ALAMEDA COUNTY Behavioral Health Care Services	**Date Approved:** 12/5/2016 **By:** _____ **Karyn Tribble, PsyD, LCSW** Interim BHCS Director
POLICY TITLE **Consumer Grievance and Appeal Processes for Medi-Cal Specialty Mental Health Services and Mental Health Services Act Programs**	**Policy No:** 300-1-1 **Date of Original Approval:** 3/10/10 **Date Revised:** 12/5/16

PURPOSE

This policy establishes a process by which a consumer can express dissatisfaction regarding their care and other aspects of consumer participation in services provided by Alameda County Behavioral Health Care Services (BHCS) and describes the process for resolving these concerns. BHCS is required to have consumer problem resolution processes that enable a beneficiary to seek resolution to a problem or concern about any issue related to BHCS' performance of its duties in the delivery of Medi-Cal specialty mental health services and services funded by the Mental Health Services Act (MHSA). As well, this policy establishes the grievance process related to the MHSA community program planning process, service access, and consistency between program implementation and the approved MHSA plan for BHCS. In accordance with Federal and State requirements, this policy establishes the guidelines and procedures for consumer grievances and appeals and establishes the departmental procedures to operationalize and monitor this process.

AUTHORITY

CCR Title 9 Sections 1810.200, 1850.205-215: Beneficiary Protection, 1810.230.5; 1850.207(d); 42 CFR Sec. 438.406; Title 22, Section 51341, Fair Hearing Process; Welfare and Institutions Code Section 5845(d)(7); DMH Policy #295.

SCOPE

All BHCS county-operated mental health programs and MHSA-funded programs in addition to entities, individuals and programs providing mental health and MHSA-funded services under a contract or subcontract with BHCS shall adhere to this policy. Grievances and appeals related to Substance Use Disorder (SUD) programs are subject to a separate process and not covered by this policy.

POLICY

BHCS encourages resolution of grievances at the program level where services are being received. Every effort should be made by providers to resolve consumer concerns as quickly and simply as possible; however, it is the policy of BHCS that consumers may use BHCS' grievance and appeal process at any time, whether or not they have attempted to resolve their concerns at the provider level. A consumer may use BHCS' grievance and appeal process without fear of retaliation from BHCS or its' contractors. This policy is implemented consistent with state and federal laws and regulations regarding consumer confidentiality.

PROCEDURE

Consumer Grievances

A **Grievance** is an expression of unhappiness about anything regarding the services delivered by BHCS to a consumer that is not covered by the Medi-Cal Appeal and State Fair Hearing process described under *Consumer Appeals* below.

Filing Grievances:

A. Grievances may be filed with BHCS by the consumer, their family member or other support person. This includes:
   1. Consumers age 18 or over
   2. Parents/guardians of children and youth receiving services
   3. Youth between the ages of 14 and 18 who are receiving services
   4. A consumer-designated representative (i.e. family member, friend, service provider, other client, or trained advocate) may file grievance or assist the consumer in the process at any time.
      a. If a personal representative is not employed by BHCS or a BHCS contactor, consumer confidentiality must be protected; the consumer must give verbal consent and/or sign an Authorization for Release of Confidential Information form, available at all sites, in order to allow BHCS to discuss the issue(s) with the representative.

B. Grievances to BHCS may be filed orally or in writing using BHCS' Grievance or Appeal Request form, available at all provider sites.

C. Grievances may be submitted to BHCS as follows:

   By phone: (800) 779-0787 Consumer Assistance Line
   Via US mail: 2000 Embarcadero Cove, Suite 400
   Oakland, CA 94606

D. Assistance filing a grievance may be obtained by calling the Consumer Assistance Line listed above. Grievances filed orally will be entered on a grievance call form by the staff member receiving the grievance.

E. When a provider has its own grievance process, the consumer must still be informed about BHCS' grievance process. Consumers shall not be required to go through a provider's internal grievance process before they are allowed to use BHCS' process, and can choose the BHCS process at any time. A provider's internal grievance process must be consistent with BHCS' grievance process.

Processing of Grievances by BHCS

A. When a BHCS grievance is filed, a written acknowledgement of receipt will be issued to the grievant by the Consumer Assistance staff person who received the request within one (1) business day.

B. The grievance will then be assigned to the appropriate staff person to resolve the complaint.
   1. The grievance investigator must not have been involved in any previous level of review or decision-making related to the grievance being processed.
   2. Grievances that are non-clinical in nature will be handled by a Consumer/Family Assistance Specialist who has experience in resolving non-clinical consumer issues.
   3. Grievances that are clinical in nature will be handled by a licensed mental health professional in the BHCS Quality Assurance Office as clinical issues must be handled by

a health care professional with the appropriate clinical expertise in treating the condition of the consumer filing the grievance.

4. Grievances regarding the MHSA-related issues listed below shall be forwarded to the designated party as appropriate who shall process the grievance per the guidelines and timeframes listed in this policy:
    a. Grievances regarding MHSA-funded housing services shall be referred to the BHCS Housing Services Director.
    b. Grievances regarding input at a public meeting related to MHSA or MHSA-funded training shall be referred to the BHCS MHSA Senior Planner and/or the BHCS Training Coordinator.
    c. Grievances regarding MHSA-funded consumer related/wellness events shall be referred to the BHSC Consumer Empowerment Manager.
    d. MHSA-related grievances regarding family members, including Prevention and Early Intervention (PEI) programs shall be referred to the BHCS Family Empowerment Manager.

C. The grievance investigation shall involve a personal contact with the grievant, whenever possible; this can take place via telephone. The Consumer Assistance Specialist or party resolving the grievance has the responsibility to provide information on request by the consumer or their representative regarding the status of the grievance.

D. A written decision notifying the consumer and/or their representative of the outcome of the grievance and date of decision shall be sent within 60 calendar days from the date the grievance was received.
    1. If unable to contact the consumer and/or their representative, notification or efforts to notify them should be documented.
    2. If the grievance is not resolved within 60 calendar days and an extension is not requested or determined to be in the best interest of the consumer, BHCS shall notify the consumer/representative of the delay in grievance processing using the form titled Notice of Action: Delays in Grievance/Appeal Processing (NOA-D), which includes information about how to request a State Fair Hearing.

E. The timeframe to resolve a grievance may be extended by up to 14 calendar days if the consumer/representative requests an extension or if BHCS determines that there is a need for additional information and that the delay is in the best interest of the beneficiary (consumer).

F. The party resolving the grievance shall be responsible for notifying the Execute Director(s), or their designee, of the service provider(s) named in the grievance, of the content of the grievance and the resolution on a Notification of Disposition (Provider) form which shall be given directly to the provider or mailed by the resolution deadline.

G. For grievances that have been resolved by a party other than Consumer Assistance or the BHCS Quality Assurance Office, a copy of the written decision to the consumer and Notification of Disposition letter to provider (if applicable) along with copies of any relevant supporting materials, shall be sent to the BHCS Quality Assurance Office within five (5) business days of the date of decision.

Consumer Appeals (only applies to Medi-Cal beneficiaries receiving specialty mental health services)

An **Appeal** is a request for a review of an "Action" that was taken by BHCS or by a contracted provider on behalf of BHCS regarding specialty mental health services. An action occurs when BHCS or a BHCS-contracted provider:

- denies or modifies payment authorization for a requested service;
- reduces, suspends or terminates a previously authorized service;

- denies, in whole or in part, payment for a service before it has occurred;
- fails to act within the established timeframe of the grievance, appeal, or expedited appeal resolution process, or
- fails to provide services in a timely manner, as defined by the Mental Health Plan

When an action occurs, the Mental Health Plan (MHP) is required to issue a Notice of Action (NOA), however, a Medi-Cal beneficiary does not need to have received a notice of action in order to request an appeal. Note: *Only Medi-Cal beneficiaries may file a Standard or Expedited Appeal regarding an action for a specialty mental health service. Appeals are not available to beneficiaries that are not happy with the outcome of their grievances.*

Filing and Processing an Appeal

A. Appeals may be filed with BHCS by the consumer, their family member or other support person. This includes:
    1. Clients age 18 or over
    2. Parents/guardians of children and youth receiving services
    3. Youth between the ages of 14 and 18 who are receiving services
    4. A consumer-designated representative (i.e. family member, friend, service provider, other client, or trained advocate) may file the appeal or assist the consumer in the process at any time.
        a. If a personal representative is not employed by BHCS or a BHCS contactor, consumer confidentiality must be protected; the consumer must give verbal consent and/or sign an Authorization for Release of Confidential Information form, available at all sites, in order to allow BHCS to discuss the issue(s) with the representative.

C. The appeal process described in this policy is only available through BHCS and is not available at the contracted-provider level.

D. Standard Appeals to BHCS may be filed orally or in writing using BHCS' Grievance or Appeal Request form, available at all provider sites. An oral appeal must be followed up with a written appeal.
    1. If the consumer received a NOA, the appeal must be filed within 90 days of the date of the NOA. If the consumer did not receive a NOA, there is no deadline for filing; the appeal can be filed at any time.
    2. Appeals may be submitted to BHCS as follows:

        By phone: (800) 779-0787 Consumer Assistance Line
        Via US mail: 2000 Embarcadero Cove, Suite 400
        Oakland, CA 94606

    3. Assistance filing an appeal may be obtained by calling the Consumer Assistance Line listed above.
    4. When an appeal is filed, a written acknowledgement of receipt will be issued to the consumer/representative within one (1) business day.
    5. The BHCS Quality Assurance Office facilitates review and processing of all consumer appeals and shall notify the consumer or their representative in writing about the decision within forty-five (45) days after the receipt of the appeal.
    6. Timeframes may be extended by up to fourteen (14) calendar days if the consumer or consumer's representative requests an extension, OR if BHCS feels that there is need for additional information and the delay is for the consumer's benefit.

E. Expedited Appeals: If taking the time for a standard resolution of an appeal could seriously jeopardize the consumers' life, health, or ability to attain, maintain, or regain maximum functioning, an Expedited Appeal will be granted.
   1. An Expedited appeal can be made orally without requiring a written appeal to follow.
   2. Expedited Appeals will be resolved by BHCS within three working days.
   3. If an Expedited Appeal request is denied, BHCS shall make reasonable efforts to give the consumer and/or their represented prompt oral notice of the denial and provide written notice within two calendar days of the date of the denial.

F. Aid Paid Pending: Upon request, a Medi-Cal beneficiary's benefits will continue while an Appeal or Expedited Appeal is pending if the beneficiary files the appeal within 10 calendar days from the date a NOA was mailed or given to the beneficiary, or should have been issued. The beneficiary will be notified of this via an "Aid Paid Pending Notice."

G. State Fair Hearings: Medi-Cal beneficiaries have the right to a State Fair Hearing, conducted by the State of California, if they have already availed themselves of BHCS' appeal process (see section above on who can file an appeal) and are dissatisfied with the resolution. BHCS must abide by any decision reached through a State Fair Hearing.
   1. BHCS shall notify the consumer of their right to a State Fair Hearing and how to request a State Fair Hearing along with any NOA and along with any appeal decision letter sent to the consumer.
   2. State Fair Hearings are not available to beneficiaries who are unhappy with their grievance outcome.
   3. Request for a State Fair Hearing must be submitted within 90 days of the postmark date of day that BHCS personally gave the NOA to the consumer.
   4. To keep the same services while waiting for a hearing, the consumer must request the hearing within ten (10) days from the date the NOA was mailed or personally given to the consumer OR before the effective date of the change in service, whichever is later.
   5. State Fair Hearings may be requested as follows:

      Call: (800) 952-5253
      Fax: (916) 651-5210 or (916) 651-2789
      Write: Department of Social Services/State Hearings Division
      P.O. Box 944243, Mail Station 9-17-37
      Sacramento, CA 94244-2430

H. Use of the BHCS' grievance and appeal process does not replace any existing avenues of review or redress provided by law. Consumers have all rights guaranteed under law. Any grievance relating to involuntary 5150 holds, 5250 holds and conservatorships is handled through existing legal remedies such as Patient's Rights, rather than through this process. Patients' Rights Advocates: 1 (800) 734-2504 or (510) 835-2505.

Consumer Information Requirements

A. Posting and Informing

1. Providers shall post the Grievance and Appeals Process poster in all threshold languages in a highly visible location for consumers (e.g., waiting room).
2. The forms used for filing a grievance (Grievance and Appeals Process & Request Form) and self-addressed envelopes shall be made readily available at all provider sites for a consumer to pick up without having to make a verbal or written request to anyone. This material shall be made available by providers in all threshold languages.

3. Consumers shall receive written and oral information from their service provider(s) regarding the problem resolution process. Informing consumers means explaining the process to them in their primary language and reminding them of the process when they express wanting to file a grievance or appeal.
4. Providers shall inform consumers about the problem resolution process:
    a. at the initial face-to-face visit and at admission to any new program or provider,
    b. annually during treatment reauthorization, and
    c. when services are modified, denied, or terminated.
5. The following materials related to this policy are available on the BHCS Provider Website in the QA Manual, Section 10: Beneficiary Rights Informing Materials:
    a. BHCS Grievance and Appeal Process Information Flyer and Forms *(Available in the County's threshold languages and extra-large font to accommodate persons with visual problems)*
    b. BHCS Grievance and Appeal Process Poster *(Available in the County's threshold languages)*
    c. BHCS "Informing Materials – Your Rights and Responsibilities" *(Available in the County's threshold languages)*
    d. BHCS Policy and procedure: *Consumer Grievance and Appeal Processes* (Shall be made available at all direct treatment programs for review by clients upon request)

Documenting

A. Providers shall document that consumers have been informed about the grievance and appeal process at the initial face-to-face evaluation and at admission to any new program or provider.
B. Documentation will be indicated by the check-off box on the *Informing Materials—Your Rights and Responsibilities Acknowledgement of Receipt* which shall be placed in the consumer's chart.
C. Providers shall also review the grievance and appeal procedure annually with the consumer as part of reviewing all information in *Informing Materials – Your Rights and Responsibilities* and document this on the *Acknowledge of Receipt* which shall be placed in the consumer's chart.

Retention of Records

A. The BHCS Quality Assurance Office shall retain a copy of all grievances in locked administrative files, or stored in a secure electronic file, for seven years from the date the original grievance was received unless there are program specific requirements that demand a longer retention period.
B. As required by the Department of Health Care Services (DHCS), the BHCS Quality Assurance Office shall maintain a log of all Medi-Cal grievance/appeals and MHSA-related grievances. Any non-Medi-Cal or non-MHSA grievances shall also be captured on the log for tracking purposes and for use in the annual patterns report to the BHCS Quality Improvement Committee. The log shall contains at least the following information on each grievance or appeal:

    1. Name of grievant and grievant's representative, if applicable
    2. Medi-Cal ID/Social Security Number for Medi-Cal Beneficiaries
    3. Nature of the problem
    4. Agency/program name or individual provider name
    5. Date acknowledgment letter was mailed out
    6. Final disposition/how resolved
    7. Date the letter of decision/notification to beneficiary was mailed out

8. Date letter of extension was mailed out (if applicable)
9. Date Notice of Action-D was mailed out (if applicable)
10. Date the letter of decision/notification to provider was mailed out
11. Whether program was funded by MHSA/MHSA issues identified

Quality Improvement

A. BHCS shall ensure that all providers are in compliance with the California Department of Health Care Services (DHCS) regulations regarding grievance and appeal resolution. This process shall be monitored by the BHCS Quality Management Program.
B. The BHCS Quality Management Program shall track the timeliness of responses to consumer grievances and appeals, the number of cases submitted, types of issues, number of unresolved grievances and appeals and reasons, and number of resolved grievances and appeals.
C. On an annual basis the BHCS Quality Assurance Office will prepare the Annual Medi-Cal Beneficiary Grievances and Appeals Report (ABGAR) for the DHCS. The report will follow the DHCS requirements and will only report on grievances and appeals for Medi-Cal beneficiaries.
D. At least annually, the BHCS Quality Assurance Office shall present a report on grievances and appeal patterns to the BHCS Quality Improvement Committee (QIC) that is charged with making policy recommendations and developing quality improvement activities to ensure that BHCS consumers are receiving appropriate care. Issues identified as a result of grievance and appeal processes will be transmitted to the QIC to be discussed and, if needed, brought to the attention of the BHCS Executive Team or another appropriate body for further consideration.

CONTACT

BHCS Office	Current as of	Email
Quality Assurance Office	November 2016	qaoffice@acbhcs.org

DISTRIBUTION

This policy will be distributed to the following:

- BHCS Staff
- BHCS County and Contract ProvidersPublic

ISSUANCE AND REVISION HISTORY

Original Author: Kyree Klimist, MFT, Quality Assurance Administrator
Original Date of Approval: 3-10-2010 by Marye Thomas, M.D., Behavioral Health Director

Revise Author	Reason for Revise	Date of Approval by (Name)
Donna Fone, MFT, LPCC, Quality Assurance Administrator and Kimberly Coady, LCSW, QA Consumer Assistance Clinician	To update policy	12/5/2016 by Karyn Tribble, PsyD, LCSW, Interim BHCS Director

DEFINITIONS

Term	Definition
Aid Paid Pending	Associated with Medi-Cal Appeals. Benefits for the beneficiary continue pending review (Aid Paid Pending) if the appeal or expedited appeal is filed within 10 days of when a Notice of Action (NOA) was mailed or given to a beneficiary, or when one should have been issued.
Appeal	An Appeal is a request for a review of an "Action" that was taken by BHCS or by a contracted provider on behalf of BHCS regarding specialty mental health services. An action occurs when BHCS or a BHCS-contracted provider: 1) denies or modifies payment authorization for a requested service; 2) reduces, suspends or terminates a previously authorized service; 3) denies, in whole or in part, payment for a service before it has occurred; 4) fails to act within the established timeframe of the resolution process, or 5) fails to provide services in a timely manner, as defined by the Mental Health Plan
Beneficiary	Anyone currently receiving BHCS care or services, or who has received BHCS care or services in the last 12 months. The term 'beneficiary' is also synonymous with 'consumer,' 'patient,' or 'client'.
Grievance	An expression of unhappiness about anything regarding the services delivered by BHCS to a consumer that is not covered by the Medi-Cal Appeal and State Fair Hearing process.
Medi-Cal	The name of California's Medicaid program which provides health coverage to people with low-income, the aged or disabled and those with asset levels who meet certain eligibility requirements.
Specialty mental health services	Medi-Cal services provided under county Mental Health Plans (MHPs) by mental health specialist, both licensed and unlicensed, such as psychiatrists, psychologists, licensed clinical social workers, licensed marriage and family therapists, licensed professional clinical counselors, and peer support providers
State Fair Hearing	Medi-Cal beneficiaries have the right to a State Fair Hearing, conducted by the State of California, if they have availed themselves of BHCS' problem resolution process for NOA's and Appeals and are dissatisfied with the resolution. BHCS must abide by any decision reached through a State Fair Hearing.
Threshold language	Non-English languages spoken by Medi-Cal enrollees and potential enrollees based on a significant number or percentage of persons who speak each language as follows: • A population group of mandatory Medi-Cal beneficiaries residing in the Mental Health Plan's service area who indicate their primary language as other than English, and that meet a numeric threshold of 3,000 or five-percent (5%) of the beneficiary population, whichever is lower; and • A population group of mandatory Medi-Cal beneficiaries residing in the Mental Health Plan's service area who indicate their primary language as other than English and who meet the concentration standards of 1,000 in a single ZIP code or 1,500 in two contiguous ZIP codes.