

Medicaid Due Process

What can you do to assure that you get what you need

Jan Lampman

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It starts with GOOD Person- Centered Planning



Person-Centered Planning is the **PROCESS** by which an individual plan of service is created



A good Planning process includes system and non-system allies



A good Planning process goes into some detail about what makes a good life and what a person wants to **DO** with their life



A good Planning process results in a good individual plan of service and a good budget connected to that plan

What should be in the Individual Plan of Service

The IPOS (individual plan of service) needs to start with the individual's goals for a good life



Objectives in the IPOS need to be measurable and must help the person move in the direction of the stated goal




Interventions represent the system supports that will be put into place to help the person achieve goals and objectives



Any needed support must be included in the plan of service and describe HOW those supports will help achieve the goals and objectives

System Supports that are necessary to achieve the goals

The Behavioral health system uses the term Medical necessity to describe interventions that are necessary to help a person achieve goals.



Medical necessity in the Medicaid provider manual is described as:



Supports Designed to assist the beneficiary to attain or maintain a sufficient level of functioning in order to achieve their goals of community inclusion and participation, independence, recovery, or productivity.

Goals and Medical Necessity

It is not appropriate to ever determine that an individual's goal in life is not medically necessary.

Medical necessity is connected to services provided by Medicaid funding

As such, specific requests for service are examined based on the Medical necessity criteria

Any requested services must meet Medical necessity criteria

It is important that
all requests are
clearly tied to the
goals and objectives

Explanation
about why
this is the
best
intervention
is critical

Additional considerations

The PIHP can deny services that are:

- deemed ineffective for a given condition based upon professionally and scientifically recognized and accepted standards of care
- that are experimental or investigational in nature
- or for which there exists another appropriate, efficacious, less-restrictive and cost-effective service, setting or support that otherwise satisfies the standards for medically-necessary services

The PIHP may also employ various methods to determine amount, scope and duration of services, including: prior authorization for certain services, concurrent utilization reviews, centralized assessment and referral, gate-keeping arrangements, protocols, and guidelines.

More to consider

A PIHP may not deny services based **solely** on preset limits of the cost, amount, scope, and duration of services. Instead, determination of the need for services shall be conducted on an individualized basis.

PIHP decisions, specifically including utilization management, will not replace the PCP process. For example, utilization management review may not remove or change the beneficiary's goals. It may provide for less costly alternatives that accomplish the same goals.

Edits to the beneficiary's Individual Plan of Service (IPOS) require the PCP process be reopened.

What if something you request is denied?

You have Due Process Rights!

First, you have the option of a local appeal (sometimes this is referred to as a second opinion).

Next you have the option to appeal to an Administrative Law Judge
OR

You can ask for Mediation before filing a formal appeal with the ALJ

If the CMH Denies your request



If the CMH decides not to provide the service you requested or if they decide to give you less than you requested, they must provide you with an adverse benefit determination



That document will contain instructions for filing a local appeal and an appeal with the administrative law judge



These are your due process rights!

The local appeal

- It is important to explain what you requested and why you feel it meets the definition of medical necessity
- If there is information that was not included in the original plan, you can share it at this time
- If the local appeals officer agrees that you should get the service, it can be authorized
- The local appeal can also result in you being asked to go back to the planning process and add more detail about how what you are requesting will help meet the goals

Appeal to the Administrative Law Judge

If your local appeal is denied you may file an appeal with the ALJ

It is important to explain clearly why you think CMH made the wrong decision - meaning how will this service BEST meet your needs and help you to achieve your goals

Send in copies of the plan of service, the denials and any other supporting documents

A hearing date will be set

Additional information for the ALJ hearing

- This is a "real court proceeding" so court rules apply
- You will be able to call witnesses
- You will be able to enter documentation into the record for the judge to consider
- CMH will also be able to call witnesses and cross examine your witnesses
- Sometimes CMH is represented by an attorney
- You may also hire an attorney, though it is not required

Important Timelines

- If you wish to continue services that have been reduced or terminated while you are in the appeal process you must make that request within 10 days from the date that is on the letter telling you about the reduction or termination
- You have 120 days to file for a state fair hearing after the date of the letter telling you that your services are denied, reduced or terminated.
- You will receive a decision and order within 90 days of the hearing

Expedited Hearings

- If your health is at risk without the services you have requested, you may request a “fast” hearing.
- With a Fast hearing, the judge must give you an answer within 72 hours.
- The judge may ask for more information that could increase the time to 14 days

Mediation

- Mediation is an option prior to taking the appeal to the administrative law judge
- A mediator is a neutral party that helps people with opposing views come together and compromise
- Mediation is voluntary for both the CMH and the person served - both must agree to mediation
- Mediation agreements are binding upon both parties
- If you can't come to agreement in Mediation, you still have the option to appeal

Some things to consider

- The best way to win an appeal is to not have to file an appeal!
- Thoughtful person-centered planning is the key to both avoiding and winning an appeal
- Be open to looking at all options, including non-system supports or services - Mary Wheeler says that a good life is dependent on more than what Medicaid can provide
- Ask to see the “rule” when a request is denied
- Be prepared with your own data, documentation and citations from the Medicaid rules

Where to find Help and Resources

The Arc of Michigan - www.arcmi.org

Disability Rights Michigan - www.drnich.org

Local chapters of The Arc

Local Disability Networks

Resources can also be found at MI Developmental disabilities
Institute - <https://ddi.wayne.edu/>

Michigan Developmental Disability Council -
<https://www.michigan.gov/mdhhs/keep-mi-healthy/mentalhealth/developmentaldisability>

MDHHS Beneficiary Helpline - 1-800-642-3195

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Questions