

NORTHCARE NETWORK

POLICY TITLE: Enrollee Rights and Protections
POLICY EFFECTIVE DATE:
BOARD ADOPTED: November 2, 2005
BOARD ADOPTED REVISIONS: 5/3/06

REVIEWED/REVISED:
October 4, 2005
4-13-06
2-14-07 **6-22-09**

PURPOSE

This policy establishes the legal authority and the requirements of the rights and the protection for Medicaid consumers receiving mental health specialty supports and services and substance abuse services.

DEFINITIONS

Enrollee: An individual who is currently enrolled in a Medicaid Mental Health and Specialty Service and Supports or Substance Abuse service and who resides in the Upper Peninsula. An enrollee may also be known as a Medicaid beneficiary. (BBA definition: A 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

This policy establishes regional commitment to the specific rights and protections afforded to all Medicaid consumers. 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: 438.10
 - A. General Rule: NorthCare, as the Prepaid Inpatient Health Plan (PIHP), must provide all enrollment notices, informational materials, and instructional materials relating to enrollees and in a manner and format that may be easily understood. NorthCare must:
 - a. Have in place 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 potential enrollees 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 438.100 (outlined below in 2.a.).
 - Information on grievance and fair hearing procedures, and the information specified in 438.10 (g) (1).
 - 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.
 - Grievance, appeal and fair hearing procedures and timeframes (see Subpart F—Grievance System below)

2. Enrollee Rights and Protections as noted in Subpart C 438:

A. 438.100 Enrollee Rights

General Rule: NorthCare ensures that its staff and affiliated providers take into account the rights outlined in this policy. 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. (The information requirements for services that are not

covered under the contract because of moral or religious objections are set forth in 438.10).

- 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. (See the local CMHSP policy on restraints and seclusion.)
- The right to request and receive a copy of his or her medical records, and request that they be amended or corrected, as specified in 45 CFR.

B. 438.102 Provider-Enrollee Communications

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 Subpart F in its entirety, NorthCare, or as delegated to any subcontract affiliate 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 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: 438.10

Informational Requirements: Responsibilities of NorthCare Network:

- NorthCare Network develops, maintains and updates the 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. The Customer Handbook is a consumer friendly resource for informational rights.
- NorthCare Network publishes the Information Requirements annually in the NorthCare Newsletter.
- NorthCare Network has a contract with Language Line Services for non-English languages. This contract provides oral interpretation services free of charge to all enrollees and potential enrollees. Providers have been educated about the service.
- The NorthCare Notice of Privacy Practices is distributed to providers as needed and will be updated at a minimum of every three years.
- NorthCare Substance Abuse Services distribute the Rights Pamphlets ordered from MDCH.
- The Utilization Management Plan/Benefit Plan is available at the NorthCare website: www.northcare-up.org or at the request of a consumer.

Informational Requirements: Responsibilities of the CMHSPs Affiliates/Substance Abuse Service Providers:

- Affiliates/ Providers distribute the NorthCare Customer Handbook and NorthCare Notice of Privacy Practices to all new consumers at Access. The providers will remind active members every three years of the notice of privacy practices and how to obtain a copy.
- Affiliates/ Providers educate all new staff regarding Language Line Services. Limited English Proficiency guidelines will also be reviewed annually with all staff.
- Affiliates/ Providers educate all enrollees about the requirements and benefits of the NorthCare Benefit Plan.
- Affiliates/ Providers distribute the Rights Pamphlets ordered from MDCH.
- Affiliates/ Providers 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 – 438.100

Enrollee Rights: Responsibilities of NorthCare:

- The NorthCare Provider Network Policy and the CMHSP Utilization Management Plans outline the required provider appeal mechanisms.
- NorthCare monitors the five CMHSPs for their adherence to the Recipient

Rights Chapters 7 & 7A in the Michigan Mental Health Code through site reviews and required reports. Substance Abuse Service Providers are also monitored for their adherence to this policy and the Mental Health and Substance Abuse Services Administrative Rules for Substance Abuse Services, Part Three (3) Recipient Rights through the site review process. The same monitoring process is used to monitor the protection of provider/enrollee communication at the local provider level.

Enrollee Rights: Responsibilities of the CMHSPs affiliates/Substance Abuse Service Providers:

- Affiliates/ Providers are responsible to have Recipient Rights policies, procedures and clinical practices to guarantee the Federal Regulations/Mental Health Code Rules.
- The respective CMHSP Utilization Management plans outline the internal provider mechanisms.

Subpart F Grievance System Subpart F in its entirety:

Responsibilities of NorthCare:

- The NorthCare Grievance & Appeals policy incorporates all the standards in the federal regulations. NorthCare develops, maintains and updates standard forms for meeting the requirements of consumer notice of actions and a grievance process. Bi-annual reports will be submitted to NorthCare on appeals, denials and grievances. NorthCare monitors the reports for trends and areas of practice improvement through three regional committees: the Quality Council, Utilization Management and Member Services.

Responsibilities of the CMHSPs affiliates/Substance Abuse Service Providers:

- Providers are responsible to track and follow appeals, denials and grievances.
- The CMHSP providers are responsible to submit quarterly reports to NorthCare on appeals, denials and grievances.
- The providers are responsible to ensure that for grievances regarding a denial of an expedited resolution of an appeal and for a grievance that involves clinical issues, the grievance is reviewed by health care professionals who have the appropriate clinical expertise in treating the recipient's condition or disease.

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

Responsibilities of NorthCare:

- The NorthCare Consumer Handbook provides educational information on Advance Directives
- NorthCare will maintain an up-to-date policy on Advance Directives
- NorthCare will maintain an up-to-date regional form for Advance Directives for mental health treatment
- NorthCare will monitor the CMHSPs use of and education of Advance Directives through site reviews.

Responsibilities of the CMHSPs:

- CMHSPs through the treatment planning process will continue to educate enrollees regarding crisis planning and Advance Directives.

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