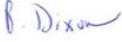




United Behavioral Health

Grievance and Appeal System: Administrative Hearings			Policy Identifier/Number: CR-02D
Annual Review Completed Date: March 2017			
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 (BHO) and its contracted behavioral health care providers encourage consumers and/or family members to utilize all levels of the Optum Pierce BHO Grievance and Appeal System.
- Enrollees must exhaust the BHO's Grievance and Appeal process prior to filing a request for a Fair Hearing with the Washington State Office of Administrative Hearings (OAH). The Optum Pierce BHO and its contracted behavioral health care providers share information with BHO-funded individuals about their rights to a State Fair Hearing and the procedures for requesting a hearing as described in this policy.

To outline the state Administrative or "Fair" Hearing process and requirements.

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

- **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.

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- 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:** a person who applies for, is eligible for, or receives BHO-authorized behavioral health services from an agency licensed by the department as a behavioral health agency. For the purposes of accessing the grievance and appeal system and the administrative hearing process, when another person is acting on an individual's behalf, the definition of individual also includes any of the following:
 - In the case of a minor, the individual's parent or, if applicable, the individual's custodial parent;
 - The individual's legal guardian;
 - The individual's representative if the individual gives written consent;
 - The individual's behavioral health provider if the individual gives written consent, except that the behavioral health provider cannot request continuation of benefits on the individual's behalf.
 - **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*.

1. Administrative Hearings

- 1.1. An administrative hearing (also known as a “fair hearing”) is a proceeding before an administrative law judge (ALJ) that gives an individual, as defined in *WAC 388-877-0655*, an opportunity to be heard in disputes about adverse benefit determinations or a decision of Optum Pierce BHO to deny or limit authorization of a requested non-Medicaid service communicated on a notice of determination.
- 1.2. An individual may request an administrative hearing for the following reasons:
 - 1.2.1. After an individual receives a notice that the Optum Pierce BHO upheld an adverse benefit determination;
 - 1.2.2. After an individual receives an Optum Pierce BHO decision to deny or limit authorization of a requested non-Medicaid service communicated on a notice of determination; or
 - 1.2.3. If the Optum Pierce BHO does not act within the grievance or appeal process time frames described in *WAC 388-877-0660 and 388-877-0670*. In this case, the individual is considered to have exhausted the appeal process and has a right to request an administrative hearing.
- 1.3. An individual who requests an administrative hearing must do so within one of the following time frames:
 - 1.3.1. If continued services are not requested, a hearing must be requested within 120 calendar days from the date on the written notice of the resolution received from the Optum Pierce BHO at the end of the appeal process or 120 from the date on the notice of determination.
 - 1.3.2. If continued Medicaid services are requested pending the outcome of the administrative hearing, all of the following apply:
 - 1.3.2.1. The individual appealed a decision on the notice of adverse benefit determination for termination, suspension, or reduction of the individual's behavioral health services;
 - 1.3.2.2. The individual appealed the adverse benefit determination and the BHO upheld the adverse benefit determination; and
 - 1.3.2.3. The individual requests an administrative hearing and continued behavioral health services within 10 calendar days of the date on the written notification of the resolution.
 - 1.3.3. The Optum Pierce BHO is not obligated to continue the non-Medicaid services pending the result of an administrative hearing when available resources are exhausted, since services cannot be authorized without funding regardless of medical necessity.
- 1.4. If an individual or the individual's behavioral health provider believes that the time taken for a standard administrative hearing could seriously jeopardize the individual's life, physical, or mental health, or ability to attain, maintain, or regain maximum function, an expedited hearing may be requested.
- 1.5. The Optum Pierce BHO's failure to issue an appeal decision in writing within the time frames in *WAC 388-877-0670* constitutes exhaustion of the appeal process and the individual may request an administrative hearing.
- 1.6. When the criteria is met for continued services, the Optum Pierce BHO must continue the individual's behavioral health treatment services during the administrative hearing process until one of the following occurs:

- 1.6.1. The individual withdraws the hearing request,
- 1.6.2. The administrative law judge issues a hearing decision adverse to the individual.
- 1.7. If the administrative hearing decision is not in favor of the individual, the Optum Pierce BHO may recover the cost of the behavioral health services furnished to the individual while the hearing was pending to the extent that they were provided solely because of the requirements of this section. Recovery of the cost of Medicaid services is limited to the first 60 days of services after the department or the office of administrative hearings (OAH) received an administrative hearing request. See *RCW 74.09.741*.
- 1.8. Administrative hearings include adjudicative proceedings and any other similar term referenced under *chapter 34.05 RCW, the Administrative Procedure Act, Title 388 WAC, chapter 10-08 WAC*, or other law. *Chapter 34.05 RCW and chapter 388-02 WAC* govern cases where an individual has an issue involving a service that is not funded by Medicaid. *Chapter 34.05 RCW and chapter 182-526 WAC* govern cases where an individual has an issue involving a service that is funded by Medicaid.

Contact information: Washington State
Office of Administrative Hearings
PO Box 42489
Olympia, WA 98504-2489
(360) 407-2700
(800) 583-8271 (Toll-free)
(360) 586-6563 (Fax)
<http://oah.wa.gov/Home/Index/3411>

2. Assistance with Fair Hearings

- 2.1. Optum Pierce BHO and its behavioral health care providers provide assistance to Individuals in pursuing Fair Hearings. Ombuds Services are also available, at no cost, to investigate, advocate, and assist Individuals throughout the Fair Hearing process.
- 3. Record Keeping and Reporting Requirements
 - 3.1. The Optum Pierce BHO maintains records of standard and expedited appeals and reviews the information at least annually as part of the Division of Behavioral Health and Recovery's quality strategy.
 - 3.2. Standard and expedited appeal records are to be kept by the Optum Pierce BHO for a period of 10 years following the date of resolution. These records are to be kept separate from an Individual's clinical records and are not to be disclosed without the Individual's permission, except as necessary to resolve an appeal.
 - 3.3. The Optum Pierce BHO submits a quarterly standard and expedited appeals report to DSHS. Reports include:
 - 3.3.1. The number and nature of standard and expedited appeals;
 - 3.3.2. The timeframes within which they were disposed or resolved;
 - 3.3.3. The nature of the decisions; and
 - 3.3.4. A summary and analysis of the implications of the data, including what measures will be taken to address undesirable trends and patterns.
 - 3.4. The Optum Pierce BHO monitors quality through:
 - 3.4.1. Oversight during the standard and expedited appeals process to ensure that services are provided as required, timelines for decisions are met as required, and retaliation does not occur;

3.4.2. Monthly Optum Pierce BHO data collection of standard and expedited appeals; and

3.4.3. 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-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 Adverse Benefit Determination*
- Pierce Behavioral Health Organization Policy: CR-02C – *Grievance and Appeal System: Medicaid Enrollee’s Right Adverse Benefit Determination Notice*
- 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
- 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: 12/15/2014
- Policy and Procedure Committee review and approval: 02/24/2016
- Operation Procedures and Standards Committee reviewed and accepted: 01/25/2017