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Revised Date: 8/28/2018

Review Date: 8/28/2018

North Sound Behavioral Health Organization

Section 1000 – Administrative: Appeal

Authorizing Source: WAC 388-877-0670; See references Policy 1001

Cancels:

See Also:

Providers must comply with this policy and may develop individualized implementation guidelines as needed

Responsible Staff: Deputy Director

Executive Director Signature:

Approved by: County Authorities Executive Committee (formerly known as the Board of Directors)

Motion #: 04-027

Date: 6/29/2004

Date: 8/30/2018

POLICY # 1003.00

SUBJECT: APPEAL

PURPOSE

To outline North Sound Behavioral Health Organization (North Sound BHO) appeal and expedited appeal processes and requirements.

DEFINITIONS

See North Sound BHO Policy 1001.00 for definitions.

POLICY

Individuals will receive a written Notice of Adverse Benefit Determination explaining the adverse benefit determination North Sound BHO intends to take or has taken, the reasons for the adverse benefit determination and the right to request an appeal or expedited appeal of these determinations. The Notice of Adverse Benefit Determination will include an outline of the process to appeal an adverse benefit determination with North Sound BHO. Requesting providers will also receive notification (maybe oral). If a written Notice of Adverse Benefit Determination was not received, an appeal may still be filed for an adverse benefit determination taken by North Sound BHO or its designee.

Appeals are an oral or written request by an individual and/or the individual's authorized representative or Behavioral Health Agency (BHA) with written permissions for North Sound BHO to review an adverse benefit determination. Expedited appeals are requests to North Sound BHO for expedited review of an adverse benefit determination. Although a BHA or inpatient provider can initiate an appeal with the individual's written permission, the BHA/inpatient provider cannot request continuation of benefits during the appeal process.

Individuals enrolled in North Sound BHO services, their authorized representative, or BHA may request to appeal a Notice of Adverse Benefit Determination to North Sound BHO. Individuals may also request an expedited appeal (see "Expedited Appeal Request" below). Requests for an appeal initiated orally must be followed up with a signed written request by the individual and/or authorized representative, or BHA/inpatient provider. Requests for expedited appeal are not required to be followed with a written request.

The individual requesting review of an adverse benefit determination must file an appeal and receive a notice of resolution from North Sound BHO, unless the individual does not receive a notice of resolution within required timeframes for appeal or extension before requesting an Administrative (Fair) Hearing; and the individual may not file a grievance with the BHA or North Sound BHO for the same issue as the appeal once the appeal has been filed.

The appeal process must:

1. Provide the individual a reasonable opportunity to present evidence and testimony and make legal and factual arguments in person, as well as, in writing. The BHO must also inform the individual of the limited time available.
2. Provide the individual, free of charge and sufficiently in advance, the individual's clinical record, including new or additional evidence, medical records and any other documents and records considered during the appeal process.
3. If the individual requests their authorized representative review protected health information (PHI) without the individual present, the individual must sign a release of information (ROI) in accordance with privacy rules and regulations. See North Sound BHO Policy 2501.00.
4. Include as parties to the appeal as applicable:
 - a. The individual;
 - b. The individual's authorized representative; and/or
 - c. The legal representative of a deceased individual's estate.
5. Provide an appeal resolution notice in an easily understood format following 42 CFR Sec 438.10, which includes requirements that each notice:
 - a. Be written in the individual's non-English language, if applicable;
 - b. Contains North Sound BHO toll free and TTY/TTD telephone numbers; and
 - c. Explains the availability of free written translation, oral interpretation to include any non-English language, auxiliary aids, such as, American sign language, TTY/TTDY telephone services and alternative formats to include large print and Braille.

North Sound BHO must ensure the persons who make decisions in an appeal:

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 appeal;
2. Are mental health or chemical dependency professionals who have appropriate clinical expertise in the type of behavioral health service if deciding an appeal of an adverse benefit determination concerning medical necessity or an appeal that involves any clinical issues; and
3. Consider all comments, documents, records and other information submitted by the individual regardless of whether the information was considered in the initial review.

North Sound BHO will make determinations on appeals as expeditiously as the individual's health condition requires and within state required timeframes.

PROCEDURE

Standard Appeals for Adverse Benefit Determinations communicated on a Notice of Adverse Benefit Determination – continued services not requested

All of the following apply:

1. The individual must file the Appeal within 60 calendar days from the date on the Notice of Adverse Benefit Determination. An oral filing of a standard appeal must be followed with a written and signed appeal, but North Sound BHO must use the date of the oral appeal as the official filing date to establish the earliest possible filing date.
2. North Sound BHO must confirm receipt of Appeals in writing within five (5) business days.
3. North Sound BHO must send the individual a written notice of the resolution as expeditiously as the individual's health condition requires and no longer than 30 calendar days of receiving the appeal. North Sound BHO may extend the timeframe up to 14 additional calendar days if the individual requests an extension or North Sound BHO can demonstrate it needs additional information and the added time is in the individual's interest. If the extension is not requested by the individual, the individual's authorized representative, or BHA, North Sound BHO must:
 - a. Make reasonable efforts to give the individual prompt oral notice of the delay;
 - b. Within two (2) calendar days, give the individual written notice stating the reason for the decision to extend the timeframe; and
 - c. Inform the individual of the right to file a grievance if the individual disagrees with the decision to extend the timeframe.
4. The written notice of the resolution must include:
 - a. The North Sound BHO's decision and date of the decision;
 - b. The reason for the decision; and
 - c. The right and process to request an Administrative (Fair) Hearing if the individual disagrees with the decision. The Administrative (Fair) Hearing must be requested within 120 calendar days from the date of the notice of resolution or within 10 calendar days from the date of the notice of resolution if continued services are requested.

Standard Appeals for termination, suspension, or reduction of previously authorized services – continued services requested

An individual receiving a Notice of Adverse Benefit Determination from North Sound BHO that terminates, suspends, or reduces previously authorized services may file an appeal orally or in writing and request continuation of those services pending North Sound BHO's decision on the appeal. All of the following apply:

1. The individual must:
 - a. File the appeal with North Sound BHO on or before the later of the following:
 - i. Within 10 calendar days of the date on the Notice of Adverse Benefit Decision;

- ii. The intended effective date of North Sound BHO's proposed adverse benefit determination.
 - b. Request continuation of services.
 2. North Sound BHO must:
 - a. Confirm receipt of the appeal and the request for continued services with the individual orally or in writing within five (5) business days;
 - b. Send a Notice in writing that follows up on any oral confirmation made; and
 - c. Include in the Notice, if the appeal decision is adverse to the individual, North Sound BHO may recover the cost of the behavioral health services provided pending North Sound BHO's decision.
 3. North Sound BHO must send the individual a written notice of the resolution within 30 calendar days of receiving the appeal. North Sound BHO may extend the timeframe up to 14 additional calendar days if the individual requests an extension or North Sound BHO can demonstrate it needs additional information and the added time is in the Individual's interest. If the extension is not requested by the individual, the individual's authorized representative, or the individual's BHA, North Sound BHO must:
 - a. Make reasonable efforts to give the individual prompt oral notice of the delay;
 - b. Within two (2) calendar days, give the individual written notice stating the reason for the decision to extend the timeframe; and
 - c. Inform the individual of the right to file a grievance if the individual disagrees with the decision to extend the timeframe.
 4. The written notice of the resolution must include:
 - a. North Sound BHO's decision on the appeal and the date the decision was made;
 - b. The reason for the decision; and
 - c. The right to request a fair hearing and how to do so if the individual disagrees with the decision and include the following timeframes:
 - i. Within 10 calendar days from the date on the notice of the resolution if the individual is asking that services be continued pending the outcome of the hearing; and
 - ii. Within 120 calendar days from the date on the notice of the resolution if the individual is not asking for continued service.

Expedited Appeal Process

If an individual or the individual's BHA feels the time taken for a standard resolution of an appeal could seriously jeopardize the individual's life, physical or mental health, or ability to attain, maintain, or regain maximum function, an expedited appeal and resolution of the appeal can be requested.

If North Sound BHO denies the request for the expedited appeal and resolution of an appeal, it must:

1. Transfer the appeal to the timeframe for standard resolutions as outlined above;
2. Make reasonable efforts to give the individual prompt oral notice of the denial of expedition and follow up within two (2) calendar days with a written Notice of denial of expedition; and
3. The written notice will include the right to a grievance regarding the denial of expedition of the appeal.

Both of the following apply to expedited appeal requests:

1. The adverse benefit determination must be for denial of a requested service, termination, suspension, or reduction of previously authorized behavioral health services; and
2. Expedited appeal requests must be filed with North Sound BHO, either orally or in writing, **within**:
 - a. Ten (10) calendar days of the date on North Sound BHO's mailing of the written Notice of Adverse Benefit Determination or the intended effective date of North Sound BHO's proposed adverse benefit determination, if the individual is requesting continued benefits; or
 - b. Sixty (60) calendar days from the date on North Sound BHO's written notice of adverse benefit determination if the individual is not requesting continued benefits.

If an expedited appeal is requested and North Sound BHO determines taking the time for a standard resolution of an appeal could seriously jeopardize the individual's life or health and ability to attain, maintain, or regain maximum function, North Sound BHO shall meet the following requirements:

1. Confirm receipt of the request for an expedited appeal in person or by telephone; and
2. Send the individual a written notice of the resolution as expeditiously as the individual's health condition requires and no longer than 72 hours after receiving the request for an expedited appeal (if expedition is accepted). North Sound BHO must also make reasonable efforts to provide oral notice.

North Sound BHO may extend the timeframe up to 14 additional calendar days if the individual requests an extension or North Sound BHO can demonstrate it needs additional information and the added time is in the individual's interest. If the extension is not requested by the individual, the individual's authorized representative, or BHA, North Sound BHO must:

1. Make reasonable efforts to give the individual prompt oral notice of the delay;
2. Within two (2) calendar days, give the individual written notice stating the reason for the decision to extend the timeframe;
3. Inform the individual of the right to file a grievance if the individual disagrees with the decision to extend the timeframe; and
4. Resolve the appeal as expeditiously as the individual's health condition requires and no later than the date the extension requires.

North Sound BHO must ensure punitive action is not taken against a BHA who requests an expedited resolution or supports an individual's appeal.

Duration of Continued Services during the Appeal Process

When an individual has requested continued behavioral health services pending the outcome of the appeal process and the criteria are met, North Sound BHO must ensure services are continued until one (1) of the following occurs:

1. The individual withdraws the appeal; or
2. North Sound BHO provides a written notice of the resolution that contains a decision that is not in favor of the individual and the individual does not request an Administrative (Fair) Hearing within 10 calendar days from the date North Sound BHO mails the notice.

See North Sound BHO Administrative (Fair) Hearing Policy 1004.00 for information on continuation of services during an Administrative (Fair) Hearing.

In the case of residential services, services would continue; however, the continued services may not be in the residential setting if there are health or safety issues. Any change would be made in consultation with North Sound BHO staff.

Recovery of the Cost of Behavioral Health Services in Adverse Decisions of Appeals

If the final written notice of the resolution of the appeal is not in favor of the individual, North Sound BHO may recover the cost of the behavioral health services furnished to the individual while the appeal was pending to the extent they were provided solely because of the requirements for duration of continued services. Recovery of the cost of Medicaid services is limited to the first 60 days of services after the department or OAH receives an administrative hearing request (see RCW [74.09.741](#)).

Reversal of an adverse benefit determination

If North Sound BHO or the administrative (fair) hearing officer reverses a decision to deny, limit, or delay services that were not furnished while the appeal was pending, North Sound BHO must authorize or provide the disputed services as expeditiously as the individual's behavioral health condition requires no later than 72 hours from the date it receives notice reversing the determination. If North Sound BHO or the administrative (fair) hearing officer reverses a decision to deny authorization of services and the individual received the disputed services while the appeal was pending, North Sound BHO or the state must pay for those services.

Records Requirements and Reporting Requirements

North Sound BHO must ensure full records of all appeals and materials received and compiled in the course of processing and attempting to resolve appeals are:

1. Kept for a period of no less than 10 years after the completion of the appeal process;
2. Made available to the department upon request as part of the state quality strategy and made available upon request to the Centers for Medicare and Medicaid Services (CMS);
3. Kept in confidential, locked files separate from the individual's clinical record;
4. Not disclosed without the individuals written permission, except to the department as necessary, to resolve the appeal; and
5. Are accurately maintained and contain, at a minimum, all of the following information:

- a. A general description of the reason for the appeal;
- b. The date received;
- c. The date of each review or, if applicable, review meeting;
- d. Resolution at each level of the appeal, if applicable;
- e. Date of resolution at each level, if applicable; and
- f. Name of the covered person for whom the appeal was filed.

North Sound BHO will report individual's appeals as required by state and/or contract reporting instructions.

ATTACHMENTS

None