



## **7.1.2 MEMBER GRIEVANCES AND DISCRIMINATION GRIEVANCES**

Issue Date: 12/05/2023

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References:

1. MHP Contract, Ex. A, Att. 5, Sec. 1(E), sec. 1(G) and Attachment 12
2. DHCS Drug Medi-Cal Contract, Ex. A, Att. 12, Sec. 1 - 4
3. DHCS MHSUDS Information Notice No. 18-010E DHCS Behavioral Health Information Notice No. 24-001, CCR Title 9, § 1850.205
4. 42 CFR, 438.228; 438.400 through 438.424 et. Seq.
5. WIC § 14727 (a)(4)
6. 45 C.F.R. § 84.7
7. 34 C.F.R.
8. § 106.8, 28 C.F.R. § 35.107
9. DHCS Behavioral Health Information Notice No. 24-034
10. DHCS Behavioral Health Information Notice No. 25-019
11. WIC sections 14197.09 (d)(5) WIC Section 14197.09(b)(2)

Policy Owner: Behavioral Health - Quality Assurance Manager

Director Signature: **Signature on File**

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### **I. Policy Statement**

It is the policy of the Sonoma County Department of Health Services, Behavioral Health Division (DHS-BHD), Mental Health Plan (MHP), Substance Use Disorder (SUD), and Drug Medi-Cal Organized Delivery System (DMC-ODS), to have a grievance system in place to ensure that members are informed about their rights, protections, and accessibility to services.

## **II. Scope**

This policy applies to all DHS-BHD “Covered Persons” including employees (full-time, part-time, extra-help), unpaid interns, paid interns, temporary agency workers, registered volunteers, and all individual providers contractually designated as covered persons. Covered Persons do not include Community Based Organization (CBO) staff.

## **III. Definitions**

- A. **Discrimination Grievance:** A complaint concerning the unlawful discrimination of any characteristic protected under the federal or state law, including sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, gender, gender identity, or sexual orientation.
- B. **Grievance:** An expression of dissatisfaction to DHS-BHD about any matter other than an Adverse Benefit Determination. Grievances may include, but are not limited to, the quality of care or services provided, aspects of interpersonal relationships such as rudeness from a provider or employee, or failure to respect the member’s rights regardless of whether remedial action is requested. Grievances include a member’s right to dispute an extension of time proposed by the DHS-BHD, or its contract providers to make an authorization decision. A complaint is the same as a grievance. A member need not use the term "grievance" for a complaint to be captured as an expression of dissatisfaction and, therefore, a grievance. There is no distinction between an informal and a formal grievance. DHS-BHD does not discourage the filing of grievances. Even if a member expressly declines to file a formal grievance, their complaint shall still be categorized as a grievance.
- C. **Inquiry:** An inquiry is a request for information that does not include an expression of dissatisfaction. Inquiries may include but are not limited to, questions pertaining to eligibility, benefits, or other fee-for-service processes. If the County is unable to distinguish between a grievance and an inquiry, it must be considered a grievance.
- D. **Trans-Inclusive Health Care:** Comprehensive health care that is consistent with the standards for individuals who identify as transgender, gender diverse, or intersex (TGI), honors an individual’s personal bodily autonomy, doesn’t make assumptions about an individual’s gender, accepts gender fluidity and nontraditional gender presentation, and treats everyone with compassion, understanding, and respect.

#### **IV. Policy**

- A. This policy shall ensure the prompt and equitable resolution of an expression of dissatisfaction, discrimination-related complaints, and complaints for failure to provide trans-inclusive health care. This policy shall establish procedures to resolve all grievances brought forth by the member, an authorized provider, or an authorized representative acting on behalf of the member, to assure compliance with state and federal regulations and guidelines. For the purposes of this policy, DHS-BHD will refer to both the MHP and the DMC-ODS plan, unless otherwise indicated.
- B. System of Care trends identified through the DHS-BHD Member Grievance process will be forwarded to the Quality Improvement Committee (QIC), and the Behavioral Health Plan Administration Committee (BHPA), for review, and if applicable, subsequent needed system changes.
- C. The evaluation of member grievances shall be completed on a quarterly basis, and a summary of these findings for the MHP will be submitted to the Department of Health Care Services (DHCS), as indicated in Behavioral Health Information Notices. DMC-ODS grievance evaluations are submitted to DHCS upon request.

#### **V. Procedures**

##### **A. General Guidelines**

- 1. Grievances and Discrimination Grievances are filed verbally or in writing, to the DHS-BHD Grievance Coordinator.
- 2. The Member Rights & Grievance/Appeal Process and Form (BHD 406) includes:
  - a. The Grievance process
  - b. The Appeal process
  - c. Member Rights
  - d. Non-Discrimination Notice
  - e. Notice of Availability (Language Assistance Taglines)

##### **B. Member Notifications**

- 1. All members are informed of the member grievance process through the following informing materials located at DHS-BHD provider sites:

- a. The Sonoma County Behavioral Health Member Handbook,
  - b. Member Rights poster,
  - c. SUD Member Rights poster, and
  - d. Member Grievance Appeal Process and Form.
2. All of the informing materials are available in both English and Spanish, and if needed, can be interpreted in the member's preferred language. This information is also available on the County of Sonoma website:  
<https://sonomacounty.gov/health-and-human-services/health-services/divisions/behavioral-health/contractor-resources/medi-cal-informing-materials>
  3. Language assistance is available upon request. Assistance includes, but is not limited to, auxiliary aids and services upon request, such as providing interpreter services and toll-free numbers for TTY/TDD, and interpreter capability.
  4. The Sonoma Behavioral Health Member Handbook, Member Rights & Grievance/Appeal Process and Form, and self-addressed envelopes are readily available to the general public, provider staff, and members, at all DHS-BHD provider sites without the need to make a verbal or written request to anyone.
  5. The Member Rights poster is posted at all DHS-BHD provider sites. This poster provides an explanation of the grievance process.
  6. To request information about the grievance process, contact the 24-hour Access Line, available 24 hours a day, 7 days a week (24/7) at:  
 1-800-870-8786 (toll free) or 707-565-6900. TTY or TDD users may call 1-800-735-2929 or 711. The Access Line provides information about how to use the Member Grievance Process, including access to interpreter and translation services, if needed.
  7. To file a grievance directly with Sonoma County, contact 707-565-7895.

#### C. Written Acknowledgment

1. The Grievance Coordinator will provide the member with a written acknowledgment of receipt of the grievance.
2. The Grievance Acknowledgment letter will include the:
  - a. Date of Grievance receipt, name, telephone, and address of the Grievance Coordinator.

- b. The written acknowledgment must be postmarked within **five calendar days** of receipt of the grievance.

#### D. DHS-BHD Requirements

1. Allow a provider or authorized representative, acting on behalf of the member and with the member's written consent, to file a grievance, either orally or in writing.
2. At the member's request, identify staff or another individual, such as a legal guardian, to be responsible for assisting a member with these processes, including providing assistance with writing the grievance.
3. Not to subject a member to discrimination or any other penalty for filing a grievance.
4. Maintain the confidentiality of the member's information when carrying out procedures related to the member's problem resolution process.
5. Ensure that all grievance decision makers have the appropriate clinical expertise in treating the member's condition if the decision involves a denial of a request for an expedited appeal or a grievance involving a clinical issue.
6. Ensure that grievance decision makers are not included in subsequent levels of review and are not subordinates of any individual involved in a previous level of review or decision-making.
7. Ensure the review of grievance reports and system-of-care trends through the QIC, BHPA, and the Quality Improvement Workplan when applicable.
8. Ensure that written records of grievances are submitted at least quarterly to the QIC and BHPA for systematic aggregation, and analysis for quality improvement. Grievances reviewed shall include, but not be limited to, those related to access to care, quality of care, and denial of services. Appropriate action shall be taken to remedy any problems identified.

#### E. Handling Grievances

1. DHS-BHD Record Keeping, Monitoring, Review and Reporting Requirements
  - a. Maintain a grievance log and record grievance receipt dates in the log within **one business day** of the date of receiving the grievance.
  - b. Each record in the log shall include the following information:
    - i. Grievance Record Number (Member Identification Number).
    - ii. The date and time of receipt of the grievance.

- iii. The name of the member filing the grievance.
- iv. The name of the representative who recorded the grievance.
- v. A description of the complaint or problem.
- vi. Acknowledgment letter date of issuance.
- vii. A description of the action taken by the County or provider to investigate and resolve the grievance.
- viii. The resolution by the County or provider.
- ix. The name of the County or provider staff responsible for resolving the grievance.
- x. The date of the Grievance Resolution notification to the member.
- xi. The Grievance Coordinator or other designated staff will be responsible for providing information requested by the member or the member's representative regarding the status of the grievance.
- xii. DHS-BHD will identify in its grievance documentation, the roles and responsibilities of DHS-BHD, the provider, and the member.
- xiii. DHS-BHD will provide written notice to any provider identified by the member or involved in the grievance of the final disposition of the grievance.
- xiv. DHS-BHD will submit to DHCS a report summarizing MHP grievances and appeals filed from July 1 of the previous year through June 30, annually, by the first business day of September, consistent with the Managed Care Program Annual Report (MCPAR) reporting indicators specified in Behavioral Health Information Notice (BHIN) 22-036, or any subsequent and/or updated BHIN. DMC-ODS grievance evaluations are submitted to DHCS upon request.

## F. Grievance Procedure

### 1. Timeframes and Method of Filing

- a. A grievance can be filed either orally or in writing at any time by contacting any DHS-BHD staff member or by completing form BHD 406.
- b. All grievances will be forwarded by DHS-BHD staff to the Grievance Coordinator prior to the end of the next business day following the filing of the grievance.

- c. The written acknowledgment to the member must be postmarked within **five calendar days** of receipt of the grievance.

## 2. Resolution

- a. The Grievance Coordinator will resolve each grievance as expeditiously as the member's health condition requires; not to exceed **30 calendar days** from the day DHS-BHD receives the grievance.
- b. "Resolved" means that DHS-BHD has reached a decision with respect to the member's grievance and notified the member of the disposition.
- c. If a grievance related to trans-inclusive care is resolved in the member's favor, then the individual named in that grievance who is employed by the MHP, its subcontractors, or its downstream subcontractors, must complete a refresher course by retaking the established trans-inclusive health cultural competency training within **45 calendar days** of the resolution of the grievance and before they have direct contact with members again.
- d. DHS-BHD will use the written Notice of Grievance Resolution (NGR), form BHD 161 letter template, to notify the member of the results of the grievance resolution. The notice shall be in a format and language that meets applicable notification standards.
- e. The NGR shall contain a clear and concise explanation of the DHS-BHD decision.
- f. The Grievance Coordinator will provide written notification to:
  - i. The member or their authorized representative of the resolution of the grievance.
  - ii. If unable to reach the member or their authorized representative, the Grievance Coordinator shall document efforts to notify the member in the log.
- g. To any provider identified by the member or involved in the grievance of the final disposition of the member's grievance.
- h. In the event that the resolution of a standard grievance is not reached within **30 calendar days** as required, DHS-BHD will provide the member with the applicable Notice of Adverse Benefit Determination (NOABD), and include the status of the grievance.

## G. Discrimination Grievances

- 1. A Discrimination grievance can be filed either orally or in writing at any time by contacting any DHS-BHD staff member or completing form BHD 406.

2. DHS-BHD will designate a Discrimination Grievance Coordinator who is responsible for ensuring compliance with federal and state nondiscrimination requirements and investigating discrimination grievances related to any action that would be prohibited by, or out of compliance with, federal or state nondiscrimination law.
3. The DHS-BHD Discrimination Grievance Coordinator will consult with the Cultural Responsiveness, Inclusion and Training (CRIT) Manager to:
  - a. Answer questions and provide appropriate assistance to the county's staff, providers, and members regarding state and federal nondiscrimination legal obligations.
  - b. Advise the County about nondiscrimination best practices and accommodating persons with disabilities.
  - c. Investigate and process any Americans with Disabilities Act, Section 504 of the Rehabilitation Act, Section 1557 of the Affordable Care Act, and/or Government Code section 11135 grievances received by the County.
4. The DHS-BHD Discrimination Grievance Coordinator will ensure the prompt and equitable resolution of discrimination-related complaints.
5. DHS-BHD will not require a member to file a Discrimination Grievance with DHS-BHD before filing the complaint directly with the DHCS Office of Civil Rights and the U.S. Health and Human Services Office of Civil Rights.
6. Within **10 calendar days** of mailing a Discrimination Grievance Resolution letter to a member, the DHS-BHD Grievance Coordinator will submit the following information regarding the complaint to the DHCS Office of Civil Rights:
  - a. The original complaint.
  - b. The provider's or other accused party's response to the complaint.
  - c. Contact information for the personnel primarily responsible for investigating and responding to the complaint on behalf of DHS-BHD.
  - d. Contact information for the member filing the complaint and for the provider or other accused party who is the subject of the complaint.
  - e. All correspondence with the member regarding the complaint, including but not limited to the Discrimination Grievance Acknowledgment letter and Resolution letter sent to the member.



- f. The results of the DHS-BHD investigation, copies of any corrective action taken, and any other information relevant to the allegation(s) of discrimination.
- g. Information should be sent to the DHCS Office of Civil Rights by email to: [CivilRights@dhcs.ca.gov](mailto:CivilRights@dhcs.ca.gov)

#### H. Grievance Process Exemptions

- 1. Grievances received over the telephone or in person by DHS-BHD or a network provider of DHS-BHD that are resolved to the member's satisfaction by the close of the next business day following receipt, are exempt from the requirement to send a written acknowledgment and disposition letter.
- 2. Grievances received via mail by DHS-BHD, or a network provider of DHS-BHD, are not exempt from the requirement to send an acknowledgment and disposition letter in writing.
- 3. If DHS-BHD or a network provider of DHS-BHD receives a complaint pertaining to an Adverse Benefit Determination, the complaint is not considered a grievance—it is an appeal—and the exemption does not apply.

#### I. Non-Discrimination Notice and Notice of Availability

- 1. Written materials must be available in threshold languages and alternative formats, via the "Non-Discrimination Notice" and "Notice of Availability" (Language Assistance Taglines), made available by DHCS or adapted for use by DHS-BHD.
- 2. The "Non-Discrimination Notice," and "Notice of Availability" must accompany each of the following significant grievance notices sent to members:
  - a. Grievance Acknowledgment letter (BHD 180, BHD 180 SP) and,
  - b. Notice of Grievance Resolution letter (BHD 161, BHD 161 SP).

J. DHS-BHD Process Timelines for Grievances, Appeals, Expedited Appeals, and State Hearings

<b>Process</b>	Grievance Title 9 – 1850.206, 42 CFR, 438.400, 402, 406, 408, 416 (Grievances can be filed verbally or in writing)
<b>Receipt Response</b>	<b>1 business day:</b> to Log receipt of Grievance, and <b>five calendar days</b> to send acknowledgment letter.
<b>DHS-BHD Disposition</b>	<b>30 calendar days:</b> from receipt to DHS-BHD disposition and issuing a letter of notification to member.  * <b>Send</b> member the NOABD Grievance or Appeal Timely Resolution Notice (BHD 009), when out of timeframe.
<b>Additionally</b>	<b>Discrimination Grievances:</b> within <b>10 calendar days</b> of the grievance resolution, send all required documents to DHCS Office of Civil Rights' designated discrimination grievance email box, via secure email.  <b>Trans-Inclusive Grievances Resolved in the Member's Favor:</b> Individuals named in the grievance must retake the established trans-inclusive health cultural competency training within <b>45 calendar days</b> of the resolution of the grievance, and before they have direct contact with members again.  For timelines related to appeals, expedited appeals and state hearings, please reference DHS-BHD Policy 7.1.4 Appeals and Notice of Adverse Benefit Determinations (NOABDS).

**VI. Forms**

- A. Member Grievance Appeal Process and Form (English & Spanish), BHD 406, BHD 406 SP
- B. Grievance Acknowledgment Letter (English & Spanish) BHD 180, BHD 180 SP
- C. Notice of Grievance Resolution (English & Spanish), BHD 161, BHD 161 SP

**VII. Attachments**

Member Rights Poster (English & Spanish), MHS 400, MHS 400 SP

SUD Member Rights Poster (English & Spanish), SUD 400, SUD 400 SP