



## **7.1.2 BENEFICIARY GRIEVANCES AND DISCRIMINATION GRIEVANCES**

Issue Date: 12/05/2023

Revision History: 01/21/2025

- References:
1. MHP Contract, Ex. A, Att. 5, Sec. 1(E), sec. 1(G) and Attachment 12
  2. DHCS Drug Medi-Cal Contract, Ex. A, Att 12, Sec. 1 - 4
  3. DHCS MHSUDS Information Notice No. 18-010E DHCS Behavioral Health Information Notice No. 24-001, CCR Title 9, § 1850.205
  4. 42 CFR, 438.228; 438.400 through 438.424 et. Seq.
  5. WIC § 14727 (a)(4)
  6. 45 C.F.R. § 84.7;
  7. 34 C.F. R.
  8. § 106.8, 28 C.F.R. § 35.107;
  9. DHCS Behavioral Health Information Notice No. 24-034

Policy Owner: Quality Assurance Manager

Director Signature: **Signature on file**

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### **I. Policy Statement**

It is the policy of the Sonoma County Department of Health Services, Behavioral Health Division (DHS-BHD) Mental Health Plan (MHP) and Substance Use Disorder (SUD) Drug Medi-Cal Organized Delivery System (DMC-ODS) to have a grievance system in place to ensure that beneficiaries are informed about their rights, protections, and accessibility to services.

### **II. Scope**

This policy applies to all DHS-BHD Covered Persons, which includes all County of Sonoma employees (full-time, part-time, extra help) and all additional persons who are performing services for DHS, with the exception of Community Based Organization (CBO) staff.

### **III. Definitions**

#### **A. Grievance**

1. An expression of dissatisfaction to DHS-BHD about any matter other than an Adverse Benefit Determination. Grievances may include, but are not limited to, the quality of care or services provided, and aspects of interpersonal relationships such as rudeness of a provider or employee, or failure to respect the beneficiary's rights regardless of whether remedial action is requested. Grievances include a beneficiary's right to dispute an extension of time proposed by the DHS-BHD or its contract providers to make an authorization decision. A complaint is the same as a grievance. A beneficiary need not use the term "grievance" for a complaint to be captured as an expression of dissatisfaction and, therefore, a grievance. There is no distinction between an informal and a formal grievance. DHSBHD does not discourage the filing of grievances. Even if a beneficiary expressly declines to file a formal grievance, their complaint shall still be categorized as a grievance.
2. Inquiry. An inquiry is a request for information that does not include an expression of dissatisfaction. Inquiries may include but are not limited to, questions pertaining to eligibility, benefits, or other fee-for-service processes. If the County is unable to distinguish between a grievance and an inquiry, it must be considered a grievance.

#### **B. Discrimination Grievance**

"Discrimination Grievance" means a complaint concerning the unlawful discrimination on any characteristic protected under the federal or state law, including sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, gender, gender identity, or sexual orientation.

### **IV. Policy**

- A. This policy shall ensure the prompt and equitable resolution of an expression of dissatisfaction and/or discrimination-related complaints and will establish procedures to resolve all grievances brought forth by the beneficiary, an authorized provider, or an authorized representative acting on behalf of the beneficiary to assure compliance with State and Federal regulations and guidelines. For the purposes of this policy, DHS-BHD will refer to both the MHP and the DMC-ODS plan, unless otherwise indicated.
- B. System of Care trends identified through the DHS-BHD Beneficiary Grievance process will be forwarded to the Quality Improvement Committee (QIC) and Behavioral Health Plan Administration Committee (BHPA) for review, and if applicable, subsequent needed system changes.

- C. The evaluation of client grievances are completed on a quarterly basis and a summary of these findings for the MHP will be submitted to the Department of Health Care Services (DHCS) as indicated in Behavioral Health Information Notices. DMC-ODS grievance evaluations are submitted to DHCS upon request.

## **V. Procedures**

### **A. General Guidelines**

1. Grievances and Discrimination Grievances are filed verbally or in writing to the DHS-BHD Grievance Coordinator.
2. The Client Grievance/Appeal Process and Form (BHD 406) includes:
  - a. The Grievance process
  - b. The Appeal process
  - c. Member Rights
  - d. Non-Discrimination Notice
  - e. Language Assistance Taglines

### **B. Beneficiary Notification**

1. All beneficiaries are informed of the Client Grievance process through the following informing materials located at DHS-BHD provider sites:
  - a. The Beneficiary Handbook
  - b. Client Rights flyer, and
  - c. Client Rights and Grievance/Appeal Process and Form
2. All of the informing materials are available both in English and Spanish, and if needed, can be interpreted in the beneficiary's preferred language. This information is also available on the County of Sonoma website:  
<https://sonomacounty.ca.gov/health-and-human-services/healthservices/divisions/behavioral-health/contractor-resources/medi-calinforming-materials>.
3. Language assistance is available upon request. Assistance includes, but is not limited to, auxiliary aids and services upon request, such as providing interpreter services and toll-free numbers with TTY/TDD and interpreter capability.

4. The Beneficiary Handbook, Grievance and Appeal Process and Form, and self-addressed envelopes are readily available to the general public, provider staff, and beneficiaries at all DHS-BHD provider sites without the need to make a verbal or written request to anyone.
5. The Client Rights flyer is posted at all DHS-BHD provider sites. This poster provides an explanation of the Grievance process.
6. To request information about the grievance process, contact the toll free, 24-hours a day, 7 days a week (24/7) Access telephone line 1-800-870-8786 (toll free) or 707-565-6900; TTY number 1-800-735-2929 or 711, which provides information about how to utilize the Client Grievance Process including accessing interpreter/translation services as needed.
7. To file a grievance directly with Sonoma County, contact 707-565-7895.

#### C. Written Acknowledgement

1. The Grievance Coordinator will provide the beneficiary with a written acknowledgement of receipt of the grievance.
2. The Acknowledgement letter will include the:
  - a. Date of Grievance Receipt, name, telephone and address of the Grievance Coordinator.
  - b. The written acknowledgement must be postmarked within **five calendar days** of receipt of the grievance.

#### D. DHS-BHD Requirements

1. Allow a provider, or authorized representative acting on behalf of the beneficiary and with the beneficiary's written consent, to file a grievance, either orally or in writing.
2. At the beneficiary's request, identify staff or another individual, such as a legal guardian, to be responsible for assisting a beneficiary with these processes, including providing assistance with writing the grievance.
3. Not subject a beneficiary to discrimination or any other penalty for filing a grievance.
4. Maintain the confidentiality of the beneficiary's information when carrying out procedures related to the beneficiary problem resolution process.
5. Ensure that all decision makers on grievances have the appropriate have the appropriate clinical expertise in treating the beneficiary's condition, if the decision involves a grievance regarding denial of a request for an expedited appeal, or a grievance involving a clinical issue.

6. Ensure that decision makers on grievances are not included in the subsequent levels of review and are not subordinates of any individual who was involved in a previous level of review or decision making.
7. Ensure the review of grievance reports and system of care trends through QIC, BHPA and the Quality Improvement Workplan when applicable.
8. Ensure that written records of grievances are submitted at least quarterly to the QIC and BHPA for systematic aggregation and analysis for quality improvement. Grievances reviewed shall include, but not be limited to, those related to access to care, quality of care, and denial of services. Appropriate action shall be taken to remedy any problems identified.

#### E. Handling Grievances

1. DHS-BHD Record Keeping, Monitoring, Review and Reporting Requirements.
  - a. Maintain a grievance log and record grievance receipt dates in the log within one business day of the date of receipt of the grievance.
  - b. Each record in the log shall include the following information:
    - i. Grievance Record Number (Beneficiary Identification Number).
    - ii. The date and time of receipt of the grievance.
    - iii. The name of the beneficiary filing the grievance.
    - iv. The name of the representative recording the grievance.
    - v. A description of the complaint or problem.
    - vi. Acknowledgement Letter date of issuance.
    - vii. A description of the action taken by the County or provider to investigate and resolve the grievance.
    - viii. The resolution by the County or provider.
    - ix. The name of the County provider or staff responsible for resolving the grievance.
    - x. The date of notification to the beneficiary of the Grievance Resolution.
    - xi. The Grievance Coordinator or other designated staff person will be responsible for providing information requested by the beneficiary, or the beneficiary's representative regarding the status of the grievance.

- xii. DHS-BHD will identify in its grievance documentation, the roles and responsibilities of DHS-BHD, the provider, and the beneficiary.
- xiii. DHS-BHD will provide notice, in writing, to any provider identified by the beneficiary or involved in the grievance, of the final disposition of the grievance.
- xiv. DHS-BHD will submit to DHCS a report that summarizes MHP grievances and appeals filed from 7/1 of the previous year through 6/30; annually by the first business day of September, consistent with the Managed Care Program Annual Report (MCPAR) reporting indicators specified in Behavioral Health Information Notice (BHIN) 22036 or any subsequent and/or updated BHIN. DMC-ODS grievance evaluations are submitted to DHCS upon request.

## F. Grievance Procedure

### 1. Timeframes and Method of Filing

- a. A grievance can be filed either orally or in writing at any time by contacting any DHS-BHD staff member or by completing form BHD 406.
- b. All grievances will be forwarded by DHS-BHD staff to the Grievance Coordinator prior to the end of the next business day following the filing of the grievance.
- c. The written acknowledgement to the beneficiary must be postmarked **within five calendar days** of receipt of the grievance.

### 2. Resolution

- a. The Grievance Coordinator will resolve each grievance as expeditiously as the beneficiary's health condition requires; not to exceed **30 calendar days** from the day DHS-BHD receives the grievance.
- b. "Resolved" means that DHS-BHD has reached a decision with respect to the beneficiary's grievance and notified the beneficiary of the disposition.
- c. DHS-BHD will use the written Notice of Grievance Resolution (NGR) template generated, to notify the beneficiary of the results of the grievance resolution.
- d. The NGR shall contain a clear and concise explanation of the DHSBHD decision.
- e. The Grievance Coordinator will provide written notification to:
  - i. The beneficiary or their authorized representative, of the resolution of the grievance.

- ii. If unable to reach the beneficiary or their authorized representative, the Grievance Coordinator shall document efforts to notify the beneficiary in the log.
- f. To any provider identified by the beneficiary or involved in the grievance of the final disposition of the beneficiary's grievance.
- g. DHS-BHD will notify the beneficiary of the resolution of a grievance in a format and language that meets applicable notification standards.
- h. In the event that resolution of a standard grievance is not reached **within 30 calendar days** as required, DHS-BHD will provide the beneficiary with the applicable Notice of Adverse Benefit Determination (NOABD) and include the status of the grievance and the written notice of extension is not a NOABD.

#### G. Discrimination Grievances

1. A Discrimination grievance can be filed either orally or in writing at any time by contacting any DHS-BHD staff member or completing form BHD 406.
2. DHS-BHD will designate a Discrimination Grievance Coordinator who is responsible for ensuring compliance with federal and state nondiscrimination requirements and investigating Discrimination Grievances related to any action that would be prohibited by, or out of compliance with, federal or state nondiscrimination law.
3. The DHS-BHD Discrimination Grievance Coordinator will consult with the Cultural Responsiveness, Inclusion and Training (CRIT) Manager to:
  - a. Answer questions and provide appropriate assistance to the county's staff, providers, and beneficiaries regarding the state and federal nondiscrimination legal obligations.
  - b. Advise the County about nondiscrimination best practices and accommodating persons with disabilities.
  - c. Investigate and process any Americans with Disabilities Act, Section 504 of the Rehabilitation Act, Section 1557 of the Affordable Care Act, and/or Government Code section 11135 grievances received by the County.
4. The DHS-BHD Discrimination Grievance Coordinator will ensure the prompt and equitable resolution of discrimination-related complaints.
5. DHS-BHD will not require a beneficiary to file a Discrimination Grievance with DHS-BHD before filing the complaint directly with the DHCS Office of Civil Rights and the U.S. Health and Human Services Office of Civil Rights.

6. **Within 10 calendar days** of mailing a Discrimination Grievance resolution letter to a beneficiary, the DHS-BHD Grievance Coordinator will submit the following information regarding the complaint to the DHCS Office of Civil Rights:
  - a. The original complaint.
  - b. The provider's or other accused party's response to the complaint.
  - c. Contact information for the personnel primarily responsible for investigating and responding to the complaint on behalf of DHS-BHD.
  - d. Contact information for the beneficiary filing the complaint, and for the provider or other accused party that is the subject of the complaint.
  - e. All correspondence with the beneficiary regarding the complaint, including, but not limited to, the Discrimination Grievance acknowledgement letter and resolution letter sent to the beneficiary.
  - f. The results of the DHS-BHD investigation, copies of any corrective action taken, and any other information that is relevant to the allegation(s) of discrimination.

#### H. Grievance Process Exemptions

1. Grievance received over the telephone or in-person by DHS-BHD, or a network provider of DHS-BHD, that are resolved to the beneficiary's satisfaction by the close of the next business day following receipt, are exempt from the requirement to send a written acknowledgement and disposition letter.
2. Grievances received via mail by DHS-BHD, or a network provider of DHSBHD, are not exempt from the requirement to send an acknowledgement and disposition letter in writing.
3. If DHS-BHD or a network provider of DHS-BHD receives a complaint pertaining to an Adverse Benefit Determination, the complaint is not considered a grievance (it is an appeal) and the exemption does not apply.

#### I. Language Assistance, Non-Discrimination Notice and Taglines

1. Written materials must be available in threshold languages and alternative formats, via the "Non-Discrimination Notice," and "Language Assistance" taglines made available by DHCS or adapted for use by DHS-BHD.
2. The "Non-Discrimination Notice," and "Language Assistance" taglines must be sent in conjunction with each of the following significant grievance notices sent to beneficiaries:



- a. Grievance acknowledgement letter and,
- b. The Grievance resolution letter

<b>DHS-BHD Process Timelines for Grievance, Appeal, Expedited Appeal, and State Hearing</b>	
<b>Process</b>	Grievance Title 9 – 1850.206 42 CFR 438.400, 402, 406, 408, 416 (Grievances can be filed verbally or in writing)
<b>Receipt Response</b>	<b>1 business day:</b> to Log receipt of Grievance and <b>5 calendar days</b> to send acknowledgment letter.
<b>DHS-BHD Disposition</b>	<b>30 calendar days:</b> from receipt to DHS-BHD disposition and issuing a letter of notification to beneficiary. * <b>Send</b> beneficiary NOABD “Grievance/Appeal Resolution” when out of timeframe.
<b>Additionally</b>	<b>Discrimination Grievances:</b> within <b>10 calendar days</b> of the grievance resolution, send all required documents to DHCS Office of Civil Rights’ designated discrimination grievance email box, via secure email.

## **VI. Forms**

- A. Client Rights and Grievance/Appeal Process and Form Brochure (in English and Spanish), BHD 406
- B. Client Rights Poster (in English and Spanish), MHS 400
- C. Client Rights Poster (in English and Spanish), SUD 400

## **VII. Attachments**

Notice of Grievance Resolution (NGR) (in English and Spanish), BHD 161