



SALISH BHO

GRIEVANCES AND APPEALS POLICIES AND PROCEDURES

Policy Name: GRIEVANCES

Policy Number: 6.02

Reference: 42 CFR 438.228, 42 CFR Subpart F; WAC 182-538D-0655 - 0660; RCW 26.28.015; RCW 70.96A.095; RCW 71.34.530; State Grievance and Appeal System Instructions and Reporting Guidelines; PIHP and BHSC Contract

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Approved by: SBHO Executive Board

CROSS REFERENCES

- Policy: Grievance, Appeal, and Fair Hearing General Requirements
- Policy: Appeal Process
- Policy: Fair Hearing
- Policy: Grievance Oversight and Recordkeeping
- Policy: Notice of Adverse Benefit Determination Requirements
- Policy: Corrective Action Plans

PURPOSE

It is the policy of the Salish Behavioral Health Organization (SBHO) to establish a process for individuals to pursue a grievance.

This policy is designed to allow individuals and/or advocates/representatives the opportunity to have a grievance heard in a uniform manner and resolved in a timely fashion.

The SBHO policy will outline the rights, responsibilities, and requirements of the SBHO, individuals, providers, and other involved parties at all levels of the grievance system.

This policy applies to Medicaid individuals and state funded individuals receiving services paid for by the SBHO. The SBHO is the Pre-Paid Inpatient Health Plan (PIHP).

DEFINITIONS

Fair (or Administrative) Hearing means a proceeding before an administrative law judge to review an adverse benefit determination.

Grievance means an expression of dissatisfaction about any matter other than an "adverse benefit determination." Grievances may include, but are not limited to, an individual's right to dispute an extension of time proposed by the SBHO to make an authorization decision, the quality of care or services provided, aspects of interpersonal relationships such as rudeness of a behavioral health provider or employee, and failure to respect the individual's rights regardless of whether a specific action is requested by the individual.

Filing grievances should be a common standard practice at the provider agency and SBHO level; and not described to individuals in any way that discourages the process. It is expected that the network provider agencies and SBHO will encourage and support an individual using the formalized grievance system.

Grievance system means the processes the SBHO implements to handle grievances as well as the processes to collect and track information about them. The grievance system must be established by the SBHO and must meet the requirements of 42 C.F.R. Sec. 438, Subpart F.

Individual (expanded definition for grievances): According to WAC 182-538D-0655, an individual means a person who applies for, is eligible for, or receives SBHO-authorized behavioral health services from an agency licensed by the department as a behavioral health agency. *For the purposes of accessing the grievance and appeal system and the fair hearing process, when another person is acting on an individual's behalf, the definition of individual also includes any of the following:*

- a) In the case of a minor, the individual's parent or, if applicable, the individual's custodial parent;
- b) The individual's legal guardian;
- c) The individual's representative if the individual gives written consent;
- d) The individual's behavioral health provider if the individual gives written consent, except that the behavioral health provider cannot request continuation of benefits on the individual's behalf.

In the case of minors, a parent or legal guardian has the rights of an individual, including the right to file a grievance (i.e. to take a legal action) on behalf of the minor until the age of 18. (RCW 26.28.015)

However, per Washington State law, the age of consent for both substance use and mental health treatment is age 13. (RCW 70.96A.095, RCW 71.34.530) Youth who are 13 and older have the right to the confidentiality of their behavioral health information.

If the youth is 13 or older, a parent may file a grievance. The BHO or Behavioral Health Agency (BHA) should accept and acknowledge the parent's grievance. The response to the parent(s) should state that due to confidentiality restrictions, the BHO or BHA can neither confirm nor deny the identity of the patient and the fact of treatment. A consent to release information form should be provided by the BHO or BHA. Appropriate efforts should be made to seek consent from the minor. If the minor over age 13 provides consent, the grievance process may proceed to resolution. If consent of the minor is not obtained, the grievance will be closed as not pursued.

Note that should the grievance not be pursued due to the limits of confidentiality, best practice should prompt the BHO or BHA to consider the parent(s)' complaint in a manner similar to that of a general community member who wants to voice a concern about a program or services. This way the information can be used to improve services or operations, but handled in a way that protects confidentiality.

- The definition of an individual does not include parents of adult children, other family members, or any other individual unless they are an authorized representative.

PROCEDURE

1. Individuals may file a grievance to express dissatisfaction in person, orally, or in writing about any matter other than an adverse benefit determination to:
 - a. The behavioral health agency providing the services; or
 - b. The SBHO, if the agency is contracted with the SBHO
 - i. Grievances are filed at the SBHO with the SBHO Grievance Manager
 - ii. Should the SBHO Grievance Manager not be available to investigate and resolve a grievance, the SBHO Compliance Manager will be the designated grievance back-up and will follow the necessary grievance timelines as indicated in these Policies and Procedures (see also SBHO P&P 6.01).
2. If an individual receives services through an agency that is not contracted with the SBHO, the agency, through its internal process, is responsible to handle the individual's grievances or expressions of dissatisfaction.
3. The SBHO will ensure Ombuds services and assistance is available to provide advocacy, assistance, and investigation to individuals with concerns, family members and other interested parties throughout the grievance process.
 - Ombuds work to assist in resolving the issue at the lowest level possible.
4. For all grievances, individuals with concerns may have representation of their choice involved throughout the process. This may include, but is not limited to Ombuds, family members, behavioral health care professional, network provider, and network behavioral health agency. An individual must provide written consent, outside of a release of information (ROI), for someone to represent them.

5. Individuals may examine case files, including medical records and any other documentation considered, during the grievance process (before and during).
6. The SBHO will ensure that persons who make decisions on a grievance are Mental Health Professionals or Chemical Dependency Professionals who have appropriate clinical expertise in the type of behavioral health service if deciding a grievance concerning denial of an expedited resolution of an appeal or a grievance that involves any clinical issues.
7. There is no time limit to file a grievance.
8. Grievance documents are:
 - a. Required to be retained for ten (10) years. SBHO can attempt to investigate a grievance older than ten (10) years; however, documentation retention may restrict the ability to thoroughly investigate.
 - b. Made available to the department upon request as part of the state quality strategy and made available upon request to the Center for Medicare and Medicaid Services (CMS).
 - c. Kept in confidential files separate from the individual's clinical record.
 - d. Not disclosed without the individual's written permission, except to the department or as necessary to resolve the grievance
 - e. Are accurately maintained and contain, at a minimum, all of the following information:
 - i. A general description of the reason for the grievance
 - ii. The date received
 - iii. The date of each review or, if applicable, review meeting
 - iv. Resolution at each level of the grievance, if applicable
 - v. Date or resolution at each level, if applicable; and
 - vi. Name of the covered person for whom the grievance was filed.

Filing a Grievance with a Behavioral Health Agency

1. The SBHO will provide information about the grievance system to all network providers and subcontractors at the time they enter into a contract with the SBHO. Revisions to contract requirements or implementation changes will be presented to the network providers prior to implementation.
2. The SBHO will insert into each network provider and service contract the condition to abide by all grievance, appeal, and fair hearing decisions.
3. If the issue of dissatisfaction is defined as an agency grievance, the network provider agency will have a process that includes:
 - a. An agency single point of contact.
 - b. A standard process that typically is resolved within thirty (30) days, or as expeditiously as the individual's health condition requires, and no longer than ninety (90) days from the date the agency or SBHO receives the grievance.

- The agency will attempt to resolve the grievance quickly and to the individual's satisfaction. The resolution shall be resolved as expeditiously as the individual's behavioral health condition requires.
 - Assistance will be provided to the individual and Ombuds services will be offered.
- c. The agency will acknowledge receipt of the oral or written grievance within five (5) business days of receipt.
- d. The agency offered resolution shall be provided in writing. The written response will include the reason for the decision, the right to pursue a SBHO grievance, and the process and available supports if the individual (or their representative) has any additional concerns about retaliation.
- If the individual is not satisfied with the agency offered solution(s) or if the individual does not receive a copy of that decision from the agency within the time required under this section above, the individual may begin the SBHO grievance process.
4. Agency grievances will be documented and tracked for continuous quality improvement regardless of the resolution.
- Issues of concern filed by allied systems, advocates, unauthorized family members or other parties will be documented outside of the grievance system.

Filing a Grievance with the Salish Behavioral Health Organization

1. If the individual is not satisfied with the agency's written resolution or if the individual does not receive a copy of that decision from the agency within the time required, the SBHO grievance process may apply. An individual may also choose to first file directly with the SBHO instead of the agency.
 - If the issue is related to a Medicaid authorization determination decision, the SBHO appeal process applies.
 - If the issue is related to extending an authorization decision beyond the standard fourteen (14) days from request, the SBHO ASO will provide the individual a written notice of the reason for the extension and inform the individual of the right to file a grievance if he or she disagrees with that decision.
 - For extended authorizations, the determination will be provided as expeditiously as the individual's health condition requires and no later than the date the extension expires.
2. Once an individual gets a decision on a grievance from a BHO, the individual cannot file the same grievance with the behavioral health agency, even if that agency or its staff member(s) is the subject of the grievance.

3. The SBHO grievance process is to be resolved as expeditiously as the individual's health condition requires, and no longer than ninety (90) days from the date the SBHO receives the grievance.
4. All grievances (or complaints if the concern is not from an individual as defined above) are to be logged in the Grievance System's Log All spreadsheet at the SBHO by the Grievance Manager (or their back-up when appropriate).
5. The SBHO will acknowledge receipt of a formal grievance in writing within five (5) business days.
 - A copy of the written acknowledgement will be provided to the involved network provider agency and Ombuds, if involved.
4. The SBHO offered resolution shall be provided in writing within the 90-day timeline as noted above. The written response will include the resolution of the grievance, reason for the decision, the date the decision was made, and is in an easily understood format following 42 CFR 438.10. Use of the SBHO Grievance Letter Templates fulfills these requirements.
5. The SBHO's written decision on the grievance is the final decision. The grievance cannot progress to a fair hearing except when the SBHO does not act within the grievance process time frames described in this section. In this case, the individual is considered to have exhausted the appeal process and has a right to request a fair hearing.

MONITORING

1. This policy will be monitored through SBHO:
 - Annual network provider and subcontractor Administrative Reviews
 - SBHO Trainings
 - SBHO Grievance Tracking Reports. Information about unresolved individual grievances, appeals, or fair hearings that have system wide implications may be used for quality improvement.
 - Quality Management Plan activities, such as standard review of the Grievance Tracking forms and reports, analysis of targeted trends, and system recommendations. Information about types of grievances, appeals, fair hearing requests and denials will be used to analyze patterns or trends and identify areas for quality improvement.
2. If a provider/contractor performs below expected standards during any of the reviews listed above a Corrective Action Plan may be required for SBHO approval.