Section: **Customer Service**	Procedure Name: **Grievance and Appeal Procedure**	Procedure #: **P06.04.01**
Overarching Policy: **06.04 Customer Grievance Systems & Second Opinions**		
Owner: **Customer Services Manager**	Reviewed By: **Sarah Ameter**	Total Pages: **8**
Required By: ☒ **BBA** ☒ **MDHHS** ☐ **NCQA** ☐ **Other (please specify):** **Mental Health Code__**	Final Approval By: *Sarah Ameter*	Date Approved: Sep 1, 2021
Application: ☒ **SWMBH Staff/Ops** ☐ **Participant CMHSPs** ☐ **SUD Providers** ☐ **MH/IDD Providers** ☐ **Other (please specify):** _____	Line of Business: ☒ **Medicaid** ☐ **Other (please specify):** ☒ **Healthy Michigan** _____ ☒ **SUD Block Grant** ☒ **SUD Medicaid** ☐ **MI Health Link**	Effective Date: **4/1/2021**

Policy: 06.04 Customer Grievance Systems & Second Opinions

Purpose: To ensure the grievance system for Medicaid enrollee's, to include funding sources: Healthy Michigan Plan (HMP) and Home and Community Based Services (HCBS), promotes the resolution of the customer's concerns while supporting and enhancing the overall goal of improving quality of care. This procedure is for internal use at Southwest Michigan Behavioral Health (SWMBH).

Scope: SWMBH Customer Services

Responsibilities: SWMBH Customer Service Department shall ensure compliance with the standards and guidelines outlined in this procedure and guiding documents including contractual agreements and regulatory requirements.

Definitions: See policy 06.04 Customer Grievance Systems

Procedure:

A. Grievance Procedure

1. Customer or their authorized representative will express their grievance/complaint verbally or in writing to customer service staff.
   a. Grievances may be filed by the customer, parent of a minor, legal guardian, or another chosen authorized representative.

i. If customer wishes to name a representative, customer service staff will send an appointment of representative form for the customer to complete and return.

b. If customer wishes to communicate by email regarding their grievance, customer service staff will request a written statement to give permission for email communications.

2. Customer service staff will listen, support, and help problem-solve when a customer or authorized representative files a grievance. Customer service staff will ask questions to determine the desired resolution/outcome related to the grievance.
   a. If customer or representative simply wants to notify customer service of a concern without any follow up or desired outcome, it is logged as an "Inquiry" for tracking purposes.
3. Customer service will facilitate language assistance, interpreter services, auxiliary aides, or other support to help the customer or representative understand and complete the grievance process.
4. Customer service will inform the customer or representative of the right to present information or evidence verbally or in writing related to the grievance. They can argue their case and will be told the timeframe they have to do so.
5. Customer service will determine if the grievance will be filed using the standard timeframe or if the request needs an expedited resolution.
6. Customer service will document the grievance. Grievance documentation will be kept separate from the customer's clinical record in order to protect their privacy during the investigation.
   a. If the grievance was received in writing, the document will be saved to the customer's grievance record.
7. Customer service will acknowledge receipt of the grievance verbally or in writing.
   a. If acknowledging in writing, the Grievance Acknowledgment will include:
      i. Name of the member for whom the grievance was filed.
      ii. The date the grievance was received.
      iii. A general description of the grievance.
      iv. A description of the timeframe for resolving the grievance
   b. If acknowledged verbally, customer service staff will summarize the request back to the caller to ensure that their request and desired outcome is documented correctly. Customer staff will document any verbal acknowledgement in the grievance record.
8. Customer service will begin investigating the grievance, including any aspects of clinical care involved, by contacting individuals related to the grievance. This may include, but is not limited to: facility or staff involved in the grievance, supervisory staff at facility, provider network, utilization management department, compliance department, etc.
9. Customer service will document contacts and updates to the investigation in the grievance record.
10. Customer service will ensure that individuals making decisions on grievances:
    a. Were not involved in any previous level of review or decision-making, nor a subordinate of any such individual;
    b. When deciding a Grievance that involves either (i) clinical issues, or (ii) denial of expedited resolution of an appeal, are individual(s) who have the appropriate clinical expertise, as determined by the State, in treating the customer's condition or disease.

c. Take into account all comments, documents, records, and other information submitted by the Enrollee or their representative without regard to whether such information was submitted or considered previously.

11. If the grievance requires corrective action, customer service will work with appropriate senior leadership to implement the corrective action where appropriate within the agency or contracted providers.
12. Customer service will resolve the grievance within the prescribed timeframes for resolution. If an extension is warranted, based on SWMBH policy "Customer Grievance Systems & Second Opinions", customer service will give prompt verbal notice and written notice of the reason for delay within 2 days.
    a. Customer service would resolve the grievance as quickly as the customer's health condition requires and no later than the date the extension expires.
13. Upon completion of the investigation, customer service will complete the following steps to finalize the grievance.
    a. Attempt to verbally inform the customer or representative of the results.
    b. Complete the remaining fields in the grievance record, including steps taken, review meetings held, outcome, etc.
    c. Provide a written grievance resolution letter that includes:
        i. Results of the grievance process.
        ii. The date the grievance process was concluded.
        iii. The right for a Medicaid customer to file a State Fair Hearing if the grievance was not resolved within the prescribed timeframes and instructions on how to access the State Fair Hearing process if it applies.

B. <u>Appeal Procedure</u>

1. Customer or their authorized representative will request an appeal verbally or in writing to customer service staff.
    a. Appeals may be filed by the customer, parent of a minor, legal guardian, or another chosen authorized representative.
        i. If customer wishes to name a representative, customer service staff will send an appointment of representative form for the customer to complete and return.
    b. If customer wishes to communicate by email regarding their appeal, customer service staff will request a written statement to give permission for email communications.
2. If the appeal is filed verbally, customer service will inform the customer or representative of the need for a written/signed statement to confirm the request for appeal and the date that it must be received by in order for the appeal to be processed.
3. Customer service staff will listen, support, and help problem-solve when a customer or authorized representative files an appeal. Customer service staff will ask questions to determine the desired resolution/outcome related to the appeal.
4. Customer service will facilitate language assistance, interpreter services, auxiliary aides, or other support to help the customer or representative understand and complete the appeal process.

5. Customer service will inform the customer or representative of the right to present information or evidence verbally or in writing related to the appeal. They can argue their case and will be told the timeframe they have to do so.
    a. Customer service staff will also inform the customer or representative of their right to request a copy of the case file and criteria used in the original decision free of charge.
6. Customer service will evaluate and determine if the appeal will be filed using the standard or expedited timeframe based on the information provided and the criteria and timeframes detailed in SWMBH policy "Customer Grievance Systems & Second Opinions".
    a. If an expedited appeal is requested and denied, customer service will make efforts to verbally inform the customer or representative of the denial promptly, provide written notice of the denial of an expedited resolution timeframe, and transfer the appeal process to the standard timeframe.
7. Customer service will determine if the appeal is eligible for continuation of benefits during the review based on criteria detailed in SWMBH policy "Customer Grievance Systems & Second Opinions". If deemed eligible, customer service will coordinate with agency staff to continue services while the review is pending.
8. Customer service will document the appeal. Appeal documentation will be kept separate from the customer's clinical record in order to protect their privacy during the investigation.
    a. If the appeal was received in writing, the document will be saved in the customer's appeal record.
9. Customer service will acknowledge receipt of the appeal.
    a. If acknowledging in writing, the Appeal Acknowledgment will include:
        i. Name of the member for whom the appeal was filed.
        ii. The date the appeal was received.
        iii. A general description of the appeal.
        iv. A description of the timeframe for resolving the appeal.
    b. If acknowledged verbally, customer service staff will summarize the request back to the caller to ensure that their request and desired outcome is documented correctly. Customer staff will document any verbal acknowledgement in the appeal record.
10. Customer service will gather information for the appeal review. This may include but is not limited to: clinical documentation used to make the original decision, medical necessity or other criteria used, and information provided by the member or representative for review.
11. Customer service will document contacts and updates to the investigation in the appeal record.
12. Customer service will ensure that individuals making decisions on appeals:
    a. Were not involved in any previous level of review or decision-making, nor a subordinate of any such individual;
    b. When deciding an Appeal that involves either (i) clinical issues, or (ii) denial of based on lack of medical necessity, are individual(s) who have the appropriate clinical expertise, as determined by the State, in treating the customer's condition or disease.
    c. Take into account all comments, documents, records, and other information submitted by the Enrollee or their representative without regard to whether such information was submitted or considered in the initial Adverse Benefit Determination.

13. If an internal agency reviewer cannot be identified using the above criteria, customer service will coordinate with an external agency to identify an appropriate individual to conduct the review. Customer service will provide all relevant appeal documentation to the identified reviewer.
14. Customer service will resolve the appeal within the prescribed timeframes for resolution. If an extension is warranted, based on SWMBH policy "Customer Grievance Systems & Second Opinions", customer service will give prompt verbal notice of the delay and written notice of the reason for delay within 2 days.
    a. Customer service would resolve the appeal as quickly as the customer's health condition requires and no later than the date the extension expires.
    b. Customer service would notify the customer of their right to file a grievance about the extension of the timeframe.
15. Upon completion of the investigation, customer service will complete the following steps to finalize the appeal.
    a. Attempt to verbally inform the customer or representative of the results.
    b. Complete the remaining fields in the appeal record, including the outcome, date of review(s), name of reviewer, etc.
    c. Provide a written appeal resolution letter that includes:
        i. Results of the appeal.
        ii. The date the appeal process was completed.
    d. When the appeal is not resolved wholly in favor of the customer, the resolution must also include notice of the customer's:
        i. Right for a Medicaid customer to request a State Fair Hearing and how to do so;
        ii. Right to request benefits while a State Fair Hearing is pending, if requested, and how to make that request; and
        iii. Potential liability of the cost of those benefits if the hearing decision upholds the Adverse Benefit Determination action.

C. <u>Medicaid State Fair Hearing Procedure</u>

1. Customer service is notified of request for hearing by the Michigan Office of Administrative Hearings and Rules (MOAHR).
    a. If the case is not within the SWMBH region, customer service staff will respond to MOAHR with a written statement to this effect.
    b. If there was no local appeal, customer service will respond in writing to MOAHR with this information.
        i. Customer service will attempt to call the customer or representative to explain that the process for asking for a hearing was not followed.
        ii. Customer service will also send a written letter to the customer or representative explaining that the process was not followed and will forward a copy of this letter to MOAHR.
    c. Information formally supplied to MOAHR must be on SWMBH letterhead and signed by SWMBH staff prior to submission.

2. Customer service will determine if the fair hearing is eligible for continuation of benefits during the review based on criteria detailed in SWMBH policy "Customer Grievance Systems & Second Opinions". If deemed eligible, customer service will coordinate with agency staff to continue services while the fair hearing is pending.
3. Customer service will facilitate language assistance, interpreter services, auxiliary aides, or other support to help the customer or representative understand and complete the fair hearing process.
4. Customer service will document the fair hearing. Fair Hearing documentation will be kept separate from the customer's clinical record in order to protect their privacy during the review.
5. Customer service will document contacts and updates in the fair hearing record.
6. Customer service will contact the identified Community Mental Health (CMH) agency to request clinical documentation from the local appeal.
7. Customer service will contact the member or representative to continue the investigation.
    a. Customer service will inform them of the right to submit information or documents to be included in the case review prior to the hearing.
    b. If customer wishes to communicate by email regarding their appeal, customer service staff will request a written statement to give permission for email communications.
    c. Customer service will determine with member or representative if any accommodations are required for the hearing (interpretation, accessible conference space, etc.) and coordinate these as needed.
8. Customer service will determine if legal counsel is needed for consultation or facilitation of the hearing and if so, will coordinate with them during the process.
9. Customer service will coordinate with clinical team to facilitate case file review prior to the hearing if needed.
    a. Customer service will assist with obtaining any additional records for review, which may include coordinating access to the local CMH or provider clinical files.
    b. Clinical reviewer completes the review and provides the results to customer service for inclusion in the hearing packet.
10. Customer service will receive a "Notice of Hearing" from MOAHR with the date/time/location of the hearing.
    a. Customer service will ensure that all mandatory parties are notified (customer or representative, SWMBH staff, CMH staff, and/or legal counsel).
    b. Customer service will ensure that a conference space is booked at the local CMH based on the location detailed on the Notice of Hearing.
    c. Customer Service will ensure that a conference phone line is booked for the hearing time.
11. Customer service will coordinate with the CMH and customer to resolve issues prior to the hearing when possible.
12. If legal counsel is involved as the facilitator, the SWMBH clinical review and other relevant documents need to be supplied to legal counsel at <u>least **9** days</u> before the schedule hearing.
13. If customer service is facilitating, customer service staff need to complete a Hearing Summary with any attached proofs.

a. The hearing summary and proofs must be sent to MOAHR at least **7** days before the scheduled hearing.
b. A copy must also be sent to the customer or representative, post marked at least **7** days before the scheduled hearing.

14. If an agreement is reached before the hearing date, the customer or representative may WITHDRAW from the hearing.
    a. Customer service may assist or pre-fill portions of the withdrawal request form if needed to help the customer or representative.
    b. The request for withdrawal must be in writing, signed, and sent to MOAHR prior to the hearing.
    c. If SWMBH does not receive a notice of Withdrawal from MOAHR prior to the hearing, the hearing will be attended by customer service staff and any others deemed necessary.
15. If a PRE-HEARING CONFERENCE is needed, customer service or legal counsel (if involved) will submit a motion for pre-hearing conference. Pre-hearings are used to address jurisdiction or policy matters prior to the hearing.
    a. The request for pre-hearing conference must be sent to both MOAHR and the customer or representative.
16. When a final order from the hearing is received, customer service will save the order to the fair hearing file and notify legal counsel or other involved parties of the decision to implement.
    a. If an ORDER OF DISMISSAL/WITHDRAWAL, customer service staff will offer to connect the customer back with their CMH for follow up and planning. Customer service staff will notify the CMH that any continuation of benefits may be stopped.
    b. If a DECISION AND ORDER: AFFIRMED, customer service staff will offer to connect the customer back with their CMH for follow up and planning. Customer service staff will notify the CMH that any continuation of benefits may be stopped.
    c. If a DECISION AND ORDER: REVERSED, customer service will:
        i. Coordinate with the customer and CMH to reverse the adverse action and reinstate services (if needed) within 72 hours of receiving the order.
        ii. Complete and return to MOAHR the ORDER CERTIFICATION form within **10** days of receiving the hearing decision along with proof from the CMH that the action was reversed.
        iii. Bring the decision and order to the attention of senior leadership for follow up with any corrective action, policy updates, etc. if deemed appropriate.
17. Customer service will complete remaining fields in the hearing record, documenting the outcome, date of the order, etc.

Effectiveness Criteria: Effectiveness of this procedure will be measured by complete documentation and timely processing of customer grievances, appeals, and fair hearings.

References: None

Attachments: None

Revision History

Revision #	Revision Date	Revision Location	Revision Summary	Revisor
0	7/1/2020		New procedure	H. Woods
1	6/25/21	Procedure: A7iv; B9iv	Clarifying language to include for written acknowledgments	Heather Woods

P06.04.01 Grievance Appeal

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