7.1.14 Dispute Resolution Process Between DHS-BHD and Managed Care Plans

Issue Date: 8/28/2024

Revision History: Not applicable (new policy and procedure)

References: BHIN 23-056, 23-057, 21-034; APL 21-013; Memorandums of Understanding between Sonoma County DHS-BHD and Managed Care Plans; Cal. Code Regs. tit. 9, § 1850.505, "Dispute Resolution Process Between Mental Health Plans and Medi-Cal Managed Care Plans".

Policy Owner: Behavioral Health Division – Quality Assessment and Performance Improvement (QAPI), Quality Assurance (QA) Manager

Director Signature: Signature on File

I. Policy Statement

The purpose of this policy is to describe the process for resolving disputes between the Sonoma County Department of Health Services – Behavioral Health Division (DHS-BHD) and Managed Care Plans (MCPs). The requirements for resolving disputes is articulated in the Memorandums of Understanding (MOUs) between DHS-BHD and the MCPs that provide health care services to Medi-Cal beneficiaries in Sonoma County.

II. Scope

This policy applies to the DHS-BHD Mental Health Plan (MHP), Drug Medi-Cal Organized Delivery System (DMC-ODS), and Drug Medi-Cal (DMC) program within the context of their respective MOUs with MCPs operating in Sonoma County and providing health care services to Medi-Cal beneficiaries.

III. Definitions

A. Dispute: is a formal disagreement between a Medi-Cal managed care plan (MCP) and a county mental health plan (MHP) regarding the provision of and/or payment for mental health services that has not been resolved through informal measures and occurs when either plan makes a formal written request for a Plan Level Dispute Resolution and/or Department of Health Care Services (DHCS) Dispute Resolution.

B. Expedited Dispute Resolution Process: means a resolution more expeditious than what is expected for a standard resolution and shall be resolved within

one business day when Partnership HealthPlan of California (PHC) and the MHP determine that the Routine Dispute Resolution timeframe would result in serious jeopardy to the Member's life, health, or the ability of the Member to attain, maintain or regain maximum function.

C. Member is an eligible Medi-Cal beneficiary who is a member of Partnership HealthPlan of California (PHC), a Medi-Cal managed care plan.

D. Mental Health Plan (MHP) is a county mental health plan who is responsible for providing mental health services outlined in Title 9 CCR.

E. Memorandum of Understanding (MOU): where no reimbursement is to be made, PHC shall negotiate in good faith an MOU for services provided by said agency. MOU shall describe the scope and responsibilities of both parties in the provision of services to Members; billing and reimbursements; reporting responsibilities; and how services are to be coordinated.

F. Plan Level Dispute Resolution: means good faith efforts, which shall include a meeting to remedy coverage disputes as formally communicated via written notice by either PHC or an MHP to either respective party

G. Request for Resolution: means PHC's written request to DHCS for aid in resolving a dispute between PHC and an MHP when the dispute could not be rectified via the Plan Level Dispute Resolution.

IV. Policy

The MHP, DMC, and DMC-ODS contracts with the California Department of Health Care Services (DHCS) requires Behavioral Health Programs to enter into an MOU with any Medi-Cal MCP that serves its members to ensure member care is coordinated.

The MOU is a binding, enforceable contractual agreement between the MHP, DMC, or DMC-ODS program and the MCP and outlines the responsibilities and obligations of each party to coordinate and facilitate the provision of medically necessary services to members where members are served by multiple parties.

The MHP-MCP and DMC-MCP, and DMC-ODS-MOU templates, which are included as attachments to Behavioral Health Information Notice (BHIN) 24-016, 23-056 and 23-057 respectively, are required to include specific provisions, including:

Dispute Resolution: The policies and procedures for resolving disputes between the parties and the process for bringing the disputes to DHCS when the parties are unable to resolve disputes between themselves. The intent of this provision is for the parties to agree in writing on a resolution process to resolve conflicts with regard to each parties' responsibilities under the MOU.

V. Procedures

A. DHS-BHD and each MCP providing health care services to Sonoma County beneficiaries are required to agree to dispute resolution procedures such that in the event of any dispute or difference of opinion regarding the party responsible for service coverage arising out of or relating to the MOU

between DHS-BHD and the MCP, the parties must attempt, in good faith, to promptly resolve the dispute mutually between themselves.

1. The parties must document the agreed-upon dispute resolution procedures in policies and procedures. The procedures will be consistent with the dispute resolution provisions of the MOU and are outlined in procedures B through F below.
2. Pending resolution of any such dispute, DHS-BHD and the MCP must continue without delay to carry out all responsibilities under the MOU unless the MOU is terminated. A dispute between DHS-BHD and the MCP must not delay the provision of medically necessary Specialty Mental Health Service (SMHS) or DMC-ODS services, physical health care services, or related prescription drugs and laboratory, radiological, or radioisotope services to beneficiaries as required by Cal. Code Regs. tit. 9, § 1850.525;
3. If the dispute cannot be resolved within 15 Working Days of initiating such negotiations, either party may pursue its available legal and equitable remedies under California law.
4. Disputes between DHS-BHD and the MCP that cannot be resolved in a good faith attempt between the parties must be forwarded by the MCP and/or MHP/DMC/DMC-ODS to DHCS.

B. First Level Review
   1. The resolution process must be initiated within 15 days of the disputed event.
   2. Each plan will appoint a representative to reach and implement resolution decisions.
   3. The representatives together will arrive at a proposed resolution of the dispute within 10 business days.
   4. If the representatives are unable to reach a joint decision or the proposed resolution is not acceptable to both plans, a second level review may be initiated by either plan.

C. Second Level Review by DHCS
   1. Disputes between DHS-BHD and the MCP that cannot be resolved in a good faith attempt between the parties must be forwarded to DHCS via a written “Request for Resolution” by either DHS-BHD or the MCP within three business days after failure to resolve the dispute, consistent with the procedure defined in Cal. Code Regs. tit. 9, § 1850.505, “Dispute Resolution Process Between Mental Health Plans and Medi-Cal Managed Care Plans” and BHIN 21-034 / All Plan Letter (APL) 21-013.
   2. Regardless of MOU status, DHS-BHD and MCPs must complete the plan level dispute resolution process within 15 business days of identifying the dispute. Within three business days after a failure to resolve the dispute during that timeframe, either the DHS-BHD or the MCP must submit a written “Request for Resolution” to DHCS. If DHS-BHD submits the Request for Resolution, it must be signed by the

DHS-BHD Director or designee. The Request for Resolution must include:

a. A summary of the disputed issue(s) and a statement of the desired remedies, including any disputed services that have been or are expected to be delivered to the member by either DHS-BHD or the MCP and the expected rate of payment for each type of service;
b. A history of the attempts to resolve the issue(s) with the MCP;
c. Justification for DHS-BHD's desired remedy; and
d. Any additional documentation that DHS-BHD deems relevant to resolve the disputed issue(s), if applicable.
e. The Request for Resolution must be submitted via secure email to CountySupport@dhcs.ca.gov.

3. Within three business days of receipt of a Request for Resolution from DHS-BHD, DHCS will forward a copy of the Request for Resolution to the Chief Executive Officer (CEO) of the affiliated MCP via secure email ("Notification"). The MCP will have three business days from the receipt of Notification to submit a response to DHS-BHD's Request for Resolution and to provide any relevant documents to support the MCP's position. If the MCP fails to respond, DHCS will render a decision on the disputed issue(s) based on the documentation submitted by DHS-BHD.
4. Conversely, if the MCP submits a Request for Resolution to DHCS, DHCS will forward a copy of the Request for Resolution to DHS-BHD, within three business days of receipt. DHS-BHD will have three business days to respond and provide relevant documents.
5. If DHS-BHD requests a rate of payment in its Request for Resolution, and the MCP prevails, the requested rate shall be deemed correct, unless DHS-BHD disputes the rate of payment in its response. If DHS-BHD fails to respond, DHCS will render a decision on the disputed issue(s) based on the documentation submitted by the MCP. Conversely, if DHS-BHD requests a rate of payment in its Request for Resolution, and DHS-BHD prevails, the requested rate shall be deemed correct, unless the MCP disputes the rate of payment in its response. If the MCP fails to respond, DHCS will render a decision on the disputed issue(s) based on the documentation submitted by DHS-BHD.
6. At its discretion, DHCS may allow representatives of DHS-BHD and MCP the opportunity to present oral arguments.
7. The Medi-Cal Behavioral Health Division (MCBHD) and the Managed Care Quality and Monitoring Division (or successor DHCS organizational units) will make a joint recommendation to DHCS' Director, or the Director's designee, based on their review of the submitted documentation; the applicable statutory, regulatory, and contractual obligations of DHS-BHD and the MCP; and any oral arguments presented.
8. Within 20 business days from the third business day after the Notification date, DHCS will communicate the final decision via secure

email to DHS-BHD's Director (or the Director's designee, if the designee, if the designee submitted the Request for Resolution) and MCP's CEO (or the CEO's designee, if the designee submitted the Request for Resolution). DHCS' decision will state the reasons for the decision, the determination of rates of payment (if the rates of payment were disputed), and any actions DHS-BHD and MCP are required to take to implement the decision. Any such action required from either the MCP or DHS-BHD must be taken no later than the next business day following the date of the decision.

9. If decisions rendered by DHCS find the MCP is financially liable for services, the MCP must comply with the requirements in Cal. Code Regs. tit. 9, § 1850.530.
10. The parties may agree to an expedited dispute resolution process if a member has not received a disputed service(s) and the parties determine that the routine dispute resolution process timeframe would result in serious jeopardy to the member's life, health, or ability to attain, maintain, or regain maximum function. Under this expedited process, the parties will have one business day after identification of a dispute to attempt to resolve the dispute at the plan level. Within one business day after a failure to resolve the dispute in that timeframe, both plans will separately submit a Request for Resolution to DHCS, including an affirmation of the stated jeopardy to the member. If the MCP fails to submit a Request for Resolution, DHCS will render a decision on the disputed issue(s) based on the documentation submitted by the MHP. Conversely, if the If the MHP fails to submit a Request for Resolution, DHCS will render a decision on the disputed issue(s) based on the documentation submitted by the MCP. DHCS will provide a decision no later than one business day following DHCS' receipt of Request for Resolution from both parties and affirmation of the stated jeopardy to the member
11. The DHS-BHD must designate a person or process to receive notice of actions, denials, or deferrals from MCP, and to provide any additional information requested in the deferral notice as necessary for a medical necessity determination.
12. The MCP is required to monitor and track the number of disputes with DHS-BHD where the parties cannot agree on an appropriate place of care and, upon request, must report all such disputes to DHCS.

D. Until the dispute is resolved, the following must apply:
    1. The parties may agree to an arrangement satisfactory to both parties regarding how the services under dispute will be provided; or
    2. When the dispute concerns the MCP's contention that DHS-BHD is required to deliver SMHS to a member either because the member's condition would not be responsive to physical health care-based treatment or because DHS-BHD has incorrectly determined the member's diagnosis to be a diagnosis not covered by DHS-BHD, the MCP must manage the care of the member under the terms of its contract with the State until the dispute is resolved. DHS-BHD must

identify and provide MCP with the name and telephone number of a psychiatrist or other qualified licensed mental health professional available to provide clinical consultation, including consultation on medications to the MCP provider responsible for the member's care; or

3. When the dispute concerns MCP's contention that DMC-ODS is required to deliver Substance Use Disorder Services to a member and DMC-ODS has incorrectly determined the member's diagnosis to be a diagnosis not covered by DMC-ODS, the MCP must manage the care of the member under the terms of its contract with the State, including providing or arranging and paying for those services until the dispute is resolved.
4. When the dispute concerns DHS-BHD's contention that the MCP is required to deliver physical health care-based treatment of a mental illness, or to deliver prescription drugs or laboratory, radiological, or radioisotope services required to diagnose or treat the mental illness, DHS-BHD is responsible for providing or arranging and paying for those services until the dispute is resolved.

E. Nothing in this policy and procedure constitutes a waiver of any of the government claim filing requirements set forth in Title I, Division 3.6, of the California Government Code or as otherwise set forth in local, state, and federal law.

VI. Forms

None

VII. Attachments

None