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North Sound Behavioral Health Organization

Section 1000 – Administrative: Individual Rights

Authorizing Source: WAC 388-877-0600; 0680 (or successor) and 42 CFR 438.100

Cancels: Policy 4505.00

See Also:

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

Approved by: Executive Director

Responsible Staff:

Signature:

Date: 3/8/2017

POLICY #1023.00

SUBJECT: INDIVIDUAL RIGHTS

PURPOSE

To ensure that North Sound Behavioral Health Organization (North Sound BHO) enrollees are fully informed of their rights and responsibilities in accordance to applicable state and federal laws.

POLICY

North Sound BHO Network Providers are required to provide individuals with information regarding their rights. Network Providers are responsible for ensuring each person requesting service is informed of and has a complete understanding of their rights. Network Providers are expected to provide any accommodation necessary, at no cost to the individual, including translation in other language(s) for individuals who speak English as a second language; Network Providers must use an interpreter; alternative modalities for the visually impaired, hearing impaired and cognitive impaired individuals.

PROCEDURES

Individual Rights

North Sound BHO individual rights include all rights as designated by the Washington Administrative Code 388-877-0600, 0680, or its successor and 42 CFR 438.100 and include the following as specified in the Benefits Booklet (for individuals enrolled in Medicaid):

Medicaid recipients have general individual rights and Medicaid-specific rights when applying for, eligible for, or receiving behavioral health services authorized by a behavioral health organization (BHO).

General rights that apply to all individuals, regardless of whether an individual is or is not a Medicaid recipient, include:

1. All applicable statutory and constitutional rights;
2. The participant rights provided under WAC 388-877-0600; and
3. Applicable necessary supplemental accommodation services in chapter WAC 388-472.

Medicaid-specific rights that apply specifically to Medicaid recipients include the following.

You have the right to:

Receive medically necessary behavioral health services, consistent with access to care standards adopted by the department in its managed care waiver with the federal government. Access to care standards provide minimum standards and eligibility criteria for behavioral health services and are available on the Behavioral Health Administration's (BHA) Division of Behavioral Health and Recovery (DBHR) website.

1. Receive the name, address, telephone number, and any languages offered other than English, of behavioral health providers in your BHO.
2. Receive information about the structure and operation of the BHO.
3. Receive emergency or urgent care or crisis services.
4. Receive post-stabilization services after you receive emergency or urgent care or crisis services that result in admission to a hospital.
5. Receive age and culturally appropriate services.
6. Be provided a certified interpreter and translated material at no cost to you.
7. Receive information you request and help in the language or format of your choice.
8. Have available treatment options and alternatives explained to you.
9. Refuse any proposed treatment.
10. Receive care that does not discriminate against you.
11. Be free of any sexual exploitation or harassment.
12. Receive an explanation of all medications prescribed and possible side effects.
13. Make a mental health advance directive that states your choices and preferences for mental health care.
14. Receive information about medical advance directives.
15. Choose a behavioral health care provider for yourself and your child, if your child is under 13 years of age.
16. Change behavioral health care providers at any time for any reason.
17. Request and receive a copy of your medical or behavioral health services records, and be told the cost for copying.
18. Be free from retaliation.
19. Request and receive policies and procedures of the BHO and behavioral health agency as they relate to your rights.
20. Receive the amount and duration of services you need.
21. Receive services in a barrier-free (accessible) location.
22. Medically necessary services in accordance with the early periodic screen, diagnosis and treatment (EPSDT) under WAC 182-534-0100, if you are 20 years of age or younger.
23. Receive enrollment notices, informational materials, materials related to grievances, appeals, and administrative hearings, and instructional materials relating to services provided by the BHO, in an easily understood format and non-English language that you prefer.
24. Be treated with dignity, privacy and respect, and to receive treatment options and alternatives in a manner that is appropriate to your condition.

25. Participate in treatment decisions, including the right to refuse treatment.
26. Be free from seclusion or restraint used as a means of coercion, discipline, convenience or retaliation.
27. A second opinion from a qualified professional within your BHO area at no cost, or to have one arranged outside the network at no cost to you, as provided in 42 CFR § 438.206(3).
28. Receive medically necessary behavioral health services outside of the BHO if those services cannot be provided adequately and timely within the BHO.
29. File a grievance with the BHO if you are not satisfied with a service.
30. Receive a notice of action so that you may appeal any decision by the BHO that denies or limits authorization of a requested service, that reduces, suspends, or terminates a previously authorized service, or that denies payment for a service, in whole or in part.
31. File an appeal if the BHO fails to provide services in a timely manner as defined by the state, or act within the timeframes provided in 42 CFR § 438.408(b).
32. Request an administrative (fair) hearing if your grievance or appeal is not resolved in your favor.
33. Services by the behavioral health Ombuds office to help you in filing a grievance or appeal, or to request an administrative hearing.

A behavioral health agency licensed by DBHR and certified by DBHR to provide mental health and/or substance use disorder services must ensure the Medicaid rights described above are:

1. Provided in writing to each Medicaid recipient, and if appropriate, the recipient's legal representative, on or before admission;
2. Upon request, given to the Medicaid recipient in an alternative format or language appropriate to the recipient and, if appropriate, the recipient's legal representative;
3. Translated to the most commonly used languages in the agency's service area; and
4. Posted in public areas.

For Medicaid enrollees, the following specific rights apply, 42 CFR 438.100.

1. Receive information in accordance with 42 CFR § 438.10 (Information Requirements).
2. Be treated with respect and with due consideration for his or her dignity and privacy.
3. Receive information on available treatment options and alternatives, presented in a manner appropriate to the enrollee's condition and ability to understand. (The information requirements for services that are not covered under the contract because of moral or religious objections are set forth in 42 CFR § 438.10(f)(6)(xii).)
4. Participate in decisions regarding his or her health care, including the right to refuse treatment.
5. Be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience or retaliation, as specified in other Federal regulations on the use of restraints and seclusion.

6. If the privacy rule, as set forth in 45 CFR parts 160 and 164 subparts A and E, applies, request and receive a copy of his or her medical records, and request that they be amended or corrected, as specified in 45 CFR § 164.524 and 164.526.
7. An enrollee has the right to be furnished health care services in accordance with 42 CFR §§ 438.206 through 438.210.
8. *Free exercise of rights.* The State must ensure that each enrollee is free to exercise his or her rights, and that the exercise of those rights does not adversely affect the way the North Sound BHO and its providers or the State agency treat the enrollee.
9. *Compliance with other Federal and State laws.* The State must ensure that North Sound BHO and its network providers comply with any other applicable Federal and State laws (such as: title VI of the Civil Rights Act of 1964 as implemented by regulations at 45 CFR part 80; the Age Discrimination Act of 1975 as implemented by regulations at 45 CFR part 91; the Rehabilitation Act of 1973; and titles II and III of the Americans with Disabilities Act; and other laws regarding privacy and confidentiality).

For both individuals not enrolled/enrolled in Medicaid the following rights apply, WAC 388-877-0600:

Each agency licensed by the department to provide any behavioral health service must develop a statement of individual participant rights applicable to the service categories the agency is licensed for, to ensure an individual's rights are protected in compliance with RCW chapters 71.05, 71.12 and 71.34. In addition, the agency must develop a general statement of individual participant rights that incorporates at a minimum the following statements.

You have the right to:

1. Receive services without regard to race, creed, national origin, religion, gender, sexual orientation, age or disability;
2. Practice the religion of choice, as long as, the practice does not infringe on the rights and treatment of others or the treatment service. Individual participants have the right to refuse participation in any religious practice;
3. Be reasonably accommodated in case of sensory or physical disability, limited ability to communicate, limited English proficiency, and cultural differences;
4. Be treated with respect, dignity and privacy, except that staff may conduct reasonable searches to detect and prevent possession or use of contraband on the premises;
5. Be free of any sexual harassment;
6. Be free of exploitation, including physical and financial exploitation;
7. Have all clinical and personal information treated in accord with state and federal confidentiality regulations;
8. Review your clinical record in the presence of the administrator or designee and be given an opportunity to request amendments or corrections;
9. Receive a copy of agency grievance system procedures upon request and to file a grievance with the agency, or BHO, if applicable, if you believe your rights have been violated; and
10. Lodge a complaint with the department when you feel the agency has violated a WAC requirement regulating behavior health agencies.

Each agency must ensure the applicable individual participant rights described in this policy are:

1. Provided in writing to everyone on or before admission;
2. Available in alternative formats for individuals who are blind;
3. Translated to the most commonly used languages in the agency's service area;
4. Posted in public areas; and
5. Available to any participant upon request.

Each agency must ensure all research concerning an individual whose cost of care is publicly funded is done in accordance with WAC chapter 388-04, protection of human research subjects, and other applicable state and federal rules and laws.

In addition to the requirements in this section, each agency providing services to Medicaid recipients must ensure an individual seeking or participating in behavioral health treatment services, or the person legally responsible for the individual is informed of their Medicaid rights at time of admission and in a manner, that is understandable to the individual or legally responsible person.

The grievance system rules in WAC 388-877-0654-0675 apply to an individual who receives behavioral health services funded through a federal Medicaid program or sources other than a federal Medicaid program.

Other specific rights are defined in the WAC for individuals who enter Triage/Crisis Stabilization units, residential facilities, inpatient treatment on a voluntary basis, individuals who are detained to inpatient or freestanding Evaluation and Treatment programs under the Involuntary Treatment Act, and individuals who enter outpatient treatment under a Less Restrictive Order.

Network Provider Responsibilities

Network Providers are responsible for ensuring a copy of the "Individual Rights Statement" detailing the rights will be given to each person at the intake evaluation or next subsequent appointment.

Network Providers are expected to verbally review the rights with individuals upon entry into services and as frequently as necessary after that time.

Network Providers are responsible for ensuring a copy of the "Individual Rights Statement" is signed by the enrollee documenting that the rights are understood and accepted. The signed "Individual Rights Statement" will be maintained in the individual's clinical record.

The "Individual Rights Statement" will be posted in a conspicuous location in each building operated by a North Sound BHO Network Provider.

Network Providers will ensure a copy of the "Individual Rights Statement" and Individual Rights Policy and Procedures are provided to individuals, family members or other interested persons upon request.

Each North Sound BHO and North Sound BHO Provider Network employee will be apprised of this policy, the procedures set forth in this policy and educated in its implications within 10 days of hire. Documentation of this training will be maintained within each agency and each employee's personnel file.

Each North Sound BHO Network Provider will develop policies and procedures regarding individual rights that comply with the procedures set forth in this policy or will incorporate this policy into the agency's policy and procedure manual.

Special Situations

If a person is under the age of 13, both the individual and his/her parent, legal guardian, or other authorized person will be asked to read and sign the same "Individual Rights Statement" acknowledging understanding of their rights.

If an individual does not understand any aspect of the rights form, any Provider Network staff member has the responsibility of explaining this to the individual.

In behavioral health crisis situations, it is the responsibility of the Provider Network Designated Mental Health Professional (DMHP)/Designated Crisis Responder (DCR) to ensure the individual will be verbally advised of the pertinent rights, such as the right to consent to or to refuse the offered treatment and the consequences of that agreement or refusal. A written copy of the "Individual Rights Statement" and verbal explanation will be delayed to the first subsequent meeting with the individual once the crisis is stabilized.

ATTACHMENTS

None