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## North Sound Behavioral Health Administrative Services Organization, LLC

Section 1000 - Administrative: Grievance and Appeal System

Authorizing Source: HCA Contract; WAC 185-538C-110

Approved by: Executive Director Date: 4/8/2022

Signature:

### **POLICY # 1001.00**

### **SUBJECT: GRIEVANCE AND APPEAL SYSTEM**

#### **PURPOSE**

To describe North Sound Behavioral Health Organizations (North Sound BH-ASO) Grievance and Appeal system that includes Grievance Process, Appeal Process, and access to the Administrative Hearing process for contracted services. Provider claim disputes initiated by the provider are not subject to this section.

#### **DEFINITIONS**

**Action** means the denial or limited authorization of a contracted service based on medical necessity.

**Administrative Hearing** means an adjudicative proceeding before an Administrative Law Judge or a Presiding Officer that is governed by Chapter 34.05 Revised Code of Washington (RCW) or the Agency's hearings rules found in Chapter 182-526 Washington Administrative Code (WAC) and other applicable laws.

**Appeal** means a request for review of an action.

**Appeal Process** means North Sound BH-ASO's procedures for reviewing an action.

**Grievance** means an expression of dissatisfaction about any matter other than an action. Possible subjects for grievances may include, but are not limited to, the quality of care or services provided, and aspects of interpersonal relationships such as rudeness of a provider or employee, or failure to respect the Individual's rights regardless of whether remedial action is requested. Grievance includes an Individual's right to dispute an extension of time proposed by North Sound BH-ASO to make an authorization decision.

**Grievance and Appeal System** means the overall system that includes Grievances and Appeals handled by North Sound BH-ASO and access to the Administrative Hearing system.

**Grievance Process** means the procedure for addressing Individuals' grievances (42 C.F.R. § 438.400(b)).

#### **POLICY**

North Sound BH-ASO will have a Grievance and Appeal system that includes a Grievance process, an Appeal process, and access to the Administrative Hearing process for Contracted services (WAC 182-538C-110). Termination of any North Sound BH-ASO subcontract shall not be grounds for an Appeal, Administrative Hearing, or a Grievance for the individual if a similar service is immediately available.

Individuals will be informed of their right to a Grievance or Appeal in the case of:

1. Denial or termination of services related to Medical Necessity determinations; and
2. Failure to act upon a request for services with reasonable promptness.

North Sound BH-ASO is responsible for accepting, responding to, and resolving all Grievances and Appeals related to the scope of work North Sound BH-ASO is contracted for and responsible to perform.

The Managed Care Organizations (MCO) retain and do not delegate to North Sound BH-ASO the responsibility for responding to and resolving Medicaid funded grievances. North Sound BH-ASO will transfer and refer any grievance or request for an appeal, for Medicaid services, to the MCO with which the individual is enrolled no later than the end of the next business day following the date of receipt irrespective of whether such grievance is related to North Sound BH-ASO, a North Sound BH-ASO subcontractor, an MCO or a Behavioral Health Agency (BHA).

After the MCO's initial review and upon the MCO's request, North Sound BH-ASO will provide all reasonable assistance to the MCO in its investigation and resolution of a Grievance or Appeal that relates to a service provided by North Sound BH-ASO, a North Sound BH-ASO subcontractor, or relates to or involves information held by North Sound BH-ASO. The MCO will be responsible for providing the notice of the resolution of a grievance to the affected member or provider.

Individuals may use the free and confidential Ombuds services that are contracted in the region. Please reference Policy 1029.00 Ombuds Service and Monitoring. Ombuds services are offered and provided independent of North Sound BH-ASO and are offered to individuals at any time to help them with resolving issues or problems at the lowest possible level during the Grievance, Appeal, or Administrative Hearing processes.

## **PROCEDURES**

1. North Sound BH-ASO will have policies and procedures addressing the Grievance system, which comply with the requirements of our HCA contract. HCA must approve, in writing, all Grievance and Appeal system policies and procedures and related notices to individuals regarding the Grievance and Appeal system.
2. North Sound BH-ASO will give individuals any reasonable assistance necessary in completing forms and other procedural steps for Grievances and Appeals. North Sound BH-ASO shall assure that interpreter services are provided for individuals with a preferred language other than English, for individuals who are deaf or hearing impaired at no cost to the individual, this includes translation/interpreting services (including American Sign Language (ASL) and TTY/TTD and/or Washington Relay Services all free of charge).
3. North Sound BH-ASO shall provide the following information regarding the Grievance system for GFS/FBG funded Contracted Services to all Subcontractors, including:
  - a. The toll-free numbers to file oral Grievances and Appeals and the availability of assistance in filing a Grievance or Appeal.
  - b. The individual's right to file Grievances and Appeals and their requirements and timeframes for filing.
  - c. The Individual's right to an Administrative Hearing, how to obtain an Administrative Hearing and representation rules at an Administrative Hearing.
4. North Sound BH-ASO will ensure there are clear descriptions of the Grievance and Appeals functions in their subcontracts.
5. North Sound BH-ASO will acknowledge receipt of each Grievance, either orally or in writing, within two (2) business days.
6. North Sound BH-ASO will acknowledge in writing, the receipt of each Appeal. North Sound BH-ASO will

provide the written notice to both the individual and requesting provider within three (3) calendar days of receipt of the Appeal.

7. North Sound BH-ASO will ensure that decision makers on Grievances and Appeals were not involved in previous levels of review or decision-making.
8. Decisions regarding Grievances and Appeals shall be made by Health Care Professionals with clinical expertise in treating the individual's condition or disease if any of the following apply:
  - a. If the individual is appealing an action.
  - b. If the Grievance or Appeal involves any clinical issues.
9. With respect to any decisions described in contract, North Sound BH-ASO will ensure the Health Care Professional making such decisions:
  - a. Has clinical expertise in treating the individual's condition or disease that is age appropriate (e.g., a board-certified Child and Adolescent Psychiatrist for a child individual).
  - b. A physician board-certified or board-eligible in Psychiatry or Child or Adolescent Psychiatry if the grievance or appeal is related to inpatient level of care denials for psychiatric treatment.
  - c. A physician board-certified or board-eligible in Addiction Medicine or a Sub-specialty in Addiction Psychiatry if the Grievance or Appeal is related to inpatient level of care denials for SUD treatment.
  - d. Are one or more of the following, as appropriate, if a clinical Grievance or Appeal is not related to inpatient level of care denials for psychiatric or SUD treatment:
    - i. Physicians board-certified or board-eligible in Psychiatry, Addiction Medicine or Addiction Psychiatry;
    - ii. Licensed, doctoral level clinical psychologists; or
    - iii. Pharmacists.

## **Grievance Process**

The following requirements and procedures are specific to North Sound BH-ASO Grievance process:

1. Only an individual or the individual's authorized representative may file a grievance with North Sound BH-ASO. A provider may not file a Grievance on behalf of an individual unless the provider is acting on behalf of the individual and with the individual's written consent.
  - a. North Sound BH-ASO will request the individual's written consent should a provider request an Appeal on behalf of an individual without the individual's written consent.
2. North Sound BH-ASO will accept, document, record, and process Grievances forwarded by HCA.
3. North Sound BH-ASO will provide a written response to HCA within three (3) business days to any constituent Grievance. For the purpose of this subsection, "constituent Grievance" means a complaint or request for information from any elected official or agency director or designee.
4. North Sound BH-ASO will assist the individual with all Grievance and Appeal processes and provide information about the availability of Ombuds services to assist the Individual.
5. North Sound BH-ASO will cooperate with any representative authorized in writing by the individual.
6. North Sound BH-ASO will consider all information submitted by the individual or

representative.

7. North Sound BH-ASO will investigate and resolve all Grievances whether received orally or in writing. North Sound BH-ASO will not require an individual or his/her authorized representative to provide written follow up for a Grievance or Appeal North Sound BH-ASO received orally.
8. North Sound BH-ASO will complete the disposition of a Grievance and notice to the affected parties as expeditiously as the individual's health condition requires, but no later than forty-five (45) calendar days from receipt of the Grievance.
9. The notification may be made orally or in writing for Grievances not involving clinical issues. Notices of disposition for clinical issues must be in writing.
10. individuals do not have the right to an Administrative Hearing in regard to the disposition of a Grievance.

### **Appeal Process**

1. An individual, the individual's authorized representative, or a provider acting on behalf of the individual and with the individual's written consent, may Appeal a North Sound BH-ASO action.
  - a. If a provider has requested an Appeal on behalf of an individual, but without the individual's written consent, North Sound BH-ASO will not dismiss the Appeal without first attempting to contact the individual within five (5) calendar days of the provider's request, informing the individual that an appeal has been made on the individual's behalf, and then asking if the individual would like to continue the Appeal.

If the individual does wish to continue the Appeal, North Sound BH-ASO will obtain from the individual a written consent for the Appeal. If the individual does not wish to continue the Appeal, North Sound BH-ASO will formally dismiss the Appeal, in writing, with appropriate individual Appeal rights and by delivering a copy of the dismissal to the provider as well as the individual.

- b. For expedited Appeals, North Sound BH-ASO may bypass the requirement for the individual's written consent and obtain the individual's oral consent. The individual's oral consent shall be documented in North Sound BH-ASO's records.
2. If HCA receives a request to Appeal an Action of North Sound BH-ASO, HCA will forward relevant information to North Sound BH-ASO and North Sound BH-ASO will contact the individual with information that a provider filed an appeal.
3. For Appeals of standard service authorization decisions, an individual, or a provider acting on behalf of the individual, must file an Appeal, either orally or in writing, within sixty (60) calendar days of the date on North Sound BH-ASO's Notice of Action. This also applies to an individual's request for an expedited Appeal.
4. The Appeal process shall provide the individual a reasonable opportunity to present evidence, and allegations of fact or law in writing. North Sound BH-ASO will inform the individual of the limited time available for this in the case of expedited resolution.
5. The Appeal process shall provide the individual and the individual's representative opportunity, before and during the Appeals process, to examine the individual's case file, including medical records, and any other documents and records considered during the Appeal process.
6. The Appeal process shall include as parties to the Appeal, the individual and the individual's representative, or the legal representative of the deceased individual's estate.
7. In any Appeal of an Action by a Subcontractor, North Sound BH-ASO or its Subcontractor shall apply

North Sound BH-ASO's own standards, protocols, or other criteria that pertain to authorizing specific services.

8. North Sound BH-ASO will resolve each Appeal and provide notice, as expeditiously as the individual's health condition requires, within the following timeframes:
  - a. For standard resolution of Appeals and for Appeals for termination, suspension or reduction of previously authorized services a decision must be made within fourteen (14) calendar days after receipt of the Appeal, unless North Sound BH-ASO notifies the individual that an extension is necessary to complete the Appeal; however, the extension cannot delay the decision beyond twenty-eight (28) calendar days of the request for Appeal.
  - b. For any extension not requested by an individual, North Sound BH-ASO must give the individual written notice of the reason for the delay.
  - c. For expedited resolution of Appeals or Appeals of behavioral health drug authorization decisions, including notice to the affected parties, no longer than three (3) calendar days after North Sound BH-ASO receives the Appeal.
9. North Sound BH-ASO will provide notice of resolution of the Appeal in a language and format which is easily understood by the individual. The notice of the resolution of the Appeal shall:
  - a. Be in writing and sent to the individual and the requesting provider. For notice of an expedited resolution, North Sound BH-ASO will also make reasonable efforts to provide oral notice.
  - b. Include the date completed and reasons for the determination.
  - c. Include a written statement of the reasons for the decision, including how the requesting provider or individual may obtain the review or decision-making criteria.
  - d. For Appeals not resolved wholly in favor of the individual:
    - i. Include information on the individual's right to request an Administrative Hearing and how to do so.

### **Expedited Appeals Process**

1. North Sound BH-ASO will establish and maintain an expedited Appeal review process for Appeals when North Sound BH-ASO determines or a provider indicates that taking the time for a standard resolution could seriously jeopardize the individual's life or health or ability to attain, maintain, or regain maximum function.
2. The individual may submit an expedited Appeal either orally or in writing.
3. North Sound BH-ASO will make a decision on the individual's request for expedited Appeal and provide written notice, as expeditiously as the individual's health condition requires, within three (3) calendar days after North Sound BH-ASO receives the Appeal. North Sound BH-ASO will also make reasonable efforts to provide oral notice.
4. North Sound BH-ASO may extend the timeframes by up to fourteen (14) calendar days if the individual requests the extension; or North Sound BH-ASO shows there is a need for additional information and how the delay is in the individual's interest.
5. For any extension not requested by an individual, North Sound BH-ASO must give the individual written notice of the reason for the extension.
6. North Sound BH-ASO will ensure that punitive Action is not taken against a provider who requests an expedited resolution or supports an individual's Appeal.
7. If North Sound BH-ASO denies a request for expedited resolution of an Appeal, it shall transfer the Appeal to the timeframe for standard resolution and make reasonable efforts to give the individual

prompt oral notice of the denial and follow up within two (2) calendar days with a written notice of denial.

### **Administrative Hearing**

1. Only the individual or the individual's authorized representative may request an Administrative Hearing. A provider may not request an Administrative Hearing on behalf of an individual.
2. If an individual does not agree with North Sound BH-ASO's resolution of an Appeal, the individual may file a request for an Administrative Hearing within one hundred and twenty (120) calendar days of the date of notice of the resolution of the Appeal. North Sound BH-ASO will not be obligated to continue services pending the results of the Administrative Hearing.
3. If the individual requests an Administrative Hearing, North Sound BH-ASO will provide to HCA and the individual, upon request, and within three (3) business days, all Contractor-held documentation related to the Appeal, including, but not limited to: transcript(s), records, or written decision(s) from participating providers or delegated entities.
4. North Sound BH-ASO is an independent party and is responsible for its own representation in any Administrative Hearing, Board of Appeals, and subsequent judicial proceedings.
5. North Sound BH-ASO's Behavioral Health Medical Director or designee shall review all cases where an Administrative Hearing is requested and any related Appeals.
6. The individual must exhaust all levels of resolution and Appeal within North Sound BH-ASO's grievance system prior to filing a request for an Administrative Hearing with HCA.
7. North Sound BH-ASO will be bound by the final order, whether or not the final order upholds North Sound BH-ASO's decision.
8. If the final order is not within the purview of this policy or HCA contract, then HCA will be responsible for the implementation of the final order.
9. The Administrative Hearings process shall include as parties to the Administrative Hearing, North Sound BH-ASO, the individual and the individual's representative, or the legal representative of the deceased individual's estate and HCA.

### **Petition for Review**

Any party may Appeal the initial order from the Administrative Hearing to HCA Board of Appeals in accordance with Chapter 182-526 WAC. Notice of this right shall be included in the Initial Order from the Administrative Hearing.

### **Effect of Reversed Resolutions of Appeals and Administrative Hearings**

If North Sound BH-ASO's decision not to provide Contracted Services is reversed, either through a final order of the Washington State Office of Administrative Hearings or the HCA Board of Appeals, North Sound BH-ASO will provide the disputed services promptly, and as expeditiously as the individual's health condition requires.

### **Recording and Reporting Grievances, Adverse Authorization Determinations, , Appeals and Administrative Hearings**

North Sound BH-ASO will maintain records of all Grievances, Adverse Authorization Determinations, including Actions, Appeals and Administrative Hearings.

North Sound BH-ASO will retain all records for a period of no less than 10 years after the completion of the grievance process.

1. The records shall include Grievances, Adverse Authorization Determinations including Actions, and Appeals, and Administrative Hearings, handled by delegated entities, and all documents generated or

obtained by North Sound BH-ASO in the course of responding to such Actions, Grievances, and Appeals.

2. North Sound BH-ASO will provide separate reports of all Grievance, Adverse Authorization Determination, and Appeals, and Administrative Hearings
3. North Sound BH-ASO is responsible for maintenance of records for and reporting of any Grievance, Adverse Authorization Determination, and Appeals, and Administrative Hearings handled by delegated entities.
4. Delegated Grievance, Adverse Authorization Determination, and Appeals, and Administrative Hearings are to be integrated into North Sound BH-ASO's report.
5. Reports that do not meet the Grievance System Reporting Requirements shall be returned to North Sound BH-ASO for correction. Corrected reports will be resubmitted to HCA within thirty (30) calendar days.
6. The report medium shall be specified by HCA.
7. Reporting of Grievances shall include all expressions of individual dissatisfaction not related to an Action. All Grievances are to be recorded and counted whether the Grievance is remedied by North Sound BH-ASO immediately or through its Grievance and quality of care service procedures.

### **Grievance and Appeal System Terminations**

When Available Resources are exhausted, any Appeals or Administrative Hearings related to a request for authorization of a non-Crisis contracted service will be terminated since non-Crisis Services cannot be authorized without funding regardless of medical necessity.

### **Grievance and Appeal System Monitoring**

The North Sound BH-ASO will ensure that all processes related to Grievance, Adverse Authorization Determination, Appeals, and Administrative Hearings adhere to policy and timeframes outlined.). The North Sound BH-ASO will require quarterly monitoring of all Grievance, Adverse Authorization Determination, and Appeals, and Administrative Hearings our Internal Quality Management Committee (IQMC) that includes but is not limited to:

1. **Review of Quarterly Monitoring Reports**
  - a. Prior to the monthly Internal Quality Management Committee (IQMC) the report logs and Intake Records for Grievance, Adverse Authorization Determination, and Appeals, and Administrative Hearings will be reviewed by North Sound BH-ASO Medical Director or designee.
    - i. This will include a review of the documentation completed when an Individual contacts North Sound BH-ASO and requests to file a Grievance or Appeal.
  - b. The Medical Director or designee will present the data to the IQMC along with recommendations regarding instances where established processes were not adhered to.
2. **Quarterly review of data at Internal Quality Management Committee**
  - a. Data will be reviewed by the committee to determine:
    - i. Adherence to Grievance, Adverse Authorization Determination, and Appeals, and Administrative Hearings processes and timelines.
    - ii. Adherence with established processes for the Intake of Grievances and Appeals.
  - b. IQMC will review the reports to determine the necessary action to take when:

- i. North Sound BH-ASO does not meet the requirements and timelines established in the applicable Policies.

Any identified issues regarding North Sound BH-ASO not adhering to the necessary processes or timelines will be remediated by the IQMC in accordance with the North Sound BH-ASO Quality Management Plan. All remediation processes and outcomes are reported to the North Sound BH-ASO Leadership Team by the IQMC Chair.

**ATTACHMENTS**

None