


Contra Costa County Health Services Department Behavioral Health Services Division Mental Health Plan Drug Medi-Cal Organized Delivery System	POLICY NO. 804.1 Effective as of: October 7, 2022 Next Review Date: October 31, 2025 Policy Expires On: October 31, 2026
POLICY: <u>MEDI-CAL BENEFICIARY APPEALS AND EXPEDITED APPEALS</u>	By:  Suzanne Tavano, PhD Behavioral Health Director

POLICY: MEDI-CAL BENEFICIARY APPEALS AND EXPEDITED APPEALS

I. PURPOSE:

The purpose of this policy is to describe how Behavioral Health Services Division (BHSD) will ensure compliance with state and federal regulations regarding appeals and expedited appeals, including:

- Informing beneficiaries about the appeal process and their rights during and after the appeal process.
- Processes and timeframes around filing appeals and expedited appeals.
- Ensuring adequate oversight for appeals and expedited appeals.
- Requirements for notifications for appeals and expedited appeals.

II. REFERENCES:

- CFR, Title 42, Chapter IV, Subchapter C Part 438, Subpart F
- CCR, Title 9, Section 1830.205
- California State Department of Health Care Services (DHCS), MHSUDS Information Notice No. 18-010E

III. POLICY:

It is the policy of BHSD to follow all state regulations concerning Medi-Cal beneficiary appeals, including:

- Informing all beneficiaries receiving or seeking mental health and/or substance use services of the procedures for filing an appeal.
- Limiting beneficiaries to only a single level of appeal.
- Ensuring that the individuals making the decision on the appeal were not involved in any previous level of review or decision-making and were not subordinates of any individual who was involved in a previous level of review.

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- Ensuring that individuals making the decision on a denial based on lack of medical necessity or about clinical issues have the appropriate clinical expertise, as determined by BHSD and scope of practice considerations, in treating the beneficiary's condition.
- Ensuring that decision-making is made by individuals with authority to require corrective action.
- Maintaining procedures for tracking and processing appeals in a timely manner.

IV. AUTHORITY/RESPONSIBILITY:

Behavioral Health Deputy Director
 Behavioral Health Program Chiefs
 Quality Improvement Coordinator (QIC)
 Utilization Review Manager
 Utilization Review Coordinators
 Behavioral Health Program Managers/Supervisors
 Behavioral Health Service Providers
 Grievance Advocates

V. PROCEDURE:

- A. To ensure that beneficiaries have adequate information about BHSD appeal processes:
1. Beneficiaries shall be informed, via the informing materials and Medi-Cal beneficiary handbook of the appropriate system of care, of the appeal and expedited appeal process.
 2. Notices explaining the appeal process shall be posted in the waiting rooms of all County Owned and Operated clinics, contracted program locations and Network Provider offices.
 3. Appeal or expedited appeal request forms and self-addressed envelopes shall be made available in waiting rooms for beneficiaries without their having to make a verbal or written request. These forms shall include the procedures for filing appeals and include the phone number and address of where to file. These forms shall also be available on the BHSD website.

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4. Mental health beneficiaries shall be informed of their right to request and receive, at no charge, assistance from a Grievance Advocate at each step in the appeal process.

Grievance Advocate
(925) 293-4942 (Collect calls accepted.)

5. Beneficiary appeal information shall be posted in waiting rooms and made available to beneficiaries in other formats and in all threshold languages in addition to English.
6. At the beneficiary’s request, BHSD shall identify staff or another individual, such as a legal guardian, to be responsible for assisting a beneficiary with these processes, including providing assistance in writing the appeal or expedited appeal. If the individual identified by BHSD is providing SMHS or SUD treatment to the beneficiary requesting assistance, BHSD shall identify another individual to assist that beneficiary.
7. BHSD shall address the linguistic and cultural needs of its beneficiary population, as well as the needs of beneficiaries with disabilities. BHSD shall ensure all beneficiaries are able to fully participate in the appeal process by providing assistance including, but not limited to, translation of forms, procedures, and BHSD responses to appeals. The Health Care Interpreter Network, Language Line Solutions or other contracted translation services shall be made available and utilized for additional language and translation needs. The 711 service shall also be utilized for TTY/TTD access.

B. Method and Timeframes for Filing

1. If the beneficiary or their authorized representative wishes to file an appeal, they must do so within sixty (60) calendar days from the date on the Notice of Adverse Benefit Determination (NOABD). Appeals filed by the provider on behalf of the beneficiary shall require written consent of the beneficiary. Authorized representatives may not request continuation of benefits as specified in 42 CFR 438.420 (b)(5).
2. The beneficiary or their authorized representative may request an appeal either orally or in writing. Oral requests for standard appeals shall be followed by a written appeal signed by the beneficiary. The date of the oral appeal establishes the filing date for the appeal. BHSD shall request that the beneficiary’s oral appeal be followed by written confirmation with the exception of requests for expedited appeals. The beneficiary may file the

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request for an expedited appeal orally without the requirement of submitting a subsequent written, signed appeal.

3. Staff who are familiar with the Problem Resolution Process should assist beneficiaries by answering general questions about the process and assisting in the completion and/or submission of related forms shall be available at service sites to assist beneficiaries with appeals.
4. Beneficiaries may file an oral or written appeal with the Grievance Advocate, any BHSD staff, or a direct service provider.
5. Any County staff, contracted staff or direct service provider receiving an oral or written request for appeal shall be responsible for communicating the appeal request to the QIC.
6. The beneficiary or their authorized representative may present evidence and/or arguments of fact or law in person or in writing, regardless of whether such information was submitted or considered in the initial NOABD. BHSD must inform the beneficiary or their authorized representative of the limited time available to present evidence sufficiently in advance of the resolution timeframe for appeals and expedited appeals. BHSD shall consider all materials presented in rendering a decision.
7. The beneficiary and/or their authorized representative may examine the beneficiary's case file, including medical records, and any other documents and records, and any new or additional evidence considered, relied upon, or generated by BHSD in connection with the appeal of the adverse benefit determination, provided there is no disclosure of protected health information of any individual other than the beneficiary. This information must be available free of charge and sufficiently in advance of the timeframe in which a decision must be rendered for appeals and expedited appeals.
8. The beneficiary and/or their authorized representative, or the legal representative of a deceased beneficiary's estate, may be included as parties to the appeal.
9. An expedited review process for appeals may be requested when the beneficiary and/or the provider determines that taking the time for a standard resolution could seriously jeopardize the beneficiary's life, physical or mental health or ability to attain, maintain, or regain maximum function.

C. Resolution of Appeals

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1. BHSD shall assist and respond to beneficiaries in their primary language, either through written or verbal communication, as appropriate.
2. BHSD shall provide a written acknowledgement of receipt of an appeal that is postmarked within five (5) calendar days of appeal receipt for standard appeals, and within three (3) calendar days for expedited appeals. The acknowledgement letter shall include the date of receipt, as well as the telephone number and address of the staff person the beneficiary may contact about the appeal.
3. BHSD shall resolve appeals and provide written notice of that resolution as expeditiously as the beneficiary's health condition requires.
 - a. Standard appeals shall be resolved within thirty (30) calendar days from the day the appeal was received.
 - b. Expedited appeals shall be resolved within seventy-two (72) hours from receipt of appeal.
 - c. BHSD shall make reasonable efforts to provide oral notification to the beneficiary and/or provider of the expedited appeal disposition within the resolution timeframe.
4. BHSD may extend the resolution timeframe for appeals by up to fourteen (14) calendar days if:
 - a. The beneficiary requests the extension; or,
 - b. BHSD demonstrates and documents that there is a need for additional information and how the delay is in the best interest of the beneficiary. The following must occur if BHSD determines the need for extension:
 - i) Reasonable efforts shall be made to provide the beneficiary prompt oral notice of the extension.
 - ii) BHSD shall provide written notice of the extension within two (2) calendar days of making the decision to extend the timeframe and notify the beneficiary of the right to file a grievance if the beneficiary disagrees with the extension.
 - iii) BHSD shall resolve the appeal as expeditiously as the beneficiary's health condition requires and in no event extend resolution beyond fourteen (14) calendar days.

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- iv) In the event that BHSD fails to adhere to notice and timing requirements, the beneficiary is deemed to have exhausted the BHSD appeal process and may initiate a SH.
5. If BHSD denies a request for expedited resolution of an appeal, BHSD shall:
 - a. Transfer the appeal to the time frame for standard appeal resolution; and
 - b. Make reasonable efforts to give the beneficiary and his/her representative prompt oral notice of the denial of the expedited appeal process and follow up within two (2) calendar days with a written notice.
 6. BHSD must continue the beneficiary's benefits if all the following occur:
 - a. The beneficiary files the request for an appeal within sixty (60) calendar days following the date of the adverse benefit determination notice.
 - b. The appeal involves the termination, suspension, or reduction of a previously authorized service.
 - c. The services were ordered by an authorizing provider.
 - d. The period covered by the original authorization has not expired.
 - e. The beneficiary files for continuation of benefits in the required timeframe; for example, requesting an appeal within ten (10) days of the date of the NOABD was mailed or given to the beneficiary or, if the effective date of the change is more than ten (10) days from the NOABD date, before the effective date of the change.
 7. If the beneficiary's benefits are continued or reinstated while the appeal or State Hearing (SH) is pending, the benefits must continue until one of the following occurs:
 - a. The beneficiary withdraws the appeal or request for a SH;
 - b. The beneficiary fails to request a SH and continuation of benefits within ten (10) calendar days after BHSD sends the Notice of Appeal Resolution regarding the beneficiary's appeal;
 - c. A SH office issues a hearing decision adverse to the beneficiary.
- D. Notification of Appeal Resolution (NAR) and NOABD Notices:

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1. Notice of Appeal Resolution (NAR) Upheld: BHSD shall use the DHCS state-approved template, or the electronic equivalent of that template generated from the electronic health record system, for appeals and expedited appeals not resolved wholly in favor of the beneficiary. This notice shall include:
 - a. The results of the resolution and the date it was completed.
 - b. The reasons for the determination, including criteria, clinical guidelines, or policies used in reaching the determination.
 - c. The right to request a SH and how to request it.
 - d. The right to request and receive benefits while the hearing is pending and how to make the request.
 - e. Notification that the beneficiary may be held liable for the cost of those benefits if the hearing decision upholds the adverse benefit determination.
 - f. The NAR “Your Rights” Attachment included with all NAR Upheld notices.

2. Notice of Appeal Resolution (NAR) Overturned: BHSD shall use the DHCS state-approved template, or the electronic equivalent of that template generated from the electronic health record system, for appeals and expedited appeals resolved wholly in favor of the beneficiary. This notice shall include:
 - a. The results of the resolution and date it was completed.
 - b. A clear and concise explanation of the reason, including why the decision was overturned.

3. NOABD – Grievance and Appeal Timely Resolution Notice: BHSD shall use the DHCS state approved template, or the electronic equivalent of that template generated from the electronic health record system, when issuing notice to the beneficiary that BHSD is outside of the standard or expedited timeframe for resolution of appeals and expedited appeals.

4. The DCHS Nondiscrimination Notice and Language Assistance Taglines attachments shall be sent in conjunction with the appeal acknowledgement letter, expedited appeal acknowledgement letter, NOABD – Grievance/Appeal Resolution Notice, NAR upheld notice, and NAR overturned notice.

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E. Appeal oversight

1. The QIC or designated staff shall report on appeals and expedited appeals quarterly at Quality Management Committee meeting for systematic aggregation and analysis for quality improvement. Appropriate action shall be taken to remedy any problems identified including more frequent reporting of appeals and expedited appeals.
2. The QIC shall maintain a secure, confidential appeal – expedited appeal log. Appeals shall be recorded within one business day of the date of receipt of the appeal.
3. The log entry shall include but not be limited to:
 - a. The name of the beneficiary filing the appeal.
 - b. The date and time of receipt of the appeal.
 - c. The date that the acknowledgement was sent.
 - d. The name of the representative recording the appeal.
 - e. The nature of the problem.
 - f. A description of the action taken by the plan to resolve the appeal.
 - g. The final disposition.
 - h. The name of the provider responsible for resolving the appeal.
 - i. The date the notice of the final disposition was sent to the beneficiary.
 - j. The date the notice of the final disposition was sent to the involved provider.

F. State Hearings.

1. Upon intake and as appropriate, all BHSD Medi-Cal beneficiaries shall be informed of their right to request a SH. Beneficiaries must exhaust the local appeal process prior to filing for a SH in order for the SH to be deemed valid.
2. Mental health beneficiaries requesting a SH shall be informed of their right to assistance from a Grievance Advocate.
3. If BHSD fails to adhere to resolution timeframe requirements, the beneficiary is deemed to have exhausted the BHSD appeals process. The Beneficiary may then initiate a SH.

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4. Beneficiaries may request a SH within one hundred twenty (120) calendar days from the date of the NAR, which informed the beneficiaries that the adverse benefit decision has been upheld by the Plan.
5. For standard hearings, BHSD shall notify beneficiaries that the State must reach its decision within ninety (90) calendar days from the date the hearing was requested. For expedited hearings, BHSD shall notify beneficiaries that the State must reach its decision within three (3) business days from the date the hearing was requested.

G. Other Operating Principles.

1. Confidentiality: All appeal procedures shall ensure the confidentiality of consumer records as defined by State and Federal laws.
2. Discrimination: Beneficiaries shall not be subject to any discrimination, penalty, sanction, or restriction for filing an appeal or from requesting an expedited appeal.
3. Punitive action shall not be taken against any provider who requests an expedited resolution or supports a beneficiary's expedited appeal.
4. Number of appeals allowed: BHSD shall have only one level of appeal for beneficiaries.