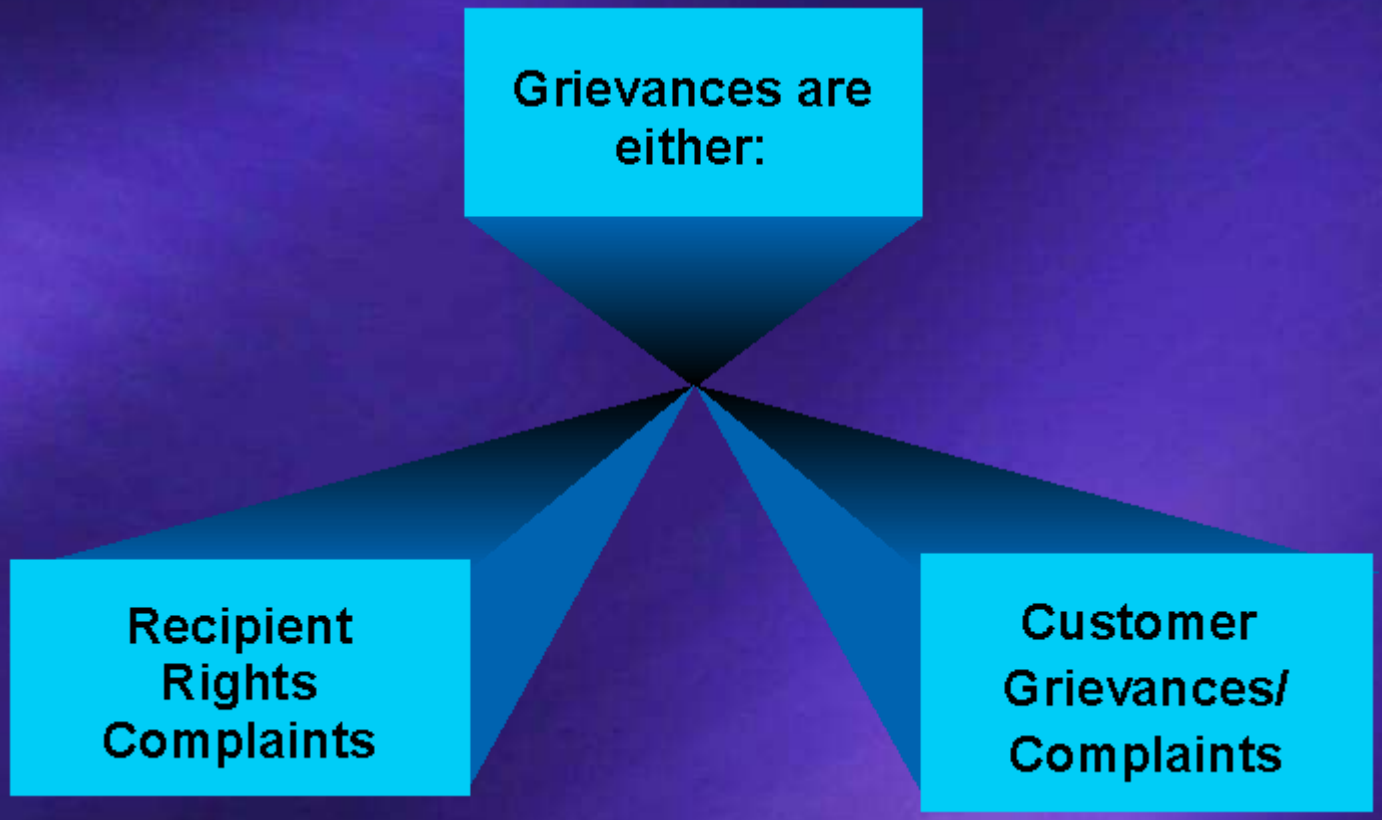
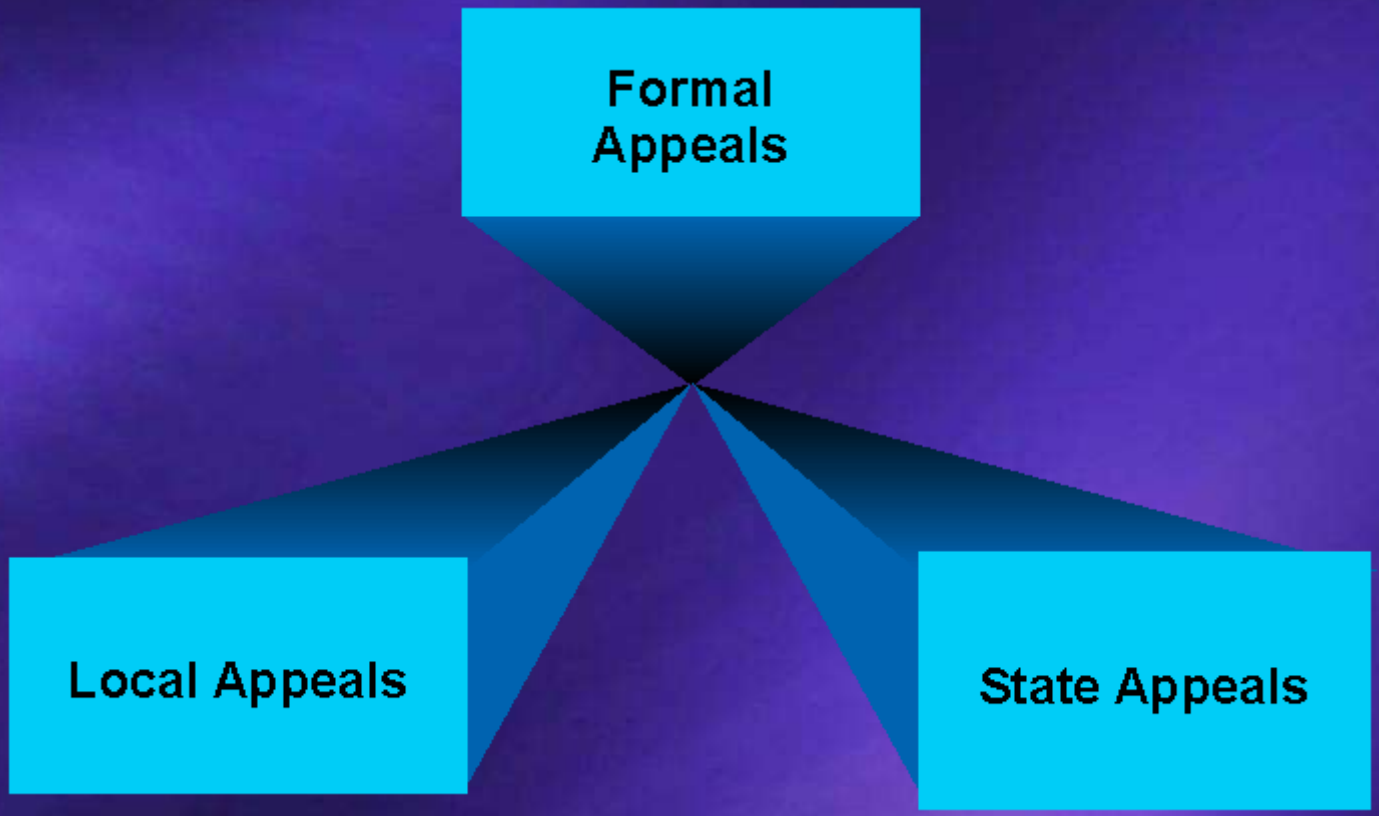
Pathways Grievance & Appeals Training Orientation

Updated 5/2013


Grievances are either:
Recipient Rights Complaints
Customer Grievances/ Complaints


Formal Appeals
Local Appeals
State Appeals

Goal of Training

Participants will understand grievances and appeals afforded to recipients according to federal and state laws and regulations.

Grievances and Appeals

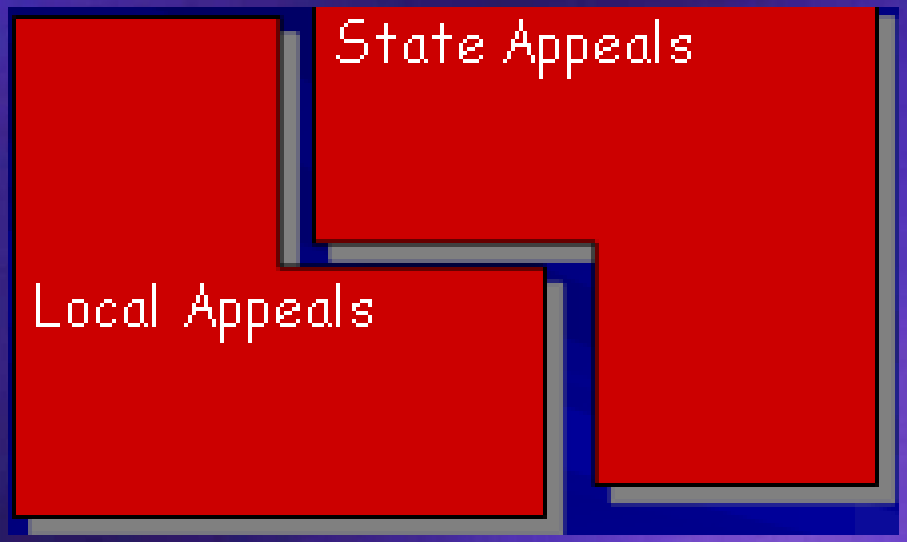
The Recipient Rights (RR) officers are not responsible for the local appeal hearing or the state fair hearing,

HOWEVER,

given the complexity of the appeals process they are identified as the point person at each agency to aid the recipient in the appeals process.

Grievances

Formal Appeals



RR/Grievances

In Michigan:

Grievances fall into 2 categories:

1. Recipient Rights Complaints
2. Consumer Grievances

Michigan Mental Health Code ACT 258 of the Public Acts of 1974 as Amended

Establishes Recipient Rights and process for Recipient Rights Complaints

Establishes the right to a “second opinion” which is also a right under the Balanced Budget Act

Two Important Sources

MDCH “Blue Book” – Explains Mental Health Code Rights

NorthCare Customer Handbook - Explains Customer Services, Recipient Rights, Enrollee Rights, etc.

Grievances

Expression of dissatisfaction OTHER THAN AN ACTION

Grievances fall into 2 categories:

1. Recipient Rights Complaints
2. Customer Grievances

Recipient Rights Complaints

This will be covered more thoroughly in the Recipient Rights training.

When in Doubt …

Whether a grievance should be handled by RR or Customer Services is not always clear.

When in doubt RR staff will determine whether it is a RR Complaint or Consumer Grievance.

Nature of Customer Services

- Access
- Financial
- Respect
- Treatment
- Suggestion

Access Issue

Access (if not sure refer to RR)

- Anything that prevents access
- Examples: parking, timeliness of appointment, transportation, barriers to the building, stigma, concerns about quality of care, not knowing who to call

Financial Issue

Billing concerns, budget issues, determination of ability to pay, insurance concerns and more.

Respect Issue

Anything that is not a rights issue that concerns equality, fairness, and being courteous.

Treatment Issue

Any non-rights issue that someone has about their treatment.

- Example: lack of a male or female therapist

Suggestion

- Solution oriented comments or positive suggestions
- These may not be necessary to track but may be important to monitor in another way

Specific Concern

Capture enough detail to be able to determine the specific dissatisfaction and who needs to be involved in the resolution.

Federal Regulations Require

1. Acknowledgement of the receipt of the grievance by RR or Customer Services,

AND

2. Written disposition when it is resolved.

Recipient Rights Resolution

If referred to Recipient Rights, the recipient rights process will be followed and resolution will occur within 90 days.

Customer Services Resolution

Resolution must occur in 60 days or a grievance becomes an Action with Appeal rights.

Formal Appeals

Since 1998 Community Mental Health agencies are primarily Medicaid providers.

Medicaid is an entitlement* program.

Enrollee rights at a federal level are more encompassing than Recipient Rights in the Michigan Mental Health Code.

Entitlement*

Entitlement refers to the fact that an enrollee is entitled to the services that he or she may benefit from if they are medically necessary.

Formal Appeals

There are three areas of Federal Enrollee rights:

- Subpart A: General Provisions
- Subpart C: Enrollee Rights & Protections
- Subpart F: Grievance & Appeals

Formal Appeals

42 CFR Part438 subpart F-Grievance System for Managed Care

Subpart F section 438.402(a)

Each Prepaid Inpatient Health Plan (PIHP) must have a system in place for *enrollees* that includes a grievance process and appeal process, and access to the State's fair hearing system.

Formal Appeals

- *Beneficiaries* are entitled to "Due Processes" BEYOND the Michigan Mental Health Code

Medicaid DUE PROCESS Requires

Notification and an opportunity to be heard

1. Before an entitlement is suspended, reduced or terminated outside the treatment planning process,

OR

2. If a service request is denied.

State Fair Hearing

NorthCare Customer Handbook gives a simple overview.

The CMHSP is considered “the State”.

If a beneficiary requests a fair hearing, the CMHSP should continue to attempt resolution if possible.

Appeals

An Appeal is a challenge to an action.

Medicaid Action

- Denial or limited authorization of a requested service, including the type of level of service
- Reduction, suspension, or termination of a previously authorized service
- Denial, in whole or in part, of payment of a service
- Failure to make a standard authorization decision and provide notice about the decision within 14 calendar days from the date of receipt of a standard request for services

Medicaid Action

- Failure to make an expedited authorization decision within 3 working days from the date of receipt of a request for expedited service authorization
- Failure to provide services within 14 calendar days of the start date agreed upon in the IPOS and following authorization

Medicaid Action

- Failure of Pathways to act within 45 calendar days from the date of a request for an appeal
- Failure of Pathways to act within 3 working days from the date of a request for an expedited appeal
- Failure of Pathways to provide written disposition of a local grievance/complaint within 60 calendars days of the request (RR follows 90 days)

Non-Medicaid Action

- Initial denial of access to services or inpatient hospitalization
- Reduction, suspension or termination of a previously authorized service

Notice of Action

The *beneficiary* must be given Notice that the PIHP/CMHSP has taken an action.

Two types of Notice:

1. Adequate
2. Advance

Adequate Notice

Given if services requested are denied or limited.

Written Notice is given on the same day the action takes effect, or at the time of the signing of the individual plan of service.

Adequate Notice

Examples:

- IPOS
- Denial after clinical assessment
- Denial of hospitalization

Advance Notice

Given if services currently provided are going to be reduced, suspended or terminated outside the scope of the IPOS.

Written Notice is to be provided/mailed to the beneficiary at least 12 calendar days prior to the proposed day the action is to take place.

Advance Notice

Examples:

- Closing a recipient's case while the treatment plan is still in effect
- Closing a day program

The Exact Change in Services Needs to be Defined

Recipients need to understand the specific limits of the service --

- amount
- duration
- and scope

Local Appeal

- Impartial local level review of a recipient's appeal of an action presided over by individuals not involved with decision-making or previous level of review
- Beneficiary has 45 calendar days from the date of the Notice of Action to request local appeal
- Must reinstate Medicaid services until disposition if the request is received within 12 calendar days

Local Appeal

- Pathways administrator must provide the appellant a reasonable opportunity to present evidence and allegations of fact/law in person and in writing
- Appellant may request an expedited resolution
- Provide opportunity to examine record
- Facilitate resolution within 10 calendar days (3 if expedited)

Local Appeal/Non-Medicaid

- Appellant has 45 calendar days to request an appeal
- Request in writing/oral
- Administrator resolve within 10 calendar days (3 if expedited)
- Offer MDCH Alternative Dispute Resolution Process

Appellant

- Appellant is the recipient or the authorized representative
- For state fair hearings the authorized representative must be appointed by the recipient
- Pathways staff can not be the representative – remember Pathways is the state

Medicaid Fair Hearing

- Appellant must submit, in writing, the Request for Administrative Hearing within 90 calendar days from the date of the Notice
- Request goes to MDCH
- Maintain services if: Beneficiary requests & appeal is filed within 12 calendar days & the appeal involves the termination, suspension, or reduction of a previously authorized course of treatment & the period covered by the authorization has not expired

Request for Hearing

- Pathways receives Notice of Hearing from DCH
- ORR records appeal in database
- Hearing Officer prepares for hearing

Hearing Preparation

- DCH sends request for hearing to CEO
- CEO designee faxes request to Hearings Officer, COO, County Director, Supervisor, Clinician and ORR
- ORR records information in database

Hearing Preparation

Hearing Officer (HO) will review:

- Assessment
- IPOS
- Notice that was sent to recipient
- Progress Notes that support agency action, i.e. clinical justification for action taken
- HO prepares Agency Hearing Summary

Hearing Prep/Authorization Issues

- Service authorization actions should include documentation & basis of action taken

Hearing Preparation

- Become familiar with Medicaid Provider Manual items relevant to hearing issues
- Staff consultation with Hearing Officer as needed to identify issues and testimony at hearing

Hearing

Role of ALJ:

- Admit records into evidence
- Rule on objections
- Question parties and witnesses
- Assure fairness
- Assure complete record

Hearing

Role of Hearing Officer:

- Opening statement of agency (state) position
- Request admission of Hearing Summary exhibits into evidence
- Direct and Cross examination of witnesses
- Closing arguments if requested by ALJ
- Post hearing submissions if required by ALJ (additional records/evaluations)

Hearing

Role of agency staff:

- Testimony in support of agency action
- Answer questions from ALJ and appellant/representative
- Demonstrate familiarity with Medicaid Provider Manual items used to support agency action

Hearing

Role of Appellant/Representative:

- Opening statement
- Submission of exhibits
- Direct and cross examination of witnesses
- Closing arguments
- Post hearing submission of documents if requested by ALJ

Post Hearing

- Michigan Administrative Hearing System sends decision to CEO & HO
- Copies disseminated to ORR & relevant staff
- If decision in agency favor, continue as planned
- If decision in favor of appellant, follow hearing decision: as a practical matter a new IPOS may need to be negotiated (no notice necessary if implementing a hearing decision)