

NORTHCARE NETWORK

POLICY TITLE: Enrollee Rights and Protections
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PURPOSE

This policy delineates the legal authority and the requirements of the rights of Medicaid and Adult Benefit Waiver Beneficiaries receiving mental health specialty supports and services and substance abuse services.

DEFINITIONS

Enrollee: A resident of Michigan's Upper Peninsula who is currently enrolled in a Medicaid Mental Health and Specialty Service and Supports, Adult Benefit Waiver (ABW), or Substance Abuse (SA) services. An enrollee may also be known as a Medicaid or ABW beneficiary.

Beneficiary: An ABW or Medicaid recipient who is currently enrolled in a managed care program.

Consumer (may be known as a recipient, customer, client, or member): An individual who is currently receiving services and/or supports from an affiliate of the NorthCare Network, including a Community Mental Health Agency, a Substance Abuse Service Provider, or a sub-contract provider.

POLICY

NorthCare and affiliates are committed to the specific rights and protections afforded to all Medicaid and ABW consumers.

Policy Framework:

The federal regulations implementing the Medicaid program (42 Code of Federal Regulations, PART 438—Managed Care) define the scope of enrollee rights in three (3) separate subparts: Subpart A—General Provisions; Subpart C—Enrollee Rights and Protections; and Subpart F—Grievance System. The Michigan Mental Health Code (MMHC) creates a comprehensive rights system that addresses the majority of rights outlined in the federal regulations. Chapters 7 and 7A in the MMHC establish the rights of consumers for mental health services and establish the resolution processes available to the consumer if they believe their rights have been violated. NorthCare and the providers assist consumers navigating these frequently complex and often redundant regulations.

1. Information Requirements (as noted in Subpart A--General Provisions:42 CFR 438.10)
 - A. NorthCare will provide all enrollment notices, informational materials, and instructional materials relating to enrollees in a manner and format that may be

easily understood. NorthCare will:

- a. Provide a mechanism to help enrollees understand the requirements and benefits of the plan.
- b. Provide oral interpretation: (This applies for all non-English languages.)
 - Services are available, free of charge, to each enrollee.
 - Enrollees will be informed how to access the interpretation service.
- c. Provide written materials for enrollees and applicants that are:
 - In an easily understood language and format;
 - Available in alternative formats and in an appropriate manner that takes into consideration the special needs of those who, for example, are visually limited or have limited reading proficiency.
- d. Explain benefits that are available under the State plan but are not covered under the contract, including how and where the enrollee may obtain those benefits, any cost sharing, and how transportation is provided.
- e. Provide annual notice to enrollees of their right to request and obtain the following information:
 - Names, locations, telephone numbers of, and non-English languages spoken by, current contracted providers in the enrollee's service area, including identification of providers that are not accepting new patients.
 - Any restrictions on the enrollee's freedom of choice among network providers.
 - Enrollee rights and protections as specified in 42 CFR 438.100 (outlined below in 2.a.).
 - Grievance and fair hearing procedures and timelines, and the information specified in 42 CFR 438.10 (g) (1) and the DCH Technical Requirement.
 - The amount, duration, and scope of benefits available under the contract in sufficient detail to ensure that enrollees understand the benefits to which they are entitled.
 - Procedures for obtaining benefits, including authorization requirements.
 - The extent to which, and how, enrollees may obtain benefits, from out-of-network providers.
 - The extent to which, and how after-hours and emergency coverage are provided, including:
 - What constitutes emergency medical condition, emergency services, and post stabilization services.
 - The fact that prior authorization is not required for emergency services.
 - The process and procedures for obtaining emergency services.
 - The locations of any emergency settings and other locations at which emergency services and post stabilization services are covered under the contract.
 - The fact that enrollees have a right to use any hospital or other setting for emergency care.
 - The estimated annual cost of each covered support and service an enrollee is receiving, at least annually.

2. Enrollee Rights and Protections (as noted in Subpart C, 42 CFR 438.100):

A. Enrollee Rights

An enrollee has the right to:

- Receive information in accordance with 438.10 listed above.
- Be treated with respect and with due consideration for his or her dignity and privacy.
- Receive information on available treatment options and alternatives, presented in a manner appropriate to the enrollee's condition and ability to understand.
- Receive information about where to receive counseling or referral services that are not covered because of moral or religious objections per 42 CFR 438.10(e)(2)(E).
- Participate in decisions regarding his or her health care, including the right to refuse treatment.
- 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. Each CMHSP shall have restraint and seclusion policies in compliance with federal and state laws.
- The right to request and receive a copy of his or her medical records, and request that they be amended or corrected.

B. Provider-Enrollee Communications (42 CFR 438.102):

General Rule: NorthCare may not prohibit, or otherwise restrict, a health care professional acting within the lawful scope of practice, from advising or advocating on behalf of an enrollee who is his or her patient, for the following:

- The enrollee's health status, medical care, or treatment options, including any alternative treatment that may be self-administered.
- Any information the enrollee needs in order to decide among all relevant treatment options.
- The risks, benefits, and consequences of treatment or non-treatment.
- The enrollee's right to participate in decisions regarding his or her health care, including the right to refuse treatment, and to express preferences about future treatment decisions.

3. Grievance System (as noted in 42 CFR § 438.400 et seq):

NorthCare, or as delegated to any subcontract provider must provide the following information to its enrollees:

A. Grievance, appeal and fair hearing procedures and timeframes, which must include the following:

- For State Hearing:
 - i. The right to a hearing;
 - ii. The method for obtaining a hearing; and
 - iii. The rules that govern representation at the hearing.
- Grievance and Local Appeals:
 - i. The right to file grievances and appeals;
 - ii. The requirements and timeframes for filing a grievance or appeal;

- iii. The availability of assistance in the filing process
 - iv. The toll-free phone number that the enrollee can use to file a grievance or appeal with NorthCare;
 - v. The fact that when requested by the enrollee:
 - a. Benefits of an ongoing service will continue if the enrollee files an appeal or a request for a State hearing within the required timeframes specified for filing;
 - b. If the final decision is adverse to the enrollee, the enrollee may be required to re-pay the cost of the services furnished.
 - vi. Any additional appeal rights the State or NorthCare chooses to make available to providers to challenge the failure of the organization to cover a service.
- B. Advance Directives per 42 CFR 438.6 (i) (2).

PROCEDURES

The procedures describe the areas NorthCare is responsible for managing and the areas delegated to the providers.

Information Requirements (as noted in Subpart A--General Provisions: 42 CFR 438.10):
NorthCare Network:

- Develop, maintain and update an easy to read NorthCare Customer Handbook. CMHSPs Affiliates and the Substance Abuse Service Providers can access and print the most current handbook from the NorthCare website at: www.northcare-up.org. Audio versions of the NorthCare Handbook are also available upon request by the CMHSPs/SA agencies and consumers. Publish the Information Requirements annually in the NorthCare Newsletter.
- Utilize Language Line Services for non-English languages to provide oral interpretation services free of charge to all enrollees or applicants.
- Distribute the NorthCare Notice of Privacy Practices to providers, as needed.
- NorthCare will remind enrollees of the availability of its Notice of Privacy Practices, as well as how to obtain a copy, no less frequently than once every 3 years by placing the reminder in the NorthCare Newsletter.
- Update The NorthCare Notice of Privacy Practices as necessary.
- NorthCare Substance Abuse Services will distribute the Rights Pamphlets approved by MDCH.
- The Utilization Management Plan/Benefit Plan is available at the NorthCare website: www.northcare-up.org or at the request of a consumer.

CMHSPs Affiliates/Substance Abuse Service Providers:

- Distribute the NorthCare Customer Handbook which includes the NorthCare Notice of Privacy Practices to all new beneficiaries at intake.
- Educate all new staff regarding Language Line Services. Limited English Proficiency guidelines
- Annually review LEP guidelines with all staff.
- Educate all enrollees about the requirements and benefits of the NorthCare Benefit Plan.

- Distribute the Rights Pamphlets approved by MDCH.
- Maintain an identified recipient rights process and educate consumers about their rights according to the Michigan Mental Health Code and the Michigan Public Health Code.

Enrollee Rights and Protections (as noted in Subpart C – 42 CFR 438.100 Responsibilities of NorthCare):

- Outline the required provider appeal mechanisms in the NorthCare Provider Network Policy and the CMHSP Utilization Management Plans.
- Monitor the five CMHSPs and the Substance Abuse Providers for their adherence to the Federal and State laws, regulations and this policy.

Responsibilities of the CMHSPs affiliates/Substance Abuse Service Providers:

- Maintain Recipient Rights policies, procedures and clinical practices to guarantee the Federal Regulations, Mental Health Code and Public Health Code and administrative rules.
- Outline the internal provider mechanisms in Utilization Management plan.

Grievance System (Subpart F in its entirety, 42 CFR 438.400):

Responsibilities of NorthCare:

- The NorthCare Grievance & Appeals policy incorporates all the standards in the federal regulations.
- Develop, maintain and update standard forms for meeting the requirements of consumer notice of actions and a grievance process.
- Monitor trends and areas of practice improvement through three regional committees: the Quality Council, Utilization Management and Customer Services.

CMHSPs affiliates/Substance Abuse Service Providers:

- Track appeals, denials and grievances.
- Submit quarterly reports to NorthCare on appeals, denials and grievances.
- Ensure that the individuals who make decisions on grievances and appeals are individuals
 - Who, if deciding any of the following, are health care professionals who have the appropriate clinical expertise, in treating the enrollee's condition or disease.
 - An appeal of a denial that is based on lack of medical necessity.
 - A grievance regarding denial of expedited resolution of an appeal.
 - A grievance or appeal that involves clinical issues.

Advance Directives (per 42 CFR 438.6(i)(2)):

Responsibilities of NorthCare:

- Provides educational information on Advance Directives in the NorthCare Consumer Handbook and website www.up-northcare.org
- Maintain an up-to-date policy on Advance Directives

- Maintain an up-to-date regional form for Advance Directives for mental health treatment
- Monitor the CMHSPs use of and education of Advance Directives through site reviews.

Responsibilities of the CMHSPs:

- Educate enrollees about crisis planning and Advance Directives through the treatment planning process.

REFERENCES

- Balanced Budget Act of 1997 (Pub L 105-33)
- 42 Code of Federal Regulations, PART 438 et.al.
- Michigan Mental Health Code (MMHC)
- MDCH Medicaid Fair Hearings Brochure
- Medicaid Managed Specialty Supports and Services Concurrent 1915(b)/(c) Waiver Program: Attachment P6.3.2.1 Grievance & Appeal Technical Requirement PIHP Grievance System for Medicaid Beneficiaries
- NorthCare Customer Handbook
- NorthCare Notice of Privacy Practices
- NorthCare Utilization Management Plan
- NorthCare Policies: Grievance and Appeals; Advance Directives, Provider Network Management and Appeal Mechanisms