

NorthCare Network

POLICY TITLE: Enrollee/Recipient Rights & Protections	CATEGORY: Customer Services/Recipient Rights	
EFFECTIVE DATE: 11/2/05	BOARD APPROVAL DATE: 2/27/13	
REVIEW DATE: 10/11/22	REVISION(S) TO POLICY STATEMENT: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	OTHER REVISION(S): <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
RESPONSIBLE PARTY: Customer Services Specialist	CEO APPROVAL DATE: 11/1/22 Dr. Tim Kangas, CEO	

APPLIES TO

NorthCare Network Personnel
Network Providers

POLICY

NorthCare Network is committed to the specific rights and protections afforded to all consumers.

PURPOSE

This policy delineates the legal authority and the requirements of the rights of individuals receiving mental health specialty supports and services, and substance use disorder (SUD) services. Including, but not limited to ensuring that:

- recipients are free from abuse, neglect, and other rights violations,
- rights under the balanced budget amendment, Michigan mental health code, Michigan public health code and administrative rules are protected,
- when there is reason to believe a recipient's rights have been violated, staff report to the proper agency; and,
- each Member CMHSP has an office of recipient rights that is approved by the state of Michigan.

DEFINITIONS

1. **Enrollee:** A resident of Michigan's Upper Peninsula who is currently enrolled in Medicaid, MI Health Link, MI Child, or Healthy Michigan.
2. **Consumer (may be known as a recipient, customer, client, or member):** Broad, inclusive reference to an individual requesting or receiving mental health services delivered and/or managed by the PIHP, including Medicaid beneficiaries, and all other recipients of the PIHP and/or the CMHSP services.

REFERENCES

- Balanced Budget Act of 1997 (Pub L 105-33)
- 42 Code of Federal Regulations, PART 438 et.al.
- Michigan Mental Health Code (MMHC)
- Michigan Administrative Code
- MDHHS Medicaid Fair Hearings Brochure

- MDHHS Policies & Practices Guidelines https://www.michigan.gov/mdhhs/0,5885,7-339-71550_2941_4868_4900---,00.html (Appeal and Grievance Resolution Process Technical Requirement)
- Michigan Public Health Code
- NorthCare Network Customer Handbook
- NorthCare Network Notice of Privacy Practices
- NorthCare Network Utilization Management Plan
- NorthCare Network Policies: Customer Grievance and Appeals Process; Advance Directives; Service Authorization Policy
- URAC: Core 35, 37, 40
- MI Health Link Contracts

HISTORY

REVISION DATE: 9/12/13, 5/14/14, 4/7/15, 12/1/16, 10/25/17, 8/21/18, 6/25/19, 4/30/20, 2/24/21, 12/10/21, 10/11/22

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CEO APPROVAL: 2/27/13, 9/12/13, 5/14/14, 4/7/15, 2/9/16, 12/6/16, 11/6/17, 9/17/18, 7/2/19, 5/5/20, 3/2/21, 1/4/22, 11/1/22

BOARD APPROVAL: 11/2/05, 5/3/06, 2/27/13

PROCEDURES

A. General Rules

1. Enrollee Rights and Protection (as noted in Subpart C, 42 CFR 438.100) - An Enrollee has the right to:
 - a. Receive information in accordance with 438.10 listed above.
 - b. Be treated with respect and with due consideration for his or her dignity and privacy.
 - c. Receive information on available treatment options and alternatives, presented in a manner appropriate to the Enrollee's condition and ability to understand.
 - d. Receive information about where to receive counseling or referral services that are not covered because of moral or religious objections per 42 CFR 438.10(g)(2)(ii)(A) and (B).
 - e. Participate in decisions regarding his or her health care, including the right to refuse treatment.
 - f. Be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience, or retaliation, as specified in other Federal regulations on the use of restraints and seclusion. Each Member CMHSP shall have restraint and seclusion policies in compliance with federal and state laws.
 - g. The right to request and receive a copy of his or her medical records, and request that they be amended or corrected as specified in 45 CFR 164.524 and 164.526.
 - h. Each enrollee is free to exercise his or her rights, and that the exercise of those rights does not adversely affect the way the NorthCare and its network providers or the State agency treat the enrollee.
2. Enrollee Communications (42 CFR 438.102) - NorthCare Network may not prohibit, or otherwise restrict, a provider acting within the lawful scope of practice,

from advising or advocating on behalf of an Enrollee who is his or her patient, for the following:

- a. The Enrollee's health status, medical care, or treatment options, including any alternative treatment that may be self-administered.
- b. Any information the Enrollee needs to decide among all relevant treatment options.
- c. The risks, benefits, and consequences of treatment or non-treatment.
- d. The Enrollee's right to participate in decisions regarding his or her health care, including the right to refuse treatment, and to express preferences about future treatment decisions.

3. Grievance System (as noted in 42 CFR § 438.400 et seq) – NorthCare Network, or as delegated to any subcontract provider must provide the following information to its Enrollees:

a. Grievance, appeal and fair hearing procedures and timeframes, which must include the following:

i. For State Hearing:

- The right to a state fair hearing in certain circumstances,
 - a. After the local appeal process has been exhausted and the Adverse Benefit Determination is being upheld.
 - b. When NorthCare Network or contract providers fail to adhere to the notice and timing requirement for resolution of a Grievances or Appeal as outlined in the Appeal and Grievance Resolution Process Technical Requirement and NorthCare's Consumer Grievance and Appeal Policy.
- The method and/or assistance for obtaining a hearing; and
- The rules that govern representation at the hearing.

ii. Grievance and Local Appeals:

- The right to file grievances and appeals,
- The requirements and timeframes for filing a grievance or appeal,
- The availability of assistance in the filing process,
- The toll-free phone number that the Enrollee can use to file a grievance or appeal with NorthCare Network,
- The fact that when requested by the Enrollee:
 - Continuation of benefits may occur if the Enrollee files an appeal or a request for a State Fair Hearing if all of the following also occur:
 - a. The appeal involves the termination, suspension, or reduction of previously authorized services,
 - b. The services were ordered by an authorized provider,
 - c. The period covered by the original authorization has not expired,
 - d. The Enrollee timely files for continuation of benefits
 - If at the Enrollee's request benefits continue or are reinstated while the appeal/hearing is pending the benefits must be continued until one of the following:
 - a. The Enrollee withdraws the appeal or request for state fair hearing.
 - b. The Enrollee fails to request a state fair hearing and continuation of benefits within 10 calendar days after the Appeal resolution is sent upholding the adverse decision.

- c. A state fair hearing office issues a hearing decision adverse to the Enrollee's current continued benefit.
 - If the final decision is adverse, to the Enrollee, the Enrollee may be required to re-pay the cost of the services furnished.
 - Any additional appeal rights the State or NorthCare Network chooses to make available to providers to challenge the failure of the organization to cover a service.
- b. External Appeal: formal appeal process to consider appeals for denial of authorization is outlined in the Service Authorization Policy.

B. NorthCare Network Responsibilities

1. Information Requirements (as noted in Subpart A – General Provisions: 42 CFR 438.10). NorthCare Network will:
 - a. Provide written materials including, but not limited to, enrollment notices, informational materials, and instructional materials relating to Enrollees in a manner and format that are:
 - i. in an easily understood language and format.
 - ii. the font size will be no smaller than 12 point.
 - iii. available in alternative formats and through the provision of auxiliary aids and services in an appropriate manner that takes into consideration the special needs of enrollees or potential enrollees with disabilities or limited English proficiency.
 - iv. readily accessible and include a large print tagline and information on how to request auxiliary aids and services, including the provision of materials in alternative formats. Large print means printed in a font size no smaller than 18 point.
 - b. Develop, maintain and update an easy to read NorthCare Network Customer Handbook.
 - c. Member CMHSPs and the Substance Use Disorder Providers and individuals receiving services can access and print the most current handbook from the NorthCare Network website at: www.northcarenetwork.org. An Audio version of the NorthCare Network Handbook is available on the NorthCare website. Information Requirements are published annually in the NorthCare Network Newsletter. The NorthCare Network website includes a link to the Member Handbook for the MI Health Link program.
 - d. Provide oral interpretation:
 - i. Utilize Language Line Services for non-English languages interpretation
 - ii. Services are available, free of charge, to each Enrollee
 - iii. Enrollees will be informed how to access the interpretation service
 - e. Distribute the NorthCare Network Notice of Privacy Practices to providers, as needed.
 - f. Remind Enrollees of the availability of its Notice of Privacy Practices. By including it in the NorthCare Network Customer Handbook which is given to Enrollees upon initial assessment and then again annually during the Person-Centered Planning Process.
 - g. Update and distribute the NorthCare Network Notice of Privacy Practices as necessary.

- h. Post the Utilization Management Plan/Benefit Plan on the NorthCare Network website: www.northcarenetwork.org or provide a copy at the request of a consumer.
 - i. Provide a mechanism to help Enrollees understand the requirements and benefits of the plan.
 - j. Explain benefits that are available under the State plan but are not covered under the contract, including how and where the Enrollee may obtain those benefits, any cost sharing, and how transportation is provided.
 - k. Provide annual notice to Enrollees of their rights to request and obtain the following information:
 - i. Names, locations, telephone numbers of, and non-English languages spoken by, current contracted providers in the Enrollee's service area, including identification of providers that are not accepting new patients.
 - ii. Any restrictions on the Enrollee's freedom of choice among network providers.
 - iii. Enrollee rights and protections as specified in 42 CFR 438.100 (outlined below in 2.a.)
 - iv. Grievance, appeal and fair hearing procedures and timelines, and the information specified in 42 CFR 438.10(g)(1) and the Appeal and Grievance Resolution Process Technical Requirement
 - v. The amount, duration, and scope of benefits available under the contract in sufficient detail to ensure that Enrollees understand the benefits to which they are entitled.
 - vi. Procedures for obtaining benefits, including authorization requirements.
 - vii. The extent to which, and how, Enrollees may obtain benefits, from out-of-network providers.
 - viii. The extent to which, and how after-hours and emergency coverage are provided, including:
 - What constitutes emergency medical condition, emergency services, and post stabilization services.
 - The fact that prior authorization is not required for emergency services.
 - The process and procedures for obtaining emergency services.
 - The locations of any emergency settings and other locations at which emergency services and post stabilization services are covered under the contract.
 - ix. The fact that Enrollees have a right to use any hospital or other setting for emergency care.
 - x. The estimated annual cost of each covered support and service an Enrollee is receiving, at least annually.
2. Enrollee Rights and Protections (as noted in Subpart C – 42 CFR 438.10) NorthCare Network will:
- a. Outline the required provider appeal mechanisms in the NorthCare Network Provider Grievance & Appeals Policy and the Member CMHSP Utilization Management Plans.
 - b. Monitor Member CMHSPs and the Substance Use Providers for their adherence to the Federal and State laws, regulations and this policy.
 - c. Monitor that each Member CMHSP has a certified ORR.

3. Grievance System (Subpart F in its entirety, 42 CFR 438.400) – NorthCare Network will:
 - a. Incorporate all federal regulations in their Grievance & Appeals policy.
 - b. Develop, maintain, and update standard forms for meeting the requirements of consumer notice of actions and a grievance process.
 - c. Monitor trends and areas of practice improvement through two regional committees (Utilization Management, Customer Services) and NorthCare’s internal Quality Oversight and Management committee.

4. Advanced Directives (per 42 CFR 438.3(j) – NorthCare Network will:
 - a. Provide educational information on Advance Directives in the NorthCare Network Consumer Handbook and website www.northcarenetwork.org
 - b. Maintain an up-to-date policy on Advance Directives
 - c. Maintain an up-to-date regional form for Advance Directives for mental health treatment
 - d. Monitor the Member CMHSPs use of and education of Advance Directives through site reviews.

C. Network Provider Responsibilities

1. Information Requirements (as noted in Subpart A – General Provisions: 42 CFR 438.10). Network Providers will:
 - a. Distribute the NorthCare Network Customer Handbook which includes the NorthCare Network Notice of Privacy Practices to all new beneficiaries at intake and annually during the Person-Centered Planning process.
 - b. Educate all new staff regarding Language Line Services and Limited English Proficiency (LEP) guidelines.
 - c. Annually review LEP guidelines with all staff.
 - d. Educate all Enrollees about the requirements and benefits of the NorthCare Network Benefit Plan.
 - e. Distribute the “Your Rights” Pamphlet, approved by MDHHS, to recipients of mental health services.
 - f. Distribute “Know Your Rights Pamphlet”, approved by MDHHS, to recipients of substance use disorder services.
 - g. Maintain an identified recipient rights process and educate consumers about their rights according to the Michigan Mental Health Code and the Michigan Public Health Code.

2. Enrollee Rights and Protections (as noted in Subpart C – 42 CFR 438.10) – Network Providers will:
 - a. Maintain Recipient Rights policies, procedures, and clinical practices to guarantee the Federal Regulations, Mental Health Code and Public Health Code and administrative rules are followed.
 - b. All Member CMHSP shall follow the procedures as required by MDHHS/ORR certification.
 - c. Outline the internal provider rights and protections in Utilization Management plan.

3. Grievance System (Subpart F in its entirety, 42 CFR 438.400) – Network Providers will:
 - a. Track appeals, denials, and grievances. Log appeals and grievances in ELMER.

- b. Submit quarterly reports to NorthCare Network on appeals, denials, and grievances.
 - c. Ensure that the individuals who make decisions on grievances and appeals are individuals who, if deciding any of the following, are health care professionals who have the appropriate clinical expertise, in treating the Enrollee's condition or disease.
 - i. An appeal of a denial that is based on lack of medical necessity.
 - ii. A grievance regarding denial of expedited resolution of an appeal.
 - iii. A grievance or appeal that involves clinical issues.
 - d. Acknowledge receipt of a Grievances, by indicating the date the acknowledgment letter was sent to the Enrollee in ELMER.
 - e. Provide Enrollee a written notice of resolution within 90 calendar days from the date the Grievance was received.
 - f. Notice of Grievance Resolution must include:
 - i. The results of the Grievance process,
 - ii. The date the Grievances process was concluded,
 - iii. Notice of Enrollee's rights to request a State Fair Hearing if the notice of resolution is more than 90 days from the date of the Grievances, and
 - iv. Instructions on how to access the State Fair Hearing process, if applicable.
 - g. Ensure that all acknowledgment and resolution letters regarding Grievances to Enrollees be in a manner and format that is easily understood.
4. Advanced Directives (per 42 CFR 438.3(j) – Network Providers will:
- a. Educate Enrollees about crisis planning and Advanced Directives through the treatment planning process and assist a consumer if the consumer decides to develop an Advance Directive for Mental Health Care.
 - b. Conditioning the provision of care based on whether an individual has executed an advance directive is prohibited.