

Guidance and Procedures for Individuals Applying for or Receiving Base-Funded ODP Services

Since each County MH/ID program manages its own base-funding, the County MH/ID program is responsible for creating its own policies and procedures relating to Appeals and hearings consistent with the guidance below. County MH/ID programs may choose to incorporate the guidelines in Attachment 1, if applicable.

A. Informing the Individual of Their Right to Appeal and Have a Hearing

Each County MH/ID program shall have clearly defined, written Appeal and hearing policies and procedures, which shall include an administrative review procedure to examine Appeals of Service Determinations. The County MH/ID program must also ensure that all Supports Coordination Organizations (SCOs) are provided with the County MH/ID program's Appeal and hearing policies and procedures.

Individuals who wish to register for services, and Individuals who receive base-funded (non-Waiver) services, have the right to Appeal and have a hearing under the Local Agency Law when base-funded services are denied, reduced, or terminated.¹

Individuals may Appeal a Service Determination following the County MH/ID program's policies and processes for Appeals and hearings.

B. Actions Not Subject to Appeal

Each County MH/ID program must clearly indicate in their policies any actions not subject to Appeal.

C. Written Notice of a Service Determination

In addition to the guidance provided in Section C of the Bulletin, the written notice must explain the Appeal and hearing rights of the Individual related to base funding. A copy of the written notice must be maintained in the Individual's file by the County MH/ID program and the SCO, if applicable, until the case file is closed.

D. Team Meeting

In addition to the guidance provided in Section D of the Bulletin, the County MH/ID program must provide the Individual with an opportunity for a team meeting with County MH/ID program representatives, the Individual, SCO representatives, if applicable, and service providers, as appropriate, any time a written notice is provided due to a Service Determination. The purpose of this team meeting is to

¹ Please reference 2 Pa.C.S. §§ 551-555, relating to Practice and Procedure of Local Agencies; Nason v. Commonwealth, 533 A.2d 435 (Pa. 1987).

discuss and attempt to resolve issues related to the Service Determination prior to any impartial review and/or hearing. All parties involved should coordinate to satisfy requests for how and when the meeting takes place.

While ODP does not mandate how this meeting occurs, the County MH/ID program must document the meeting and its topics and results, including any specific actions each party needs to take, a time frame for actions to occur, and how the result of the action will be communicated to those in attendance after the meeting. The required documentation can be made in a service note in HCSIS or its successor by the County MH/ID program or the SCO.

E. Impartial Reviewer

County MH/ID programs must include that an impartial reviewer will be appointed in their Appeal and hearing policies and procedures. The role of the impartial reviewer will be to hear the issues and arguments involved in Appeals of base-funded services or eligibility for base-funded services. The impartial reviewer must be conflict free (that is, not involved in the decision-making process of the issue in question at the County MH/ID program or be a member of the Individual's team). The impartial reviewer must conduct a fair, impartial hearing. The County MH/ID Administrator, the County ID Director, or a member of the County MH/ID Board could fulfill this role, or a third party could be contracted to do the review. A County MH/ID program may also use another County MH/ID program's reviewer to perform the associated duties to ensure an impartial review.

F. Hearing

In addition to the guidance provided in Section F of the Bulletin, hearings must be scheduled with reasonable written notice given to the Individual of the date and time of the hearing, ensuring sufficient time for the Individual to prepare for the hearing.

The County MH/ID program must give Individuals access to any records or documents that have been used to make decisions regarding their services. In the event that additional documents are used that were not included with the written notice, the County MH/ID program should make a good faith effort to provide that information to the Individual prior to the hearing.

All testimony may be recorded and a full and complete record of the proceedings may be kept. If the Agency does not intend to maintain a full and complete record of the hearing, all testimony must be recorded and kept at the request of any party agreeing to pay the costs.

The Individual and other people involved in the Individual's life (family, advocates, providers, etc.) may present relevant documentation, new information, or testimony related to the Appeal at the hearing. The impartial reviewer may ask questions of the Individual. The County MH/ID program and SCO, if applicable, involved in the decision-making process shall be present to provide relevant testimony about the decision. The impartial reviewer and the Individual or other persons may ask

questions of the staff involved in the decision.

The impartial reviewer will issue a written decision. It is recommended that the written decision be issued within 30 calendar days of the date of the hearing. The decision shall contain:

1. the reason(s) for the hearing,
2. the reviewer's finding(s),
3. the decision(s) of the reviewer, and
4. the reason(s) for the decision.

The Individual, the County MH/ID program, and the Supports Coordinator, if applicable, will receive a copy of the written decision. The County MH/ID program and the SCO, if applicable, must keep this decision in the Individual's file until the Individual's case file is closed.

If the Individual is not satisfied with the impartial reviewer's decision, the Individual can appeal the decision through the Court of Common Pleas. For more information regarding the appeal process to the Court of Common Pleas, please see 2 Pa.C.S. §§ 751-754 (relating to Judicial Review of Local Agency Action).