

Chapter: **RECIPIENT RIGHTS**
Title: **LOCAL APPEALS / LOCAL DISPUTE RESOLUTION PROCESS**

Prior Approval Date: 10/21/2009
Current Approval Date: 02/26/2014

Approved By:  02/26/14
Executive Director Date
Approved By:  3/12/14
Office of the County Executive Date

I. Abstract

This policy establishes the standards and procedures for the investigation and resolution of Macomb County Community Mental Health (MCCMH) consumers' appeals/disputes regarding denial, suspension, reduction or termination of services and supports and other actions; financial liability determinations; and family support subsidies.

II. Application

This policy shall apply to the MCCMH Access Center, all network providers of the MCCMH Board, and the consumers served by these entities.

III. Policy

It is the policy of the MCCMH Board that a direct mechanism/process for timely local appeal / local dispute resolution be made accessible to its consumers.

IV. Definitions

- A. See definitions in MCCMH MCO Policy 4-020, "Notices of Advance and Adequate Action and Appeal Rights (MEDICAID)," IV.A.-N.

V. Standards

- A. The Local Appeal / Local Dispute Resolution Process (LAP/LDR) shall be made available to all MCCMH consumers (ie., with or without Medicaid coverage) for the following:
1. Reduction, suspension or termination of a previously authorized service (prior authorization is within the current period);
 - a. Advance Notice. Written notification of the change must be provided to the consumer at least 10 business days prior to the effective date of the action.
 - b. The notice shall include: a statement of what action MCCMH intends to take; the

reasons for the intended action; the specific justification for the intended action; and an explanation of the Local Dispute Resolution Process.

2. Denial of a request for any covered service as a result of provider decision or utilization management decision;
3. Appeal of financial liability determination;
4. Disagreement with regard to scope, duration, or intensity of services and supports included in the consumer Plan of Service/Person-Centered Plan;
5. Denial/Termination of a Family Support Subsidy;
6. Disputes of Access Center or service provider actions;
7. Failure of the MCO/PIHP to provide disposition and notice of a local grievance/complaint within 60 calendar days of the date of the request;
8. Other "Actions" contained in MCCMH MCO 4-020, "Notices of Advance and Adequate Action and Appeal Rights (MEDICAID)," IV.A.-N.

B. General Characteristics of the LAP/LDR

1. The LAP/LDR shall be timely, fair to all parties, administratively simple, objective and credible, accessible and understandable to consumers, and subject to quality review.
2. The LAP/LDR hearings shall be conducted in accordance with Chapter 4 of the Michigan Administrative Procedures Act, 1969 PA 306.
3. The LAP/LDR shall assure that all who participate (consumers, providers) in the LAP/LDR are free from discrimination or retaliation. Such discrimination or retaliation shall constitute a violation of Civil Rights under the Michigan Mental Health Code, 1974 PA 258, as amended, and the Michigan Department of Community Health (MDCH) Administrative Rules.
4. The LAP/LDR shall assure the following:
 - a. Prompt resolution, i.e., within 45 calendar days of the date of request for LAP/LDR;
 - b. Authority for implementation of resolution findings;
 - c. The Hearing Officer shall not be a service provider nor serve in the utilization management process; and
 - d. Notice that the Recipient Rights Complaint process and the Grievance process are available to the consumer at any time during the LAP/LDR.

- C. An oral request for a LAP/LDR of an action is treated as an appeal to establish the earliest possible filing date for appeal. The oral request must be confirmed in writing unless the consumer requests expedited resolution. The written dispute must be filed by or on behalf of the consumer within 20 days of date of the Advance Notice.

D. The LAP/LDR system provides Medicaid consumers with the right to:

1. Concurrently file a MCO/PIHP level appeal of an action and request a State Fair Hearing on an action, and file a MCO/PIHP level grievance regarding other service complaints and file a MCO/PIHP recipient rights complaint.
2. Request a State Fair Hearing before exhausting the MCO/PIHP level appeal of an 'action'.
3. Have a provider, acting on the consumer's behalf and with the consumer's written consent, file an appeal to the MCO/PIHP. The provider may file a grievance or request for a State Fair Hearing on behalf of the consumer only if the State permits the provider to act as the consumer's authorized representative in doing so, as indicated on the State's Request for Medicaid Fair Hearing form (see MCCMH MCO Policy 4-020, "Notices of Advance and Adequate Action and Appeal Rights").
4. Access the LAP/LDR at anytime, even though a Medicaid Fair Hearing may also be requested. Medicaid consumers have 45 calendar days from the date of a notice of action to request a LAP/LDR (see MCCMH MCO Policy 4-020, "Notices of Advance and Adequate Action and Appeal Rights").

E. Consumers not covered by Medicaid may attempt to resolve their concern through the LAP/LDR in the same manner as above, except non-Medicaid consumers must exhaust the LAP/LDR before requesting access to the State's Alternative Dispute Resolution Process as described herein.

F. When a consumer requests a LAP/LDR, the MCO/PIHP is required to:

1. Give consumers reasonable assistance to complete the request and to take other procedural steps. This includes, but is not limited to, providing interpreter services and toll free numbers that have adequate TTY/TTD and interpreter capability.
2. Acknowledge receipt of each appeal in writing, unless an expedited resolution is requested.
3. Maintain a log of all requests for appeal to allow reporting to the MCO/PIHP Quality Improvement Program.
4. Ensure that the individuals who make the decisions on appeal were not involved in the previous level review or decision-making.
5. Ensure that the individual(s) who make the decisions on appeal are health care professionals with appropriate clinical expertise in treating the consumer's condition or disease when the appeal is of a denial based on lack of medical necessity or involves other clinical issues;
6. Provide the consumer, or his / her representative with:
 - a. Reasonable opportunity to present evidence and allegations of fact or law in

person as well as in writing;

- b. Opportunity, before and during the appeals process, to examine the consumer's case file, including medical records and any other documents or records considered during the appeals process;
 - c. Opportunity to include as parties to the appeal the consumer and his or her representative or the legal representative of a deceased consumer's estate;
 - d. For Medicaid consumers, information regarding the right to a fair hearing and the process to be used to request the hearing.
- G. The LAP/LDR for disputes of Access Center or service provider actions shall additionally assure the following:
 - 1. Expedited resolution for appeals of decisions which pose an immediate and adverse impact upon the consumers' health and safety;
 - 2. Written notification to Medicaid consumers of the Medicaid Fair Hearing process simultaneous to receipt of the initial appeal; and
 - 3. Written notification to non-Medicaid consumers of the MDCH Alternative Dispute Resolution Process (ADRP) subsequent to completion of the LAP/LDR, if the appellant is not satisfied with the resolution decision.
- H. If an action is taken that reduces, suspends or terminates a previously authorized service as a result of the consumer's psychiatrist determining and approving that the services are no longer needed, it is not an action requiring advance notice and services need not be continued pending appeal.
- I. During the LAP/LDR process, previously authorized services are not provided beyond the date on which services are scheduled to be reduced, terminated, or suspended.
- J. Nothing in this policy shall limit the consumer's ability to:
 - 1. File a grievance under MCO Policy 2-009, "Consumer /Provider Grievances,"
 - 2. Request a second opinion pursuant to the provisions of MCO Policy 9-180, "Second Opinion Rights,"
 - 3. File a recipient rights complaint or request an appeal of the findings of a recipient rights investigation under MCO Policies 9-510, "Recipient Rights Investigations," and 9-520, "Recipient Requests to Appeal Findings."

VI. Procedures

- A. For disputes of Access Center or service provider actions:
 - 1. The MCCMH Local Appeal / Dispute Resolution Office (LAP/LDR Office) shall log

receipt of the oral or written request for a LAP/LDR hearing.

2. The LAP/LDR Office advises Medicaid consumers, in writing, of the availability of the Medicaid Fair Hearing process (provides assistance for filing if requested) and, for Advance Action Notice situations, V.A.1. above, an explanation of the time frames and circumstances under which services can be continued pending the hearing decision.
3. The LAP/LDR Office provides written notification to non-Medicaid consumers, of the available MDCH ADRP if dissatisfied with the LAP/LDR resolution.
4. The LAP/LDR Office shall submit the dispute issue(s), accompanied by all pertinent information, to the LAP/LDR Hearing Officer.
5. The LAP/LDR Hearing Officer shall:
 - a. Facilitate notice of LAP/LDR hearing to the consumer within ten (10) business days after receipt of necessary information, and facilitate resolution via written notice of the results as expeditiously as the consumer's health condition requires, but no later than 45 calendar days from the day the request for a standard appeal was received. If services have been continued based on advance notice of adverse action (Medicaid), it is to the benefit of the Board to reach resolution within the 12 days after the date of action available to the consumer to file a request for a Medicaid Fair Hearing.
 - b. Facilitate an expedited review and provide written notice of the results, within 72 hours, of a dispute involving an emergent situation, where the standard time frame (in VI.A.5.a.) would seriously jeopardize the health or life of the consumer.
 - c. Make reasonable efforts to provide oral notice of an expedited resolution.
 - d. When a request for an expedited resolution of an appeal is denied, transfer the appeal to the standard time frame for resolution and make reasonable efforts to give the consumer prompt oral notice of the denial with written follow-up notice given to the consumer within two business days.
6. Upon the conclusion of the hearing, the LAP/LDR Hearing Officer shall notify the MCCMH Executive Director of his/her recommendations. The Executive Director shall, if indicated, notify, in writing, the appropriate staff concerning any action needed to address the Hearing Officer's findings.
7. Upon approval of the decision and signature of the Executive Director, the LAP/LDR Office prepares and sends written notification, via certified mail, to the appellant (consumer, guardian, parent of a minor, as applicable). For Medicaid consumers the notice shall include explanations of:
 - a. The results of the resolution and the date it was completed;
 - b. The right to request a MDCH Medicaid Fair Hearing, assistance in filing the

request, and notice of the right to file a Recipient Rights Complaint;

- c. The circumstances under which services may be continued while the State Fair Hearing is pending;
- d. The consumer's potential liability for the cost of those benefits if the hearing decision upholds the MCO/PIHP's action; and
- e. An offer of assistance in the process for withdrawing any request for a MDCH Medicaid Fair Hearing should there be satisfaction with the LAP/LDR resolution.

Note: For non-Medicaid consumers the notice shall include:

An explanation of the right to request the MDCH ADRP, assistance in filing the request, and notice of the right to file a Recipient Rights Complaint, if applicable.

B. For Disputes of Financial Liability Determination) (V.A.3)

- 1. The LAP/LDR Office shall log receipt of the written request for disputes of Financial Liability Determinations.
- 2. The LAP/LDR Office shall notify the appellant in writing, prior to the hearing process, that should the Hearing Officer determine the appellant's ability-to-pay is higher than previously determined, MCCMH will charge the higher amount only for financial liability that is incurred after the date of the Hearing Officer's final determination.
- 3. The LAP/LDR Office shall obtain copies of previously completed financial liability documents within five (5) business days of receipt of written request and submit same to the Hearing Officer.
- 4. The Hearing Officer shall facilitate resolution within ten (10) business days after receipt of necessary information.
- 5. Upon determination of the decision, the Hearing Officer shall notify the MCCMH Executive Director of his/her conclusion(s). The Executive Director shall, if required, notify the appropriate staff concerning any action needed to address the Hearing Officer's findings.
- 6. Upon the decision of the Executive Director, the LAP/LDR Office shall prepare written notification, via certified mail, to the appellant. The written notification shall include the appellant's right to appeal to the Probate Court of the County in which he/she reside(s) should he/she disagree with the findings.

C. For Denial/Termination of a Family Support Subsidy (FSS) (V.A.5)

- 1. The LAP/LDR Office shall log receipt of the written request for a

Denial/Termination of a Family Support Subsidy. Written requests must be submitted within two (2) months of the MCCMH written notice of Denial or Termination.

2. The LAP/LDR Office shall obtain relevant documentation within ten (10) business days of receipt of written request and submit same to the FSS Hearing Officer.
 3. The FSS Hearing Officer shall facilitate notice of the FSS hearing to the consumer within ten (10) business days after receipt of necessary information, and facilitate resolution within 60 calendar days.
 4. Upon determination of the decision the FSS Hearing Officer shall notify the MCCMH Executive Director. The Executive Director shall, if required, notify the appropriate staff concerning any action needed to address the Hearing Officer's findings / recommendations.
 5. Upon approval of the decision and signature of the Executive Director, the LAP/LDR Office shall prepare written notification, via certified mail, to the appellant (consumer, guardian, parent of a minor, as applicable).
 6. The FSS Hearing Officer or designee shall ensure that a copy of the Executive Director's decision is forwarded to the MDCH Family Support Services Program Statewide Coordinator in Lansing and to the MCCMH PSS Coordinator.
- D. See Exhibit A for copies of notices that may be sent to the consumer throughout the LAP/LDR process, as necessary.
- E. For each type of local dispute, the LAP/LDR Office shall, on an annual basis, determine trends in consumer complaints, identify areas for performance improvement, and report same to the MCCMH QAPI Council.

VII. References / Legal Authority

- A. Administrative Procedures Act, MCL 24.271 - MCL 24.287
- B. Michigan Mental Health Code, MCL 330.1704
- C. 1998 MDCH Administrative Rules, R 330.7009
- D. MDCH/MCCMH Medicaid Specialty Supports and Services Concurrent 1915(b)(c) Waiver Program Contract and Amendments FY 2009
- D. MCCMH MCO Policy 4-020, "Notices of Advance and Adequate Action and Appeal Rights (MEDICAID)"
- E. MCCMH MCO Policy 2-009, "Consumer / Provider Grievances"

VIII. Exhibits

- A. Copies of notification letters sent to the consumer throughout the LAP/LDR process, as necessary.

**NOTICE OF
DENIAL OF EXPEDITED APPEAL***

Date:

Consumer:

Provider:

The MCCMH Local Appeal / Dispute Resolution Office (LAP/LDR Office) has determined, after a review, to deny the above referenced consumer request for an expedited appeal received on: _____; it has been determined that taking the time for a standard resolution would not seriously jeopardize the consumer's life or health or ability to attain, maintain, or regain maximum function.

The appeal request, therefore, shall be transferred to a standard time frame, and shall be resolved within 45 days from the date that the request for an appeal was received.

If you have any further questions, please call the MCCMH LAP/LDR Office:

MCCMH Local Appeal / Dispute Resolution Office
22550 Hall Road
Clinton Township, Michigan 48036
(586) 466-7914 V / MI Relay Center (800) 649-3777 TTY

**Notice to be submitted to consumer and/or provider where appropriate.*

Date:

Name

Address

City, State, Zip

RE: NOTICE OF RECEIPT FOR REQUEST FOR LOCAL APPEAL / LOCAL DISPUTE RESOLUTION

ON (date) THE LOCAL APPEAL / DISPUTE RESOLUTION OFFICE (LAP/LDR) received your written and/or verbal request to access Macomb County Community Mental Health Services LAP/LDR Office concerning Macomb County CMH Services which have been either denied, reduced, terminated or suspended.

ALL PERTINENT RECORDS concerning either yourself, son/daughter and/or charge shall be forwarded to the Hearing Officer. You shall be notified in writing of the Hearing date which you may attend in order to present evidence and discuss the matters at issue.

UPON CONCLUSION Of the Hearing, the Hearing Officer shall facilitate a resolution within 45 calendar days from the date MCCMH received your request for this Hearing.

BE ADVISED THAT you may have additional appeal rights available to you. If you are a Medicaid consumer, you may request a Medicaid Fair Hearing at any time. Please see the attached letter describing these additional rights.

Should you have additional questions or concerns, please feel free to contact this Office at (586) 466-7914 V / MI Relay Center (800) 649-3777 TTY.

Enclosures

cc:

NOTICE OF LOCAL APPEAL / DISPUTE RESOLUTION APPEAL RIGHTS *

Upon the conclusion of the Macomb County Community Mental Health (MCCMH) Local Dispute Resolution Hearing, the assigned Hearing Officer shall submit (within 45 calendar days from the date MCCMH received your request for the Hearing) his/her findings to you in writing, via certified mail.

NON-MEDICAID: Should you disagree with the results of the Local Appeal / Dispute Resolution (LAP/LDR), and this appeal is regarding a Non-Medicaid covered service, you have the right to access the MDCH Alternative Resolution Process. To do so, you must submit your written appeal within ten (10) days of receipt of the Hearing Decision to the address below.

MDCH Alternative Resolution Process
MDCH Division of Community Services
320 S. Walnut Street
Lansing, MI 48913

If you need help in filing, you may contact the MCCMH Ombudsman for assistance at (586) 469-7795.

MEDICAID: Medicaid consumers may request a Medicaid Fair Hearing at the same time as a LAP/LDR. If your LAP/LDR is not resolved in your favor and this appeal is regarding a Medicaid covered service, you have the right to access the Michigan Department of Community Health (MDCH) Medicaid Fair Hearing Process if you have not yet done so. Under certain circumstances, you may have the right to request to have your services continue while the State Fair Hearing is pending. If you continue to receive services, and the Medicaid Fair Hearing does not rule in your favor, then you may be held liable for the cost of those services. To request a Medicaid Fair Hearing, or to request information about when you have the right to receive benefits while the Medicaid Fair Hearing is pending, please contact the MCCMH Ombudsman for assistance at (586) 469-7795.

MEDICAID AND NON-MEDICAID: You may file a Recipient Rights complaint if you believe that your right to receive services suited to your condition has been violated. You may do so by contacting the MCCMH Office of Recipient Rights.

MCCMH Office of Recipient Rights
22550 Hall Road
Clinton Township, Michigan 48036
(586) 469-6528

You may access the local MCCMH Grievance System at any time to resolve any grievance or complaint that you may have. Contact the MCCMH Ombudsman at (586) 469-7795.

** Excludes Family Support Subsidy Dispositions*

MCCMH MCO Policy 9-170, Exhibit A-3 (Notice of Local Appeal / Dispute Resolution Appeal Rights; given to consumer as attachment to Notice of Receipt of Request for Appeal letter, at time of appeal, and enclosed with Notice of Disposition letter) - 1/10

(Date)

Name

Address

City, State, ZIP

VIA CERTIFIED AND REGULAR U.S. MAIL

Dear _____:

Please accept this correspondence as written confirmation of the Macomb County Community Mental Health Services Local Appeal / Dispute Resolution concerning your request appealing the denial of _____. I wish to inform you that I have concurred with the assigned Hearing Officer's Findings and Recommendations.

For your convenience, I have attached a copy of the Hearing Officer's Findings and Recommendations dated _____.

(Put in any recommendations that Exec. Dir. has agreed to here or omit entire paragraph if you have concurred with the denial of service). (Remember to also attach a copy of the Appeal Rights to this packet of information being sent) Please contact your assigned Macomb County Community Mental Health Services Casemanager and MCCMH Access Center who shall assist you with the Recommendations.

Also attached you will find a Notice of Local Appeal / Dispute Resolution Appeal Rights that will explain your rights to further appeal this decision. Should you wish assistance in appealing these findings and/or have any additional questions or concerns in this matter, please feel free to contact the Local Appeal / Dispute Resolution Office, (586) 466-7914 V / MI Relay Center (800) 649-3777 TTY.

Respectfully,

John L. Kinch, Executive Director
Macomb County Community Mental Health

Enclosures

cc:

Local Appeal / Dispute Resolution Hearing

FINDINGS & RECOMMENDATIONS

APPELLANT(S):

Name and Address

Consumer / Guardian for/of:

vs

RESPONDENT(S):

Macomb County Community Mental Health
22550 Hall Road
Clinton Twp., MI 48036-1137

LAP/LDRH No: FY 07/08

DATE OF HEARING:

DATE OF FINDINGS & RECOMMENDATIONS:

ASSIGNED MCCMH HEARING OFFICER:

ATTENDEES FOR THE APPELLANT(S):

ATTENDEE(S) FOR RESPONDENT:

OTHER INTERESTED PARTIES PRESENT: None

FINDINGS

RECOMMENDATIONS

Hearing Officer

Date

MCCMH MCO Policy 9-170, Exhibit A-4 (Notice of Findings and Recommendation;
enclosure to Notice of Disposition letter) - 10/09

**REQUEST FOR REVIEW BY DEPARTMENT OF COMMUNITY HEALTH
ALTERNATIVE DISPUTE RESOLUTION PROCESS**

CMHSP: Macomb County Community Mental Health

Instructions to the Requestor:

1. Please complete and mail this form within 10 days from the date you received a decision from the MCCMH Local Dispute Resolution Hearing Officer. Assistance to complete the form is available by calling the MCCMH Ombudsman at 586-469-7795.
2. The review and decision will be completed no later than 15 business days after your request for review is received, and you will then be notified of the outcome in writing.
3. Mail the completed form to:
Michigan Department of Community Health
Program Development, Consultation and Contracts
ATTN: Request for DCH Level Dispute Resolution
Lewis Cass Building, 320 South Walnut, 5th Floor
Lansing, MI 48913

To be completed by Requestor (Use additional sheets if necessary)

Recipient Name

Requestor Address

Guardian/Parent of Minor Child Name
If applicable

Requestor's Daytime Phone No.

I WANT TO REQUEST A REVIEW OF MY DISPUTE WITH A PROGRAM OF:

Macomb County Community Mental Health

Description of the service being denied, suspended, reduced or terminated:

Description of the harm caused by the denial, suspension, reduction or termination of services:

Signature of Requestor

Date