievance not pursued due to the limits of confidentiality, best practice should prompt the BHO or BHA to consider the parent(s)' complaint in a manner similar to that of a general community member who wants to voice a concern about a program or services. This way the information can be used to improve services or operations, but handled in a way that protects confidentiality.
- The definition of an individual does not include parents of adult children, other family members, or any other individual unless they are an authorized representative.
- **Notice of Adverse Benefit Determination:** a written notice a BHO provides to an individual to communicate an adverse benefit determination.
- **Notice of Determination:** a written notice that must be provided to an individual to communicate denial or limited authorization of a non-Medicaid service offered by the BHO. A notice of determination must contain the following:
 - The reason for denial or offering of alternative services;
 - A description of alternative services, if available; and
 - The right to request an administrative hearing, how to request a hearing, and the time frames for requesting a hearing as identified in *WAC 388-877-0675*.

Policy Provisions

1. Filing a Grievance:

- 1.1. An individual or individual's representative may file a grievance to express dissatisfaction in person, orally, or in writing about any matter other than an adverse benefit determination, as defined in *WAC 388-877-0660*, to:
 - 1.1.1. The behavioral health agency providing the behavioral health services; or
 - 1.1.2. Optum Pierce BHO
- 1.2. If the individual receives behavioral health services through a behavioral health agency that is not contracted with Optum Pierce BHO, the agency, through its internal process is responsible to handle the individual's grievances.
- 1.3. There is no time limit to file a grievance.
- 1.4. The Ombuds may assist an individual in resolving a grievance at the lowest possible level.

2. Filing a Grievance with a Behavioral Health Agency:

- 2.1. If an individual first files a grievance with the behavioral health agency and the individual is not satisfied with the agency's written decision on the grievance, or if the individual does not receive a copy of that decision from the agency within the time required, the individual may then choose to file the grievance with the Optum Pierce BHO. The Optum Pierce BHO's written decision on the grievance is the final decision. The grievance does not progress to an administrative hearing except when the Optum Pierce BHO does not act within the grievance process time frames; the individual is considered to have exhausted the grievance process and has a right to request an administrative hearing.

3. Filing a Grievance with the Optum Pierce BHO:

- 3.1. If the individual first files a grievance with the Optum Pierce BHO and not the agency, and the individual is not satisfied with Optum Pierce BHO's written decision on the grievance, the individual cannot file the same grievance with the behavioral health

agency, even if that agency or its staff member(s) is the subject of the grievance. The Optum Pierce BHO's written decision on the grievance is the final decision. The grievance does not progress to an administrative hearing except when the Optum Pierce BHO does not act within the grievance process time frames; the individual is considered to have exhausted the grievance process and has a right to request an administrative hearing.

4. When an individual files a grievance, the behavioral health agency or Optum Pierce BHO that receives the grievance must:
 - 4.1. Acknowledge the receipt of the grievance in writing within five business days;
 - 4.2. Investigate the grievance;
 - 4.3. At the individual's request, give the individual reasonable assistance in taking any procedural steps;
 - 4.4. Inform the individual about Ombuds services and how to access these services;
 - 4.5. Send the individual who filed the grievance a written notice describing the decision as expeditiously as the individual's health condition requires and no longer than 30 calendar days from the date the behavioral health agency or Optum Pierce BHO receives the grievance.
5. The behavioral health agency or Optum Pierce BHO that receives the grievance must ensure all of the following:
 - 5.1. Other people are allowed to participate in the grievance process, if the individual chooses.
 - 5.2. That a grievance is resolved even if the individual is no longer receiving behavioral health services.
 - 5.3. That the persons who make decisions on a grievance:
 - 5.3.1. Neither were involved in any previous level of review or decision making nor are subordinates of any person who reviewed or decided on a previous level of the grievance;
 - 5.3.2. Are mental health or chemical dependency professionals who have appropriate clinical expertise in the type of behavioral health service if deciding a grievance concerning denial of an expedited resolution of an appeal or a grievance that involves any clinical issues; and
 - 5.3.3. Consider all comments, documents, records, and other information submitted by the individual or the individual's representative.
 - 5.4. That the individual and, if applicable, the individual's representative, receives a written notice containing the decision no later than 30 calendar days from the date the agency or Optum Pierce BHO receives a grievance. This time frame may be extended up to an additional 14 calendar days if requested by the individual or the individual's representative or by the agency or Optum Pierce BHO when additional information is needed and the agency or Optum Pierce BHO is able to demonstrate to the Department of Behavioral Health and Recovery (DBHR) upon DBHR's request that it needs additional information and the added time is in the individual's interest. Optum Pierce BHO must :
 - 5.4.1. Make reasonable efforts to give the individual prompt oral notice of the delay; and
 - 5.4.2. Within 2 calendar days, give the individual written notice of the reason for the decision to extend the time frame and inform the individual of the right to file a grievance if the individual disagrees with that decision.

- 5.5. That the written notice includes the resolution of the grievance, the reason for the decision, and the date the decision was made and is an easily understood format following *42 C.F.R. Sec. 438.10 (2017)*, which includes requirements that each notice:
 - 5.5.1. Be written in the individual's non-English language, if applicable;
 - 5.5.2. Contains the Optum Pierce BHO's toll-free and TTY/TDY telephone number; and
 - 5.5.3. Explains the availability of free written translation, oral interpretation to include any non-English language, auxiliary aids such as American Sign Language and TTY/TDY telephone services, and alternative formats to include large print and Braille.
- 5.6. That full records of all grievances and materials received are:
 - 5.6.1. Kept for a period of no less than 10 years after the completion of the grievance process;
 - 5.6.2. Made available to DBHR upon request as part of the state quality strategy and made available upon request to the Centers for Medicare and Medicaid Services (CMS);
 - 5.6.3. Kept in confidential files separate from the individual's clinical record;
 - 5.6.4. Not disclosed without the individual's written permission except to DBHR or as necessary to resolve the grievance.
- 5.7. Are accurately maintained and contain, at a minimum, all of the following information:
 - 5.7.1. A general description of the reason for the grievance;
 - 5.7.2. The date received;
 - 5.7.3. The date of each review or, if applicable, review meeting;
 - 5.7.4. Resolution at each level of the grievance, if applicable;
 - 5.7.5. Date of resolution at each level, if applicable; and
 - 5.7.6. Name of the covered person for whom the grievance was filed.

6. Grievance Information, Submission and Processing

- 6.1. Optum Pierce BHO informs behavioral health care providers about the grievance process at the time of contracting.
- 6.2. During each intake, the Optum Pierce BHO's contracted behavioral health care provider explains the grievance process to the individual and/or the individual's guardian or representative in a manner that is understandable to them. This includes the use of interpreters or other communication means as necessary for non-English speaking individuals, or those with hearing or sight impairments and/or developmental disabilities.
 - 6.2.1. Copies of related representation/consent forms must be shared with any agency or official entity, e.g., the Optum Pierce BHO or Office of Administrative Hearings, involved in the proceeding.

7. The Optum Pierce BHO monitors quality through:

- 7.1.1. Oversight during the grievance process to ensure that services are provided as required, timelines for decisions are met as required, and retaliation does not occur;
- 7.1.2. Quarterly coordination of data collection of complaints from the Ombuds Service, and grievances from behavioral health care providers and the Optum Pierce BHO; and
- 7.1.3. Aggregation of data and trends reported to the Optum Pierce BHO QA/PI Committee for the purposes of quality monitoring and service improvement.

Related Policies, Procedures & Materials

- Pierce Behavioral Health Organization Policy: CR-01 - *Consumer Rights and Responsibilities*
- Pierce Behavioral Health Organization Policy: CR-02B - *Grievance and Appeal System: Medicaid Enrollee's Right to Appeal Notices of Adverse Benefit Determination*
- Pierce Behavioral Health Organization Policy: CR-02C - *Grievance and Appeal System: Medicaid Enrollee's Adverse Benefit Determination Notice*
- Pierce Behavioral Health Organization Policy: CR-02D - *Grievance and Appeal System: Administrative Hearings*
- Pierce Behavioral Health Organization Policy: CR-06 - *Ombuds Services*

Attachments

N/A

Approval History

- Policy created and effective: 07/2009
- Policy and Procedure Committee review and approval: 10/26/2009
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- Policy and Procedure Committee review and approval: 12/02/2013
- Policy and Procedure Committee review and approval: 12/15/2014
- Policy and Procedure Committee review and approval: 02/24/2016
- Operational Procedures and Standards Committee reviewed and accepted: 12/28/2016