**WOODLANDS BEHAVIORAL HEALTHCARE NETWORK**

**POLICY & PROCEDURE**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Title:** | | | | **Section:** |
| **Customer Appeal System** | | | | **Customer Services** |
|  | | | |  |
| **Applies to:** | | | | **Page:** |
| WBHN Staff WBHN Contract Providers | | | | 5 |
| **Doc. Number:** | **Effective Date:** | **Revised Date:** | **Annual Review:** | **Responsible Staff:** |
| 5-005.3 | 11/2022 | 11/2022, 04/2022, 09/2021, 10/1998 |  | Customer Service |

**Purpose**

To ensure the appeal system for Medicaid enrollee’s, to include funding sources: Healthy Michigan Plan (HMP) and Home and Community Based Services (HBCS) going forth, promotes the resolution of the customer’s concerns while supporting and enhancing the overall goal of improving quality of care.

**Policy**

All enrollees have the right to a fair and efficient process for resolving complaints regarding their services and supports managed and/or delivered by Woodlands Behavioral Healthcare Network (WBHN), which is the Community Mental Health Service Program (CMHSP) in Cass County. An enrollee of, or applicant for, public mental health specialty services and supports may access several options to pursue the resolution of a grievance or appeal. All policies and procedures related to the grievance, appeals, and second opinion processes are available, upon request to any customer, provider, or facility rendering service free of charge. Woodlands Behavioral Healthcare Network will handle and process complaints in ways consistent with the policies set forth by Southwest Michigan Behavioral Health (SWMBH).

The Due Process Clause of the U.S. Constitution guarantees that Medicaid enrollees must receive “due process” whenever benefits are denied, reduced, suspended, or terminated. Due Process includes: (1) prior written notice of the adverse action (2) a fair hearing before an impartial decision maker (3) continued benefits pending a final decision and (4) a timely decision, measured from the date the complaint is first made. Nothing about managed care changes these due process requirements. The Medicaid Enrollee Grievance and Appeal System provides a process to help protect Medicaid Enrollee due process rights.

Customers mental health and substance use disorder services who are Medicaid enrollees eligible for Specialty Supports and Services have various avenues available to them to resolve disagreements or complaints. There are three processes under authority of the Social Security Act and its federal regulations that articulate federal requirements regarding grievances and appeals for Medicaid enrollees who participate in managed care:

* State Fair Hearings through authority of 42 CFR 431.200 et. seq.
* PIHP Appeals through authority 42 CFR 438.400 et. seq.
* Local grievances through authority of 42 CFR 438.400 et. seq.
* Second Opinion through authority of 42 CFR 438.206 et. Seq.

Medicaid enrollees, as public mental health consumers, have rights and dispute resolution protections under authority of the State of Michigan Mental Health Code, Chapter 2, 7, 7A, 4, and 4A including:

* Mediation through authority of the Mental Health Code (MCL 330-1206a et seq.)
* Recipient Rights complaints through authority of the Mental Health Code (MCL 330.1772 et seq.)
* Second Opinion through authority of the Mental Health Code (MCL 330.1705 et seq.)

Woodlands Behavioral Healthcare Network will comply with the office of Civil Rights Policy Guidance on the Title VI Prohibition against discrimination as it affects Persons with Limited English Proficiency (LEP) when they provide written notices to customers and engage in resolution processes. In addition, Woodlands Behavioral Healthcare Network (WBHN) will provide reasonable assistance to persons who have illiteracy, hearing, or visual impairments.

**Definitions:**

1. Adverse Benefit Determination: A decision that adversely impacts Medicaid Enrollee’s claim for services.
2. Denial or limited authorization of a requested service, including determination based on the type or level of service, requirements for medical necessity, appropriateness, setting or effectiveness of a covered benefit.
3. Reduction, suspension, or termination of a previously authorized service.
4. Denial, in whole or in part, of payment for a service.
5. Failure to make a standard Service Authorization decision and provide notice about the decision within 14 calendar days from the date of receipt of a standard request for service.
6. Failure to make an expedited Service Authorization decision within seventy-two (72) hours after receipt of a request for expedited Service Authorization.
7. Failure to provide services within 14 calendar days of the start date agreed upon during the person-centered planning (PCP) meeting and as authorized by the PIHP.
8. Failure of WBHN to resolve standard appeals and provide notice within 30 calendar days from the date of a request for a standard appeal.
9. Failure of WBHN to resolve expedited appeals and provide notice with 72 hours from the date of a request for an expedited appeal.
10. Failure of WBHN to resolve grievances and provide notice within 90 calendar days of the date of the request.
11. For a resident of a rural area with only Managed Care Organization (MC0), the denial of the Enrollee’s request to exercise his/her right, under 438.52(b)(2)(ii), and to obtain services outside the network.
12. Denial of the Enrollee’s request to dispute a financial liability, including cost-sharing, copayments, premiums, deductibles, coinsurance, and other Enrollee financial responsibility.

1. Grievance and Appeal System: the processes the PIHP/CMHSP implements to handle appeals of an adverse benefit determination and grievances, as well as the processes to collect and track information about them.
2. Appeal: A review at the local level of an adverse benefit determination.
3. Second Opinion: the process for having a second qualified person (clinician, doctor) assess a case to determine if they agree with the opinion or recommendation of the original staff.
4. State Fair Hearing: Impartial state level review of an enrollee’s appeal of an adverse benefit determination presided over by a MDHHS Administrative Law Judge.

**Procedure:**

1. Federal regulation (42 CFR 438.228) requires the state to ensure through contracts with PIHPs/CMHSPs, that each PIHP/CMHSP has an overall grievance system in place for enrollee’s that complies with Subpart F of Part 438.
2. The appeal system must provide Medicaid enrollees:
3. An Appeal process (one level, only) which enables Enrollees to challenge Adverse Benefit Determinations made by the PIHP or its agents.
4. The right to concurrently file an Appeal of an Adverse Benefit Determination and a Grievance regarding other service complaints.
5. Access to the State Fair Hearing process to further appeal an Adverse Benefit Determination, after receiving notice that the Adverse Benefit Determination has been upheld by the PIHP level Appeal.
6. Information that if Woodlands Behavioral Healthcare Network fails to adhere to notice and timing requirements as outlined in Woodlands Behavioral Healthcare Network’s Appeal Process, the Enrollee is deemed to have exhausted Woodlands Behavioral Healthcare Networks appeal process. The Enrollee may initiate a State fair hearing.
7. The right to request, and have, Medicaid covered benefits continued while a local PIHP Appeal and/or State Fair Hearing is pending.

6. With the written and signed consent from the Enrollee, the right to have a provider or other authorized representative, acting on the Enrollee’s behalf, file an Appeal to Woodlands Behavioral Healthcare Network, or request a State Fair Hearing on behalf of the Enrollee with written permission, since the State permits the provider to act as the Enrollee's authorized representative in doing so. Punitive action may not be taken by the PIHP against a provider who acts on the Enrollee’s behalf with the Enrollee’s written consent to do so.

C. Service Authorization Decision Timeframes:

When a Medicaid service authorization is processed (initial request or continuation of service delivery), WBHN must provide the enrollee written service authorization decision within specified time frames and as expeditiously as the enrollee’s health requires. WBHN cannot delay the service authorization decision based upon the availability of providers. The service authorization must meet the requirements for either standard authorization or expedited authorization:

1. Standard Authorization: Notice of authorization decision must be provided as expeditiously as the enrollee’s health condition requires and no later than 14 calendar days following the receipt of a request for a service.
2. If the enrollee or provider requests an extension; or if Woodlands Behavioral Healthcare Network justifies (to the state agency upon request) a need for additional information and how the extension is in the enrollee’s best interest, WBHN may extend the 14 calendar day time period by up to 14 additional calendar days.

2. Expedited Authorization: In cases which the provider indicates or WBHN determines that following standard timeframe could seriously jeopardize the enrollee’s life or health or ability to attain, maintain, or regain maximum functions. WBHN must make an expedited authorization decision and provide notice of the decision as expeditiously as the enrollee’s health condition requires, and no later than 72 hours after receipt of the request for service.

a. If the enrollee or provider requests an extension; or if WBHN justifies (to the state agency upon request) a need for additional information and how the extension is in the enrollee’s health condition requires, and no later than 72 hours after receipt of the request for service. best interest, WBHN may extend the 72-hour time period up to 14 calendar days.

3. When a standard or expedited authorization of service decision is extended, WBHN must make reasonable efforts to give the member prompt oral notice of the delay. WBHN will, within 2 calendar days, give the member written notification of the reason for the decision to extend the time frame and inform the enrollee of the right to file grievance if he or she disagrees with that decision. WBHN must issue and carry out its determination as expeditiously as the enrollee’s health condition requires and no later than the date the extension expires.

D. Notice of Adverse Benefit Determination: WBHN is required to provide timely and “adequate” notice of any Adverse Benefit Determination.

1. An Adverse Benefit Determination must be provided to an enrollee when a service authorization decision constitutes an “action” by authorizing a service in the amount, duration, or scope less than currently authorized, or the service authorization is not made timely. In these situations, WBHN must provide an Adverse Benefit Determination containing additional information to inform the enrollee of the basis for the action WBHN has taken or intends to take and the process available to appeal the decision.

2. Notice of Adverse Benefit Determination includes:

a. The notice of action to the enrollee must be in writing and meet the requirements of 42 CFR 438.10 (i.e., “...manner and format that may be easily understood and is readily accessible by such enrollee’s and potential enrollee’s,” meets the needs of those with limited English proficiency and/or limited reading proficiency.) and 42 CFR 438.404.

b. The requesting provider must be provided notice of any decision by WBHN to deny a Service Authorization request or to authorize a service in an amount, duration or scope that is less than requested. Notice to the provider does NOT need to be in writing 42 CFR 438.210 (c).

c. Notification that 42 CFR 440.230 (d) provides the basic legal authority for an agency to place appropriate limits on a service based on such criteria as medical necessity or on utilization control procedures.

d. Description of Adverse Benefit Determination made;

e. The reason(s) for the Adverse Benefit Determination, and policy/authority relied upon in making the determination;

f. Notification of the right of the Enrollee to be provided upon request and free of charge, reasonable access to and copies of all documents, records and other information relevant to the Enrollee’s Adverse Benefit Determination (including medical necessity criteria, and any processes, strategies, or evidentiary standards used in setting coverage limits);

g. Notification of the Enrollee’s right to request an Appeal, including information on exhausting WBHN’s single local appeal process, and the right to request a State Fair Hearing if the appeal decision upholds the original adverse action.

h. If the utilization review function is not performed within part of an identified WBHN’s program or unit (access, prior authorization unit, or continued stay units), any decision to deny, suspend, reduce, or terminate a service occurring outside of the person-centered planning process or individualized plan of services process still constitutes an action, and requires a written notice of action.

i. Description of the circumstances under which an Appeal can be expedited, and how to request an Expedited Appeal;

j. Notification of the Enrollee’s right to have current benefits continued pending resolution of the Appeal, instructions on how to request benefit continuation, and a description of the circumstances (consistent with State policy) under which the Enrollee may be required to pay the costs of the continued services (only required when providing “Advance Notice of Adverse Benefit Determination”);

i. WBHN has no defined circumstances that would require an enrollee to repay the cost of continued services during an appeal so long as the “Reinstatement or Continuation of Medicaid Services” (see Sections G & H) qualifications were met.

k. Description of the procedures that the Enrollee is required to follow in order to exercise any of these appeal rights; and

l. An explanation that the Enrollee may represent him/herself or use legal counsel, a relative, a friend or other spokesman.

3. The Adverse Benefit Determination must be either Adequate or Advance:

a. Adequate Notice of an Adverse Benefit Determination is a written statement advising the Enrollee of a decision to deny, or limit authorization of Medicaid services requested, or a denial of payment for services requested, which notice must be provided to the Medicaid Enrollee on the same date the Adverse Benefit Determination takes effect.

b. Advance Notice of Adverse Benefit Determination is a written statement advising the Enrollee of a decision to reduce, suspend or terminate Medicaid services currently provided, which notice must be provided/mailed to the Medicaid Enrollee at least 10 calendar days prior to the proposed effective date.

4. There are limited exceptions to the advance notice of Adverse Benefit Determination requirement. WBHN may mail an adequate notice of adverse benefit determination, not later than the date of the action to terminate, suspend or reduce previously authorized services if:

a. WBHN has factual information confirming the death of the enrollee

b. WBHN receives a clear written statement signed by the enrollee that he/she no longer wishes services or gives information that requires termination or reduction of services and indicates that he/she understands that this must be the result of supplying that information

c. The enrollee’s whereabouts are unknown, and the post office returns WBHN’s mail directed to him/her indicating no forwarding address

d. The enrollee has been admitted to an institution where he/she is ineligible under Medicaid for further services

e. WBHN establishes with MDHHS that the enrollee has been accepted for Medicaid services by another jurisdiction, State, territory, or commonwealth

f. A change in level of health/medical care is prescribed by the enrollee’s physician

g. The date of the action will occur in less than 10 calendar days, in accordance with CFR 483.15(b)(4)(ii) which provides exceptions to the 30-day notice requirements for long-term nursing facilities.

h. The notice involves an adverse determination made with regard to the preadmission screening requirement of section 1919(e)(7) of the Act

i. WBHN may shorten the period of advance notice 5 days before the date of action if:

i. There are facts indicating that action should be taken because of probable Fraud by the enrollee

ii. The facts have been verified, is possible through secondary sources.

5. The Adverse Benefit Determination must be mailed within the following timeframes:

a. At least 10 calendar days before the date of an action to terminate, suspend or reduce previously authorized covered service(s) (Advance)

b. At the time of the decision to deny payment for a service (Adequate)

i. For more information on Denial of Payment, see WBHN Claims Policy: “Paper Claims Control” and Procedure: “Non-Network Denial Notification”.

c. Within 14 calendar days of the request for a standard service authorization decision to deny or limit services (Adequate)

d. Within 72 hours of the request for an expedited service authorization decision to deny or limit services (Adequate)

e. WBHN is able to extend the standard (14 calendar day) or expedited (72-hour) service authorization timeframes for up to an additional 14 calendar days if either the enrollee or the provider requests the extension; or WBHN can show that there is a need for additional information and how the extension is in the enrollee’s best interest.

f. For service authorizations not reached within the specified timeframes, on the date that expire.

E. Local Appeal Process

1. WBHN shall comply with federal regulations to provide a Medicaid enrollee the right to a local level appeal of an Adverse Benefit Determination. The Enrollee, or representative of the enrollee, may file an appeal with the designated staff person serving as Grievance and Appeals Officer under the following conditions:

a. The Enrollee has 60 calendar days from the date of the Adverse Benefit Determination to request a local appeal

b. The Enrollee may request an Appeal either orally or in writing. Oral inquires seeking to appeal an adverse benefit determination are treated as appeals in order to establish the earliest possible filing date.

c. The Medicaid enrollee may file an appeal with WBHN organizational unit approved and administratively responsible for facilitating local appeals.

d. WBHN is required to continue/reinstate services if the conditions described in Section G: Reinstatement or Continuation of Medicaid Services are satisfied, and for the duration described therein.

2. When a Local Appeal is requested, WBHN shall:

a. Acknowledge the receipt of each Appeal according to state and federal requirements and timeframes. according to state and federal requirements and timeframes.

b. Maintain a record of appeals for review by the Performance Improvement Program and Customer Services Department, or by the State as part of its quality strategy.

c. Provide Enrollees reasonable assistance to complete forms and to take other procedural steps. This includes but is not limited to auxiliary aids and services upon request, such as providing interpreter services and toll-free numbers that have adequate TTY/TTD and interpreter capability.

d. Provide the enrollee or representative with:

i. Reasonable opportunity, in person and in writing, to present evidence and testimony and make legal and factual arguments. WBHN shall inform all enrollees of the limited time available for this sufficiently in advance of the resolution timeframe for appeals;

ii. Opportunity before and during the appeals process to examine the enrollee’s case file, including medical records, other documents, or records, and any new or additional evidence considered relied upon, or generated by or at the direction of PIHP in connection with the Appeal of the Adverse Benefit Determination. This information must be provided free of charge and sufficiently in advance of the resolution timeframe for appeals;

iii. Opportunity to include, as parties to the appeal, the enrollee’s and his or her representative or the legal representative of a deceased enrollee’s estate;

iv. Provide the enrollee with information regarding the right to request a State Fair Hearing and the process to be used to request one.

e. Ensure that the individual(s) who make the decisions on appeals:

i. Was not involved in any previous level of review or decision-making, nor a subordinate of any such individual;

ii. When deciding an Appeal that involves either (i) clinical issues, or (ii) a denial based on lack of medical necessity, are individual(s) who have the appropriate clinical expertise, as determined by the State, in treating the Enrollee’s condition or disease.

iii. Take into account all comments, documents, records, and other information submitted by the Enrollee or their representative without regard to whether such information was submitted or considered in the initial Adverse Benefit Determination.

3. Notice of Resolution Requirements:

a. WBHN must provide written notice of the resolution of the appeal and must also make reasonable efforts to provide oral notice of an expedited resolution.

b. Enrollee notice of resolution must meet the requirements of 42 CFR 438.10(i.e., “…manner and format that may be easily understood and is readily accessible by such enrollees and potential enrollees,” meets the needs of those with limited English proficiency and/or limited reading proficiency.

c. The content of the notice of resolution must include the results of the appeal and the date it was completed.

d. When the appeal is not resolved wholly in favor of the enrollee, the notice of resolution must also include notice of the enrollee’s:

i. right for a Medicaid enrollee to request a State Fair Hearing and how to do so;

ii. right to request benefits while the State Fair Hearing is pending, if requested and how to make the request; and

iii. potential liability for the cost of those benefits if the Hearing decision upholds the PIHP’s Adverse Benefit Determination

4. The Notice of Resolution must be provided within the following timeframes:

a. Standard Appeal Resolution: WBHN must resolve the appeal and provide notice of resolution to the affected parties as expeditiously as the enrollee’s health condition requires, but not to exceed 30 calendar days from the day WBHN receives the appeal

b. Expedited Appeal Resolution: If granted, WBHN must resolve the appeal and provide written notice of resolution to the affected parties no longer than 72 hours after WBHN receives the request for expedited resolution of the appeal.

i. An expedited appeal resolution is available when WBHN determines (for a request from the enrollee) or provider indicates (in making the request on behalf of, or in support of the enrollee’s request) that taking the time for a standard resolution could seriously jeopardize the enrollee’s life, physical or mental health, or ability to attain, maintain, or regain maximum function

c. If WBHN denies a request for expedited resolution of an appeal it must:

i. Transfer the appeal to the timeframe for a standard resolution or no longer than 30 days from the date WBHN receives the appeal;

ii. Make reasonable efforts to give the enrollee prompt oral notice of the denial;

iii. Resolve the appeal as expeditiously as the enrollee’s health condition requires, but not exceed 30 calendar days; and

iv. Within 2-calendar days, give the enrollee written notice of the reason for the decision to extend the timeframe and inform the enrollee of the right to file a Grievance if they disagree with the decision.

d. WBHN may extend the notice of resolution timeframe by up to 14 calendar days if the enrollee requests an extension, or WBHN shows to the satisfaction of the state that there is a need for additional information and how the delay is in the enrollee’s interest. If the resolution timeframe is extended, WBHN must complete all the following:

i. Make reasonable efforts to give the enrollee prompt notice of the delay;

ii. Within 2-calendar days, give the enrollee written notice of the reason for the decision to extend the timeframe and inform the enrollee of the right to file a grievance if they disagree with the decision; and

iii. Resolve the appeal as expeditiously as the enrollee’s health condition requires and not later than the date the extension expires.

F. State Fair Hearing Process

1. WBHN shall comply with federal regulations providing a Medicaid enrollee the right to an impartial review (Fair Hearing) by a state level Administrative Law Judge, of an action of a local agency or its agent, in certain circumstances:

a. After receiving notice that WBHN is, after Appeal, upholding the Adverse Benefit Determination

b. When WBHN fails to adhere to the notice and timing requirements for resolution of Grievance and Appeals

2. The State may offer or arrange for an external medical review in connection with the State Fair Hearing, if certain conditions are met (e.g., it must be optional to the Enrollee, free to Enrollee, independent of State or WBHN, and not extend any timeframes or disrupt continuation of benefits).

3. WBHN shall not limit or interfere with an enrollee’s freedom to make a request for a State Fair Hearing.

4. Enrollees are given 120 calendar days from the date of the applicable notice resolution to file a request for a Fair Hearing.

5. WBHN is required to continue benefits, if the conditions described in Section G: Reinstatement or Continuation of Medical Services are satisfied, and for the durations described therein.

6. If the enrollee, or representative, request a Fair Hearing not more than 10 calendar days from the date of the notice of action and the enrollee or his/her representative requests the services continue, WBHN must reinstate the Medicaid services until disposition of the hearing by the Administrative Law Judge.

7. If the Medicaid enrollee’s services were reduced, terminated or suspended without advance notice, WBHN must reinstate services to the level before the action.

8. Enrollee’s access to the State Fair Hearing process respecting Grievances is only available when WBHN fails to resolve the grievance and provide resolution within 90 calendar days of the date of request. This constitutes an Adverse Benefit Determination and can be appealed to the MDHHS Administrative Tribunal using the State Fair Hearing process.

9. The parties to the State Fair hearing include the PIHP/ WBHN, the enrollee and his or her representative, or the representative of the deceased enrollee’s estate.

10. Expedited hearings are available.

11. A Recipient Rights Officer shall not be appointed as Hearings Officer due to inherent conflict of roles and responsibilities

12. Detailed information and instructions for the Fair Hearing process can be found on the MDHHS website at: [www.Michigan.gov/mdhhs>>Assistance](http://www.Michigan.gov/mdhhs%3e%3eAssistance) Programs >> Medicaid>>Medicaid Fair Hearings <http://www.michigan.gov/mdhhs/0,5885,7-339-71547> 4860-16825--,00.html

a. Or through the Department of Licensing and Regulatory Affairs:

<http://www.michigan.gov/lara/0,4601,7-154-10576> 61718 77732--,00html

13. SWMBH and WBHN will coordinate and/or conduct the Fair Hearings for Medicaid enrollees of WBHN.

G. Reinstatement or Continuation of Medicaid Services

1. WBHN must continue Medicaid services previously authorized while the local level appeal and/or State Fair Hearing are pending if:

a. The enrollee or provider files the appeal within 60 calendar days from the date of the Adverse Benefit Determination; and

b. The enrollee files the request for continuation of benefits timely, on or before the latter of; 10 calendar days from the date of the notice of Adverse Benefit Determination; and the intended effective date of the proposed Adverse Benefit Determination; and

c. The appeal involves the termination, suspension, or reduction, of previously authorized services, and

d. The services were ordered by an authorized provider; and

e. The period covered by the original authorization has not expired,

f. If the enrollee’s services were reduced, terminated or suspended without advance notice, WBHN must reinstate services to the level before the action.

2. If services are continued or reinstated while the appeal or State Fair Hearing is pending, they must continue until:

a. The Enrollee withdraws the appeal or request for State Fair Hearing; or

b. The Enrollee fails to request a State Fair Hearing and continuation of the benefits within 10 calendar days after WBHN sends the Enrollee notice of an adverse resolution to the Enrollee’s Appeal; or

c. A State Fair Hearing office issues a hearing decision adverse to the Enrollee,

d. The authorization expires or authorization service limits are met

H. Payment of Continued or Reinstated Medicaid Services

1. If SWMBH and WBHN, or the MDHHS Fair Hearing Administrative Law Judge reverses a decision to deny authorization of services and the enrollee received the disputed service while the appeal was pending, SWMBH and WBHN, or the State of Michigan must pay for those services in accordance with State Policy and regulations,

2. If the PIHP, or MDHHS Fair Hearing Administrative Law Judge reverses a decision to deny, limit, or delay services that were not furnished while the appeal was pending, WBHN must authorize or provide the disputed services promptly, and as expeditiously as the Enrollee’s health condition requires, but no later than 72 hours from the date it receives notice reversing the determination,

3. If the final resolution of the Appeal or the State Fair Hearing upholds WBHN’s Adverse Benefit Determination, WBHN may, consistent with the state’s usual policy on recoveries and as specified in the PIHP contract, recover the costs of services furnished to the Enrollee while the Appeal and State Fair Hearing was pending, to the extent that they were furnished solely because of these requirements.

I. Appointment of an Authorized Representative

1. An enrollee may appoint any individual (such as a relative, friend, advocate, an attorney, or any physician) to act as his or her representative when pursing appeals or Fair Hearing.

2. With the written and signed consent from the enrollee, the enrollee has the right to have a provider or other authorized representative act on the enrollee’s behalf, to file an Appeal to WBHN, or request a State Fair Hearing.

3. In the event the enrollee appoints a representative, the appeal request must include:

a. A statement that the enrollee is authorizing the representative to act on his or her behalf, and a statement authorizing disclosure of individually identifying information to the representative.

b. The enrollee’s signature and date of making the appointment; and

c. A signature and date of the individual being appointed as representative, accompanied by a statement that the individual accepts the appointment.

4. Punitive action may not be taken by WBHN against a provider who acts on the customer’s behalf with the customer’s written consent to do so or who supports the customer’s appeal.

5. A provider may not charge a customer for representation in filing an appeal.

6. If an appeal is submitted by a third party but does not include a signed document authorizing the third party to act as an authorized representative for the enrollee, the 30-day time frame begins on the date an authorized representative document is received by WBHN. WBHN must notify the enrollee that an authorized representative form or document is required and that the request will not be considered until the appropriate documentation is received. “Third party” is defined as including but not being limited to: health care provider.

7. When a request for an appeal is filed by a person claiming to be a representative, but the representative does not provide appropriate documentation upon WBHN’s request, WBHN must make, and document its reasonable efforts to secure the necessary documentation. WBHN will not undertake a review until or unless such documentation is obtained.

8. For expedited requests, WBHN will ensure that expedited requests are not inappropriately delayed due to missing documentation for appointment of a representative.

J. Record Keeping Requirements

1. WBHN is required to maintain records of enrollee appeals for review by the State staff as part of the State quality strategy and the PIHP/CMSHP Memorandum of Understanding regarding service expectations and responsibilities. WBHN’s record of each Appeal must contain, at a minimum:

a. General description of the reason for the Appeal or Second Opinion;

b. The date received;

c. The date of each review, or if applicable, the review meeting;

d. The resolution at each level of the Appeal, if applicable;

e. The date of the resolution for each Appeal;

f. Name of the covered person for whom the Appeal was filed.

2. WBHN must maintain such records accurately and in a manner accessible to the State and available upon request to CMS.

3. Appeal records must be retained for 10 years from the date of the contract period or from the date of completion of any audit, whichever is later.

4. WBHN’s QAPI Department and Quality Management Committee will review data related to access services, complaints, and satisfaction with special attention paid to both the customer and client (State of Michigan) perceptions of these topics. In all other documentation (WBHN QAPI Plan) access, complaints, and satisfaction will refer to both customer and client assessment when available.

a. WBHN’s QMC will review Appeal member data at least annually, but usually quarterly to identify trends, or areas of improvement.

K. Reporting Requirements

1. WBHN shall adhere to applicable Appeals and Second Opinion requirements of this policy.

2. WBHN shall:

a. Maintain logs of all denials of services for Medicaid enrollees and report them to the PIHP according to the PIHP/CMHSP Memorandum of Understanding.

b. Maintain logs of all appeals for Medicaid enrollees and report them to the PIHP according to the PIHP/CMHSP Memorandum of Understanding.

c. Document all Medicaid enrollee requests for Second Opinions in the identified tracking system.

3. WBHN shall:

a. monitor, track, and trend all denials, State Fair Hearing, Appeal, and Second Opinion requests and dispositions.

L. Second Opinion

1. Medicaid and Non-Medicaid enrollees have rights to a Second Opinion review under the authority of the State of Michigan Mental Health Code and the Medicare Managed Care Regulations. The Second Opinion review process may be requested for denial of inpatient hospitalization and for the denial of initial PIHP/CMHSP services under Sections 409 and 705 of the Michigan Mental Health Code. The process of notification of rights to a Second Opinion and the process for doing so.

2. For each denial of inpatient care or eligibility for PIHP/CMHSP service, at the time of the denial, the PIHP/CMHSP is required to provide the enrollee with written notice of rights to a Second Opinion Process. The notice shall contain all information as identified in this policy. The notice must indicate that the enrollee is entitled to request a Second Opinion and the process for doing so.

a. For the denial of inpatient care under Section 409 of the Michigan Mental Health Code, the individual may request a second opinion form the executive director. The executive director shall arrange for an additional evaluation by a psychiatrist, other physician, or licensed psychologist to be performed within 3 days, excluding Sundays and legal holidays, after the executive director receives the request. If the conclusion of the second opinion is different from the conclusion of the preadmission screening unit, the executive director, in conjunction with the medical director, shall make a decision based on all clinical information available. The executive director’s decision shall be confirmed in writing to the individual who requested the second opinion, and the confirming document shall include the signatures of the executive director and the medical director or verification that the decision was made in conjunction with the medical director. If an individual is assessed and found not to be clinically suitable for hospitalization, the preadmission screening unit shall provide appropriate referral services.

b. For the denial of eligibility for PIHP/CMHSP under Section 705 of the Michigan Mental Health Code, if an applicant for community mental health services has been denied mental health services, the applicant, his or her guardian if one has been appointed, or the applicant’s parent or parents if the applicant is a minor may request a second opinion of the executive director. The executive director shall secure the second opinion from a physician, licensed psychologist, registered professional nurse, or master’s level social worker, or master’s level psychologist. The process should follow standard or expedited timeframes, as outlined in this policy for appeals, as the circumstances warrant.

3. Under Section 438.206(b) of the Medicaid Managed Care Regulations, Second Opinions are made available at no cost to enrollees, from a qualified health professional within the network or outside the network if a qualified health professional within the network or outside the network if a qualified health professional is not available within the network.

a. This may be applied, but not limited to disputes regarding diagnoses, medications, and treatment modalities (such as therapeutic techniques).

b. Second Opinions under 438.206 (b) may be requested at any time. under Section 438.206(b) of the Medicaid Managed Care Regulations.

M. Second Opinion requests will be coordinated and documented by the customer service representative of WBHN.

1. Woodlands will cooperate with the Michigan Department of Insurance and Financial Services (DIFS) in the implementation of the “Patient’s Rights to Independent Review Act” (MCL 550.1901-1929).

**References:**

* 1. MDHHS/PIHP Contract: General Requirements, (B) Customer Service Standards and (L) Grievance and Appeals Process for Beneficiaries.
  2. MDHHS Appeal and Grievance Resolution Processes Technical Requirement
  3. Medicaid Managed Care Regulations: 42 CFR 431.200, 42 CFR 438.19, 42 CFR 438.228, 42 CFR 438.400-410, 42 CR 438.416-424
  4. Michigan Mental Health Code: 330.1206a, 330.1409, 330.1705
  5. MDHHS PIHP Customer Service Standards
  6. MDHHS Numbered Letter 22-72, L 22-72 Memo