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Revised Date: 8/28/2018
Review Date: 8/28/2018

North Sound Behavioral Health Organization, LLC

Section 1000 – Administrative: Fair Hearing

Authorizing Sources: 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 #: 05-122

Date: 12/8/2005

Date: 8/30/2018

POLICY #1004.00

SUBJECT: ADMINISTRATIVE (FAIR) HEARINGS

PURPOSE

To outline the State Administrative (Fair) Hearing process and requirements.

DEFINITIONS

See North Sound Behavioral Health Organization (North Sound BHO) Policy 1001.00 for definitions.

ADMINISTRATIVE (FAIR) HEARING POLICY

Administrative (Fair) Hearings are proceedings before an administrative law judge that gives an individual an opportunity to be heard in disputes about adverse benefit determinations or a decision by North Sound BHO to deny or limit authorization of a requested non-Medicaid service communicated on a notice of determination.

There will be no retaliation against an individual who requests an Administrative (Fair) Hearing. Individuals may contact North Sound BHO or the regional Ombuds services if they have concerns about retaliation.

Rights to Request an Administrative (Fair) Hearing

Only the individual, the individual's authorized representative, the individual's Behavioral Health Agency (BHA), or the legal representative of a deceased individual's estate may file a request for an Administrative (Fair) Hearing. Individuals may call the Office of Administrative Hearings (OAH) to inquire about qualifying for a State Administrative (Fair) Hearing.

Situations when an individual may request an Administrative (Fair) Hearing include the following:

1. After an individual receives a notice that North Sound BHO upheld an adverse benefit determination.
2. After an individual receives a North Sound BHO decision to deny or limit authorization of a requested non-Medicaid service communicated on a notice of determination.
3. North Sound BHO does not adhere to the timeline for a grievance resolution as stipulated in Policy 1002.00.
4. North Sound BHO does not adhere to appeal resolution timeframes as stipulated in Policy 1003.00.
5. North Sound BHO or its contracted BHA does not reach service authorization decisions within the required timeframes or fails to provide services in a timely manner.

Time Frames for Administrative (Fair) Hearing Requests

1. If continued services are not requested, a fair hearing must be requested within 120 calendar days from the date on the written notice from North Sound BHO at the end of the appeal or within 120 calendar days from the date on the notice of determination.
2. If continued Medicaid services are requested pending the outcome of the Administrative (Fair) Hearing, all of the following apply:
 - a. The individual appealed a decision on the notice of adverse benefit determination for termination, suspension, or reduction of the individual's behavioral health services;
 - b. The individual appealed the adverse benefit determination and the BHO upheld it; and
 - c. The individual requests an Administrative (Fair) Hearing and continued behavioral health services within 10 calendar days of the date on the written notification of the resolution.
3. North Sound BHO is not obligated to continue non-Medicaid services pending result of an Administrative (Fair) Hearing when available resources are exhausted, since services cannot be authorized without funding regardless of medical necessity.
4. If an individual or the individual's BHA believes the time taken for a standard Administrative (Fair) Hearing could seriously jeopardize the individual's life, physical or mental health, or ability to attain, maintain, or regain maximum function, an expedited hearing may be requested.

If continued behavioral health services are requested the rules above apply.

5. North Sound BHOs failure to issue a grievance or appeal decision in writing within the timeframes in WAC 388 877 0660 or 0670 constitutes an exhaustion of the appeal process and the individual may request an Administrative (Fair) Hearing.

Continuation of Services During Fair Hearing Process

North Sound BHO will continue to provide Medicaid behavioral health services during the Administrative (Fair) Hearing process if criteria are met for continued services, per Washington Administrative Code (WAC), until one of the following occurs:

1. The individual withdraws the hearing request; or
2. The administrative law judge issues a hearing decision adverse to the individual.

Assistance with Fair Hearings

North Sound BHO will provide assistance to individuals in pursuing Administrative (Fair) Hearings. North Sound BHO will provide information about how to request an Administrative (Fair) Hearing and access to Ombuds services. Ombuds services are available to advocate and support individuals throughout the fair hearing process at no cost.

Fair Hearing Outcome

DSHS is responsible for the implementation of the fair hearing decision.

1. DSHS will notify North Sound BHO of the hearing determination.
2. North Sound BHO must be bound by the hearing determination, whether or not the hearing determination upholds North Sound BHO's decision.
3. If North Sound BHO or the State Fair Hearings officer reversed the 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 promptly and as expeditiously as the individual's behavioral health condition requires, but no later than 72 hours from the date it receives notice of the adverse benefit determination being overturned.
4. If the Administrative (Fair) Hearing decision 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 hearing was pending to the extent they were provided solely because of service continuation requirements. Recovery of the cost of Medicaid Services is limited to the first 60 days of services after the department or OAH receives an Administrative (Fair) Hearing request.

If the state fair hearing officer reverses a decision to deny authorization of services and the enrollee received the disputed services while the fair hearing was pending, North Sound BHO or the state must pay for those services in accordance with state policy and regulations.

ATTACHMENTS

None