

<b>Alameda County</b> <b>Behavioral Health Care Services</b>	Date Approved: <u>3/10/10</u> By: <u>Randy Chaves</u> Mental Health Director
POLICY: <u><b>CONSUMER GRIEVANCE AND APPEAL PROCESSES</b></u>	Date Revised: <u>2/17/10</u> Policy No.: _____

## **POLICY: Consumer Grievance and Appeal Processes**

### **POLICY STATEMENT**

ACBHP will resolve grievances and appeals reported by the consumer and/or their representatives through grievance and appeal processes. *Although, this policy specifically addresses ACBHP providers, it applies to all ACBHCS operated and contracted provider services.*

### **BACKGROUND**

The Alameda County Behavioral Health Plan (ACBHP) was implemented by Alameda County Behavioral Healthcare Services (ACBHCS) in 1997 following the Balanced Budget Act (BBA). Through the Federal Medical Managed Care (MMC) Final Rule of June 14, 2002, MMC extended BBA requirements to all Medicaid managed care configurations. ACBHP is considered a Prepaid Inpatient Health Plan (PIHP) administered through the State Department of Mental Health (DMH) and, therefore, is required to comply with all MMC rules.

The intent of this policy is to fully implement the MMC rules in CFR Title 42, Chapter 4, Subchapter C, Part 438, that address the consumer grievance system, including the existing DMH regulations in CCR Title 9, Section 1795, that address consumer problem resolution processes.

### **DEFINITIONS**

**Action:** An action occurs when the MHP does at least one of the following:

- Denies or limits authorization of a requested service, including the type or level of service;
- Reduces, suspends, or terminates a previously authorized service;
- Denies, in whole or in part, payment for a service;
- Fails to provide services in a timely manner, as determined by the MHP or;
- Fails to act within the timeframes for disposition of standard grievances, the resolution of standard appeals, or the resolution of expedited appeals.

**Appeal:** A request for review of an action. The appeal process is separate from the grievance process.



**Consumer:** *A person eligible for mental health services through ACBHP and ACBHCS, including the Medi-Cal eligible person as defined in CCR Title 22, Section 51000.2.* At times, “consumer” may be referred to as beneficiary, client, or patient.

**Consumer Representative:** A legal representative or a person or entity selected by the consumer to act on her or his behalf with ACBHP.

**Consumer and Family Assistance Office:** The ACBHCS Office or contract provider that implements the Grievance Process.

**Decision Maker:** The ACBHP staff person or committee assigned to make decisions during implementation of the consumer grievance process. In managing any grievance or appeal, the decision maker must not (1) have been involved in any previous level of review or decision making related to the consumer’s dissatisfaction and/or (2) address consumer grievances that are not within the scope of practice and/or expertise of the decision maker.

Clinical Issues: Any and all care and treatment related issues. Appropriately California licensed clinical staff that meets the ACBHCS definition of scope of practice and scope of competence will provide consultation to the Consumer and Family Assistance Office and make the decisions on clinically related grievances.

**Grievance:** A verbal or written expression of dissatisfaction about any matter other than an action (as defined above). At times, “grievance” may be referred to as complaints or problems and the grievance process may be referred to as the problem resolution process.

**First (1<sup>st</sup>) Level Grievance Decision:** The resolution or final decision made by the decision maker in the Consumer and Family Assistance Office. The Grievance Decision is not defined as an action. Although a hearing of the ACBHCS Grievance Committee (as defined below) may be requested, the California State Fair Hearing process does not hear Grievance Decisions.

**Second (2<sup>nd</sup>) Level, Final Grievance Review:** The Quality Assurance Associate Administrator may review first level grievances and make final grievance decisions. Consumers may choose to provide evidence to the QA Assoc. Administrator prior to the Final Grievance Review. NOTE: ACBHP is not required to provide a Committee Review and may decline a request for a Committee Review. NOTE: The Final Grievance Decision is not an action and may not be appealed.

**Mental Health Plan (MHP):** The entity responsible for managing Medi-Cal specialty mental health services.



**Notice of Action:** The written notification given to the consumer or the consumer's conservator or guardian when a service is denied, reduced, suspended, or terminated by the local MHP.

**Patients' Rights Advocate:** The person(s) designated in Welfare and Institutions Code, Sect. 5500 et seq. to act on behalf and protect the rights of all recipients of specialty mental health services. Patients' rights advocacy services can be provided through a contract with an independent advocacy organization.

**State Fair Hearing:** A hearing conducted by the State Department of Social Services or State Department of Health Services.

## **CONSUMER RIGHTS AND ASSURANCES**

### **Information Provided to Consumers**

- Assure that each consumer has adequate information about the grievance, appeal, and expedited appeal processes. Brochures explaining the policy will be supplied to consumers by all provider sites.
- The provider must make grievance and appeal forms and envelopes addressed to ACBHCS available at all provider sites for consumers to pick up without having to make a verbal or written request.
- Provider sites (county and contract) will inform consumers of this policy at intake and annually. Consumers will be provided with the information from the Consumer Grievance/Appeal Policy form (also known as Beneficiary Problem Resolution). The provider is to assure that the consumer fully understands the content of the form, obtain signatures, and file it in the consumer's medical record.
- The provider must post a notice explaining this policy at all provider sites.
- All materials are made available to providers from ACBHP on the Providers Website [www.acbhcs.org/providers](http://www.acbhcs.org/providers) or by contacting the Quality Assistance informing materials desk at [qainformingmaterials@acbhcs.org](mailto:qainformingmaterials@acbhcs.org) or (510) 567-8233.
- ACBHP and providers must make interpreter services and toll-free numbers with TTY/TDD feature available to consumers during normal business hours.
- Consumers and/or their representatives may request from ACBHP *at any time* a copy of their grievance/appeal files and any documents and records considered during the



grievance/appeal process. In addition, consumers may submit supporting documentation to ACBHP.

### **Consumer Representation and Assistance**

- A consumer may authorize another person to act on his/her behalf in the grievance or appeal process. In the case of an appeal, a consumer may select a provider as his/her representative. Oral consent is sufficient for in-network providers or staff representatives. Consumer authorization will be logged and maintained in his/her file. Written consent is required for out-of-network representatives, including family, friends, partners/spouses, providers, and legal counsel.
- A legal representative may use the grievance/appeal process on the consumer's behalf.
- The ACBHP Consumer and Family Assistance Office is responsible for assisting a consumer with the grievance/appeal process at the consumer's request and to provide information on request by the consumer or an appropriate representative regarding the status of the consumer's grievance/appeal.
- Non-network consumer representatives must complete a signed release of information form prior to ACBHP sharing any and all information.

### **Consumer Protections**

- Confidentiality: All information received will be maintained with full respect to all regulations that assure confidentiality and security
- No discrimination for filing grievances, appeals, or State Hearings in accordance with all agency, County, State and Federal guidelines.
- No retaliation for filing grievances, appeals, or State Fair Hearings.
- Network providers *and staff* involved in *prior decisions related to the grievance* will not be involved in ACBHP decisions on the grievance.
- Consumers will be asked for their permission for ACBHP to contact grievance related providers. Consumers have full access to the Consumer and Family Assistance Office without notification to their providers.



- Consumers may obtain additional information regarding access to accommodations for disabilities through the Consumer and Family Assistance Office. In addition, the Mental Health Advocates Office may be reached directly by contacting:

**Mental Health Advocates**  
**1801 Adeline Street**  
**Oakland, CA 94607**

**Telephone: 510-835-5532 or 800-734-2504**  
**Fax: 510-835-9232**

### **Consumer Choices**

- The consumer has the ability to choose to file or withdraw a grievance at *any point in time*.
- ACBHP providers may have an internal grievance process of their own that consumers may choose to utilize. Consumers are not required to use the provider's grievance process prior to contacting ACBHP. At any point in time, a consumer may choose to use ACBHP processes by contacting the Consumer and Family Assistance Office.
- The consumer may provide written information, present evidence and/or request the provider's participation.
- At any point during the grievance process, the consumer is entitled to a second opinion by a provider within the ACBHP network.
- For further assistance and information, a consumer or representative can contact the California State Medi-Cal Ombudsman.

CA State Medi-Cal Ombudsman  
Telephone: 1-800-896-4042  
TTY: 1-800-896-2512

### **PROBLEM RESOLUTION PROCESS**

- Throughout The ACBHP will provide for resolution of a consumer's grievance, appeal or expedited appeal as quickly and simply as possible. The grievance/appeal process time lines are compliant with CCR Title 42 and State DMH guidelines, and are defined in this policy.
- Throughout this process, consumers will be fully informed of the status of their reported grievance or appeal.

### **Grievances**



A grievance may be initiated by the consumer or designated representative by reporting it to the Consumer and Family Assistance Office of ACBHP.

**Consumer and Family Assistance Office**  
**Telephone: 800-779-0787 #5**

- The grievance is filed by the consumer and/or representative in writing *or orally* (by phone).
- The Consumer and Family Assistance Office will facilitate the process in coordination with appropriate administrative and clinical consultation.
- Within three (3) working days of contacting the Consumer and Family Assistance Office, the consumer and/or representative are sent an acknowledgement letter via US mail. The letter will include:
  - Acknowledgement of receipt of the grievance
  - Information about the grievance process
  - Availability of assistance with the process
  - Availability of interpreter, language and TTY/TDD services
- The consumer and/or representative will be informed of any and all decisions within the time frames as stated below. Providers involved in the grievance will be informed of the final decision. The notification will be provided in writing via US mail (or email at consumer/representative request) or phone call.
- First Level decisions on grievances will be issued within sixty (60) days. An extension of fourteen (14) days can be granted by the designated administrator if the consumer requests it or when additional information is needed and the delay is in the consumer's interest. The final decision deadline with extensions may not exceed ninety (90) days from the receipt of the grievance.
- Following decisions on grievances by the Consumer and Family Assistance Office, the consumer and/or representative may request a 2<sup>nd</sup> level, Final Review of the grievance by the QA Associate Administrator and provide written information, present evidence and/or request that the provider attend, if relevant to the content of the grievance. *Note: ACBHP is not required to provide a 2nd Level, Final Review and may decline said request.*
- All final decisions will be communicated by receipt of a written notice to the consumer filing the grievance and the provider associated with the grievance, unless no address is available
- If the consumer is not satisfied with the final decision of ACBHP, they may request a State Fair Hearing. The State is not required to provide a State Fair Hearing for grievance resolutions.



### **Appeals**

- The consumer files an appeal, orally or in writing, with ACBHP to review an “action”.
- If the appeal is oral, the consumer is required to follow up with a written, signed appeal. The date of the oral appeal starts the time clock.
- The ACBHCS Authorization Services Office logs the appeal within one (1) working day of receipt of the appeal.
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- Within three (3) working days of contacting the ACBHCS Authorization Services Office, the consumer and/or representative will be sent an acknowledgement letter via US mail. The letter will include:
  - Acknowledgement of receipt of the appeal
  - Explanation of the process
  - Information on how to examine his/her appeal file and any documents and records considered before and during the appeal process
- Within forty-five (45) days of receipt of the appeal, the ACBHCS Authorization Services Office will provide a written notice that includes the following to affected parties, including providers involved in the appeal:
  - Appeal decision
  - Date that the appeal decision was made
  - Consumer’s right to request a State Fair Hearing and procedure for filing for a hearing if the appeal is not resolved wholly in favor of the consumer
- An extension of fourteen (14) calendar days can be granted if the consumer requests it or if the ACBHCS Authorization Services Office determines that there is a need for additional information and that the delay is in the consumer’s interest.
- The consumer may request a State Fair Hearing only after the appeal process of the ACBHCS Authorization Services Office has been exhausted.

### **Expedited Appeals**

The expedited appeal process is to be used when the ACBHCS Authorization Services Office determines, or the consumer and/or the consumer’s provider certifies, that taking the time for a standard appeal resolution could seriously jeopardize the consumer’s life, health or ability to attain, maintain, or regain maximum function.



- The oral request is sufficient and no written request is required.
- Resolution and notification of the results occurs within **three (3) working days** of receipt of the appeal.
- This timeframe may be extended to fourteen (14) calendar days if the beneficiary requests it or the ACBHCS Authorization Services Office determines that there is a need for additional information and that the delay is in the consumer's interest.

## **REPORTING AND TRACKING OF GRIEVANCES AND APPEALS**

### **Grievances**

- Any and all documentation, hard copy and electronic, will be maintained by the Consumer and Family Assistance Office within the guidelines set out by State and Federal regulations.
- The Consumer and Family Assistance Office will maintain a log of all grievances received by the office. The log will contain the following: date filed, consumer's name, name of person filing grievance if different from consumer or acting on behalf of consumer, provider site named, staff named, type of grievance, date and type of response/resolution, the time period allowed for resolution and the party responsible for addressing the grievance.

### **Appeals**

- The ACBHCS Authorization Services Office will maintain a log of appeals that contains the following: date filed, consumer's name, name of person filing appeal if different from consumer or acting on behalf of consumer, provider site named, staff named, type of appeal, and date and type of response/resolution.

## **PROCEDURES FOR MONITORING GRIEVANCES AND APPEALS**

- The Consumer and Family Assistance Office will monitor the problem resolution process and report to the Quality Improvement Committee (QIC) on a quarterly basis. The QIC shall have a process to identify trends within the grievance data, recommend improvements and monitor progress. (See section two of Quality Assurance Manual, "Quality Management and Improvement Program.")
- The QIC shall develop and submit recommendations to the Behavioral Health Care Director regarding any consumer grievances/appeals that appear to reflect service provision or mental health system problems.