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Revised Date: 5/31/2016  
Review Date: 5/31/2016

## 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: Operations Manager

Executive Director

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

Motion #: 04-027

Signature:

Date: 6/29/2004

Date: 4/1/2016

### **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 for definitions.

### **POLICY**

Individuals will receive a written Notice of Action explaining the action North Sound BHO intends to take or has taken the reasons for the action and the right to request an appeal or expedited appeal of these actions. The Notice of Action will include an outline of the process to appeal an action with North Sound BHO. Requesting providers will also receive notification (may be oral). If a written Notice of Action was not received an appeal may still be filed for an action 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, for the BHO to review an action. Expedited appeals are requests to North Sound BHO for expedited review of an action.

Individuals enrolled in North Sound BHO services and/or their authorized representative may request to appeal a Notice of Action to North Sound BHO. Individuals may also request an expedited appeal if the situation meets established criteria. Requests for an appeal initiated orally must be followed up with a signed written request by the individual and/or representative. Requests for expedited appeal are not required to be followed with a written request.

The individual requesting review of an action must file an appeal and receive a notice of resolution from North Sound BHO before requesting a 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:

- A. Provide the individual a reasonable opportunity to present evidence and allegations of fact or law in person as well as in writing.
- B. Inform the individual of the limited time available during the expedited appeals process.

- C. Provide the individual the opportunity, before and during the appeal process, to examine the individual's clinical record, including medical records and any other documents and records considered during the appeal process.

If the individual requests their authorized representative review protected health information without the individual present, the individual must sign a release of information in accordance with privacy rules and regulations.

- D. Include as parties to the appeal as applicable:
  - 1. The individual
  - 2. The individual's authorized representative
  - 3. The legal representative of a deceased individual's estate

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

- A. Were not involved in any previous level of review or decision making; and
- B. Are Mental Health Professionals (MHP) or Chemical Dependency Professionals (CDP) who have appropriate clinical expertise.

North Sound BHO will determine appeals as expeditiously as the individual's health condition requires and within established timeframes.

## **PROCEDURE**

### **Standard Appeals for Actions communicated on a Notice of Action – continued services not requested**

All of the following apply:

- A. The individual must file the Appeal within 90 calendar days from the date on the Notice of Action.
- B. The North Sound BHO must confirm receipt of Appeals in writing within five (5) business days.
- C. The North Sound BHO must send the Individual a written notice of the resolution within 45 calendar days of receiving the Appeal. The North Sound BHO may extend the timeframe up to 14 additional calendar days if the individual requests an extension or the North Sound BHO can demonstrate that it needs additional information and that the added time is in the individual's interest. If the extension is not requested by the individual, or the individual's authorized representative, the North Sound BHO must provide a written notice to the individual stating the reason for the extension. The written notice of the resolution must include:
  - 1. The North Sound BHO's decision and date of decision;
  - 2. The reason for the decision; and
  - 3. The right to request a fair hearing if the individual disagrees with the decision. The hearing must be requested within 90 calendar days from the date on the notice of resolution.

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

An individual receiving a Notice of Action from the North Sound BHO that terminates, suspends, or reduces previously authorized services may request continuation of those services pending the North Sound BHO's decision on the appeal. All of the following apply:

- A. The individual must:
  - 1. File the appeal with the North Sound BHO on or before the later of the following:
    - a. Ten (10) calendar days after the date on the Notice of Action.
    - b. The intended effective date of the North Sound BHO's proposed Action.
  - 2. Request continuation of services.
- B. North Sound BHO must:
  - 1. Confirm receipt of the appeal and the request for continued services with the individual orally or in writing within five (5) business days;
  - 2. Send a Notice in writing that follows up on any oral confirmation made; and
  - 3. Include in the Notice that if the appeal decision is adverse to the individual, the North Sound BHO may recover the cost of the behavioral health services provided pending the North Sound BHO's decision.
- C. The North Sound BHO must send the individual a written notice of the resolution within 45 calendar days of receiving the appeal. The North Sound BHO may extend the timeframe up to 14 additional calendar days if the individual requests an extension or the North Sound BHO can demonstrate that it needs additional information and that the added time is in the Individual's interest. If the extension is not requested by the individual, or the individual's authorized representative, the North Sound BHO must provide a written notice to the individual stating the reason for the extension. The written notice of the resolution must include:
  - 1. North Sound BHO's decision on the appeal and the date the decision was made;
  - 2. The reason for the decision; and
  - 3. The right to request a fair hearing and how to do so if the individual disagrees with the decision and include the following timeframes:
    - a. 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;
    - b. Within 90 calendar days from the date on the notice of the resolution if the individual is not asking for continued service.

## Expedited Appeal Process

- A. If an individual or the individual's behavioral health provider feels the time taken 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, an expedited appeal and resolution of the appeal can be requested.

If the 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; and,
  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. The written notice will include the right to a grievance regarding the denial of expedition of the appeal.
  3. The individual has a right to file a grievance regarding the North Sound BHO's denial of a request for expedited resolution. North Sound BHO must inform the individual of their right to file a grievance in the notice of denial of expedition.
- B. Expedited appeal requests must be filed with the BHO, either orally or in writing, within:
1. Ten (10) calendar days of the date on the North Sound BHO's mailing of the written Notice of Action that communicated the action or the intended effective date of the North Sound BHO's proposed action, if the individual is requesting continued services; or
  2. Twenty (20) calendar days from the date on the North Sound BHO's written notice of action that communicated the action if the individual is not requesting continued services.
- C. If an expedited appeal is requested and North Sound BHO determines or the North Sound BHO's provider of service or inpatient provider indicates that 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 requirements.
- D. The North Sound BHO must:
1. Confirm receipt of the request for an expedited appeal in person or by telephone.
  2. Make a decision on the individual's expedited appeal, if expedition is accepted, and provide written notice of resolution within three (3) business days after the North Sound BHO receives the appeal.
- E. 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 that it needs additional information and that the added time is in the individual's interest.
- For any extension not requested by an individual, North Sound BHO must give the individual written notice of the reason for the delay.
- F. North Sound BHO must ensure that 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**

To determine if an individual will request continuation of services, previously authorized services must be continued until 10 calendar days past the date on the Notice of Action for suspension, reduction or termination of services. When an individual has requested continued behavioral health services pending the outcome of the appeal process, the North Sound BHO must ensure that services are continued until one the following occurs:

- A. The individual withdraws the appeal; or
- B. North Sound BHO provides a written notice of the resolution that contains a decision that is not wholly in favor of the individual and the individual, within the 10 day timeframe, has not requested a fair (administrative) hearing with continuation of services; or
- C. The time period of a previously authorized service has expired; or
- D. A behavioral health treatment service limit of a previously authorized service has been fulfilled.
- E. See North Sound BHO Fair (Administrative) Hearing Policy 1004 for information on continuation of services during a fair hearing.
- F. 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 that they were provided solely because of the requirements for duration of continued services.

### **Reversed Decision in Appeal Resolution**

If North Sound BHO 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. If North Sound BHO reverses a denial and the individual received the disputed services while the appeal was pending, North Sound BHO must pay for those services

### **Records Requirements and Reporting Requirements**

North Sound BHO must maintain full records of all appeals and materials received or compiled in the course of processing and attempting to resolve the appeal and ensure an individual's records are:

- A. Kept for six (6) years after the completion of the appeal process;
- B. Made available to the state upon request as part of the state quality strategy;
- C. Kept in confidential files separate from the individual's clinical record; and
- D. Not disclosed without the individual's written permission, except to the state as necessary to resolve the appeal.

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

### **ATTACHMENTS**

None