



## PENINSULA RSN

### COMPLAINT, GRIEVANCES AND APPEALS POLICIES AND PROCEDURES

**Policy Name:** FAIR HEARING

**Policy Number:** 6.04

**Reference:** 42 CFR 438.214

**Effective Date:** 8/2004

**Revision Date(s):** 12/2010

**Approved by:** PRSN Executive Board

#### CROSS REFERENCES

- Policy: Appeal Process
- Policy: Complaint, Grievance, Appeal, and Fair Hearing General Requirements
- Policy: Complaint and Grievance
- Policy: Corrective Action Plan
- Policy: Grievance Oversight and Recordkeeping
- Policy: Notice Of Action Requirements

#### PURPOSE

It is the policy of the Peninsula Regional Support Network (PRSN) to outline a standardized Fair Hearing process and requirements.

#### PROCEDURE

##### Right to Request a Fair Hearing

1. Individuals and their representatives have the right to request the Department of Social and Health Services (DSHS) pre-hearing and administrative hearing processes as described in Washington Administrative Code (WAC) 388-02 when:
  - An individual believes there has been a violation of the Washington Administrative Code (WAC)
  - An individual does not receive a favorable disposition of a grievance from the PRSN

- A Medicaid enrollee does not receive a favorable disposition of an appeal by the PRSN subcontracted Administrative Service Organization (ASO)
  - A non-Medicaid individual outpatient service episode was closed due to unavailable resources.
2. Medicaid enrollees or their representative may also request an expedited fair hearing when the enrollee or representative believes that taking the time for standard resolution would jeopardize the enrollee ability to maintain or regain maximum functioning.

### Assistance with a Fair Hearing

1. The PRSN will provide assistance to individuals in pursuing a Fair Hearing.
2. Ombuds services are made available to investigate, advocate, and assist individuals throughout the Fair Hearing process at no cost.
3. Individuals may have a representative who acts on their behalf in requesting a Fair Hearing.
  - Individuals may also have representatives of their choice involved in the process.
4. There will be no retaliation against an individual who requests a Fair Hearing.
  - Individuals or their representatives may contact the PRSN directly if they experience or they have concerns about retaliation.

### Timelines to File a Fair Hearing

1. If an individual does not receive a favorable disposition of a grievance or appeal (Medicaid only) by the PRSN or the PRSN subcontracted ASO, they may request a Fair Hearing.
2. The request for a Fair Hearing must be filed within twenty (20) days from the date of adverse ruling for appeals (Medicaid only) or twenty (20) days of notice of disposition / offered resolution of a grievance.
  - For appeals regarding termination, suspension or reduction of services the request for a Fair Hearing must be filed within ten (10) days from the date of the PRSN's notice of resolution of an appeal.
3. If an individual believes there has been a violation of the Washington Administrative Code (WAC) or the PRSN or providers have violated certain timelines, they may request a fair hearing at any time.
  - Individuals may call the Office of Administrative Hearings (OAH) at 1-800-583-8271 or Ombuds to inquire about qualifying for a state Fair Hearing prior to utilizing the PRSN grievance or appeals (Medicaid only) process.

4. If individuals are unhappy with the PRSN decision or offered resolution with a grievance, they may under certain circumstances request additional consideration of the grievance by the Department.
  - Requests must be made within five (5) days of receipt of the PRSN decision.

#### Where to Request A Fair Hearing

1. Individuals may request a Fair Hearing with the Office of Administrative Hearings (OAH) at 1-800-583-8271.

OAH is part of state government that provides fair hearings to social services provided in Washington State.

Individuals or their representatives may contact the PRSN Ombuds at (360) 692-1582 or toll free at 1- 888- 377-8174 or the PRSN at (360) 337-4604 or toll free at 1-800-525-5637 for assistance in requesting a fair hearing.

#### Continuation of Services during a Fair Hearing Process

1. Individuals may request that their previously authorized services or benefits continue or are reinstated during the fair hearing process, following a grievance.
  - If the fair hearing determination is not resolved wholly in the individual's favor, they may be asked to pay for those services.
2. Medicaid enrollees may, under certain circumstances request that their previously authorized services or benefits continue or are reinstated during the fair hearing process, following an appeal.

#### Offered Resolution

1. The Fair Hearing process must be completed within ninety (90) days of the date the appeal was initially filed, excluding any time taken by the enrollee to file for a Fair Hearing following receipt of the notice of disposition of appeal.

#### Reversed Resolution of Appeals

1. If the state Fair Hearing officer reverses a decision to deny, limit, or delay services that were not furnished while an appeal was pending, the PRSN or subcontracted ASO must authorize or provide the disputed services promptly, and as expeditiously as the enrollee's mental health condition requires.
2. If the state fair hearing officer reverses a decision to deny authorization of services and the enrollee received the disputed services while the appeal was pending, the PRSN or network provider must pay for those services.
3. If the state Fair Hearing officer upholds the PRSN appeal ruling/ action, the PRSN may recover the amount paid for the services provided to the enrollee while the appeal was pending, to the extent that they were provided solely

because of the requirement for continuation of services and in accordance with 42 CFR 431.230.

#### Additional Requirements for Fair Hearings

1. For Fair Hearings that involve appeals, parties to the Fair Hearing include the PRSN and the subcontracted ASO, the individual and their advocate (this may include but is not limited to family, friend, Ombuds, mental health primary care provider, mental health agency, or inpatient facility), or the estate representative of a deceased individual.
2. The PRSN, subcontracted ASO, community mental health agencies and staff, designees, network providers, and other contracted individuals and entities will cooperate with and promptly abide by all administrative hearing procedures and decisions.
3. The PRSN will require this cooperation in policy, contracts, and monitor requirement.

#### **MONITORING**

This policy is a federal statute and contract mandate.

1. The state fair hearing policy and procedures are routinely monitored through:
  - Tracking PRSN appeals notices and review of NOAs mailed
  - Closely monitoring appeal requests that CommCare handles on our behalf
  - Participation (as a party) in all Fair Hearings
  - Exhibit N Grievance Reports and System Tracking
  - Spot checks of provider Complaint files with a cross-reference chart review
  - Quality Management Plan activities, such as review targeted issues for trends and recommendations
  - The Division conducts the Mental Health Statistical Improvement Project (MHSIP) every year, one year for adults and the alternating the next year for children/youth. The MHSIP measures general consumer satisfaction with the existing service delivery system, appropriateness and quality of services, participation in treatment goals, access to services, and perceived outcomes of services they received. The PRSN requests over sampling of the region to gather specific catchment area data and analyze for trends.
2. If a provider/contractor performs below expected standards during any of the reviews listed above a Corrective Action will be required for PRSN approval.