



**DEPARTMENT OF MENTAL HEALTH
POLICY/PROCEDURE**

SUBJECT BENEFICIARY PROBLEM RESOLUTION PROCESS	POLICY NO. 200.04	EFFECTIVE DATE 08/01/2016	PAGE 1 of 12
APPROVED BY: <i>Robin Kay, Ph.D.</i> Acting Director	SUPERSEDES 202.29 09/01/2004	ORIGINAL ISSUE DATE 09/01/2004	DISTRIBUTION LEVEL(S) 1, 2

PURPOSE

- 1.1 To ensure that a Medi-Cal beneficiary’s grievances and appeals with the Local Mental Health Plan’s (LMHP) Specialty Mental Health Services (SMHS) are addressed in a sensitive, timely, appropriate, and culturally competent manner.

DEFINITION

- 2.1 **Grievance:** An expression of dissatisfaction about any matter other than an Action as defined in Section 2.2.
- 2.2 **Action:** An occurrence when the LMHP, as required by California Code of Regulations Title 9 Section 1810.200 (9 CCR § 1810.200) and Code of Federal Regulations Title 42 Section 438.400(b) (42 CFR § 438.400(b)):
 - 2.2.1 Determines that medical necessity criteria in 9 CCR § 1830.205(b)(1), (b)(2), (b)(3)(C), or 1830.210(a) have not been met and beneficiaries are not entitled to any SMHS from the LMHP;
 - 2.2.2 Denies, modifies, reduces, or terminates a provider’s request for LMHP payment authorization of a SMHS covered by the LMHP;
 - 2.2.3 Reduces, suspends, or terminates a previously authorized service;
 - 2.2.4 Denies, in whole or in part, payment for post-service delivery;
 - 2.2.5 Fails to provide SMHS covered by the LMHP within the time frame for delivery of the services established by the LMHP; and/or
 - 2.2.6 Fails to act within the time frame for resolution of grievances, appeals, or expedited appeals.



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- 2.3 **Appeal:** A request by the beneficiary or his/her representative for review of an action as defined in Section 2.2 and described in 9 CCR § 1810.203.5.
- 2.3.1 **Expedited Appeal:** An appeal, as defined in 9 CCR § 1810.203.5, to be used when the LMHP determines or the beneficiary and/or the beneficiary’s provider certifies that following the time frame for an appeal as established in 9 CCR § 1850.207 would seriously jeopardize the beneficiary’s life, health, or ability to attain, maintain, or regain maximum function in accordance with 9 CCR § 1810.216.2.
- 2.4 **Fair Hearing:** An independent review conducted by the State Department of Social Services and is the final arbiter of appeals for actions taken by the LMHP as defined in Section 2.2 of this policy and 9 CCR § 1810.216.6.
- 2.4.1 **Expedited Fair Hearing:** A fair hearing, as defined in 9 CCR § 1810.216.6, to be used when the LMHP determines or the beneficiary and/or the beneficiary’s provider certifies that the following time frame for a fair hearing as established in 42 CFR § 431.244(f)(1) would seriously jeopardize the beneficiary’s life, health, or ability to attain, maintain, or regain maximum function as defined in 9 CCR § 1810.216.4.
- 2.5 **Aid Paid Pending:** A beneficiary allowed to continue obtaining SMHS pending the outcome of an appeal or a Fair Hearing if the beneficiary request is made within ten (10) days of receipt of the Notice of Action (NOA) as described in 42 CFR § 438.408(e)(2)(ii).
- 2.6 **Notice of Action (NOA):** A written notice from the LMHP to the beneficiary when the LMHP takes an action as defined in Section 2.2 and described in 9 CCR § 1810.200(a), (c) or (d), or when an LMHP or its providers take an action as defined in 9 CCR § 1810.200(b) and 42 CFR Part 438 Subpart F.
- 2.7 **Specialty Mental Health Services:** Services, as defined in 9 CCR § 1810.247, include the following:
- Targeted case management;
 - Mental health services;



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- Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Supplemental Specialty Mental Health Services;
- Medication support services;
- Day treatment intensive;
- Day rehabilitation;
- Crisis intervention;
- Crisis stabilization;
- Adult residential treatment services;
- Crisis residential services;
- Psychiatric health facility services (PHFS);
- Psychiatric inpatient hospital services; and
- Psychiatric nursing facility services.

2.8 **Beneficiary:** Any person certified as eligible for services under the Medi-Cal program as defined in 9 CCR § 1810.205 and according to 22 CCR § 51000.2.

2.9 **Beneficiary Rights:** Rights of beneficiaries to:

- Receive information about the services, treatment options, and alternatives offered by the LMHP in a form that is easily accessible, easy to read and accessible in all identified threshold languages, and appropriately accommodates persons with special needs, such as persons who are blind, have limited sight or have difficulty reading, have Limited English Proficiency, and/or are Deaf or Hearing Impaired. Beneficiaries have the right to free language assistance services.
- Receive a copy of the LMHP Guide to Medi-Cal Mental Health Services and Provider lists.
- Be treated with personal respect, recognition of their dignity, and right to privacy.
- Receive services in a safe environment.
- Receive free of charge, language assistance (including beneficiaries who have Limited English Proficiency and/or are Deaf or Hearing Impaired) and upon request, cultural-specific providers and services.
- Participate with practitioners and providers in making decisions about their mental health care, including the right to refuse treatment.



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- Participate in candid discussions of appropriate medical necessary treatment options for their condition.
- Voice complaints about the LMHP or the care it provides, as well as file grievances and appeals with the Los Angeles County Department of Mental Health (LACDMH) Patients’ Rights Office (PRO) in accordance with this policy.
- Make recommendations regarding the LMHP’s Beneficiaries rights and Responsibility Policy.
- Be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience, punishment, or retaliation as specified in federal rules about the use of restraints and seclusion in facilities such as hospitals, nursing facilities, and psychiatric residential treatment facilities where one stays overnight for treatment.
- Request and receive a copy of their medical records and request that they be amended or corrected. (Authority 4)
- Receive a second opinion by a licensed mental health professional, other than a psychiatric technician or licensed vocational nurse, employed by, contracting with or otherwise made available by the LMHP when the LMHP or its providers determine that the medical necessity criteria in 9 CCR § 1830.205(b)(1), (b)(2) or (b)(3)(C), and § 1830.210(a) have not been met and that beneficiaries are, therefore, not entitled to any SMHS from the LMHP. The LMHP shall determine whether the second opinion requires a face-to-face encounter with the beneficiary. The second opinion shall be provided at no cost to the beneficiary.
- Receive timely access to mental health services regardless if the mental health need is routine, urgent, or an emergency psychiatric condition.
- Participate in efforts to promote the delivery of services in a culturally competent and linguistically appropriate manner including services for those with Limited English Proficiency and/or are Deaf or Hearing Impaired, and have diverse cultural and ethnic backgrounds.

POLICY

3.1 Medi-Cal beneficiaries who are dissatisfied with SMHS may register and pursue grievances, or when authorized services are denied, terminated, suspended, or



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reduced, may appeal the authorized decision by the LMHP or its contract providers.

PROCEDURE

- 4.1 If a Medi-Cal beneficiary voices dissatisfaction with a facility, clinician, and/or a staff person, the beneficiary shall be informed about the services provided by the PRO and offered a copy of the Grievance/Appeal/Expedited Appeal Request Form and Authorization for Use/Disclosure of Protected Health Information (Attachment 1) to exercise his/her right to file a complaint.
- 4.2 The LMHP will provide a Problem Resolution Process to all beneficiaries in the 12 threshold languages provided by the LMHP according to the agreement between the LMHP and State Department of Health Care Services.
- 4.3 All grievances and all requests for appeals, because of an NOA as defined above, will be recorded and resolved, to the extent possible, by the PRO. A Patients' Rights Advocate (PRA), working in the PRO, will assist Medi-Cal beneficiaries in resolving all grievances and appeals.
 - 4.3.1 The LMHP, through an NOA, will formally notify the beneficiary of an action defined in Section 2.2 taken by the LMHP.
- 4.4 All resolutions concerning grievances and appeals will be made by the PRO.
 - 4.4.1 The beneficiary may present his/her grievance or appeal, orally or in writing, by contacting the PRO. A written statement by the beneficiary outlining his/her concerns must follow all oral grievances and appeals, with the exception of expedited appeals.
 - 4.4.2 An oral appeal in response to an action must be followed up by a written signed appeal, except in the case of expedited appeals. (Section 4.25 for timelines for expedited appeals).
- 4.5 The PRA will provide the beneficiary with a Grievance and Appeals Procedure: A Beneficiary's Guide brochure, which shall contain the following information:



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- 4.5.1 A description of the services available;
- 4.5.2 A description of the process for obtaining services, including the LMHP’s Statewide toll-free telephone number; and
- 4.5.3 A description of the LMHP’s Beneficiary Problem Resolution Process, including the grievance, appeal, and the availability of a Fair Hearing.
- 4.6 The LMHP will make available a Grievance/Appeal/Expedited Appeal Request Form and Authorization for Use/Disclosure of Protected Health Information, along with self-addressed envelopes, to all beneficiaries at LMHP provider sites without having to ask for them.
- 4.7 The PRO will assist all beneficiaries in registering their grievances or appeals, and if requested, assist the beneficiaries prepare written grievances or appeals or assist in filing for Fair Hearings.
- 4.8 A beneficiary, who chooses to file a grievance or appeal on an action by the LMHP, may authorize another person to act on the beneficiary’s behalf. The beneficiary may select a provider as his or her representative in the appeal or expedited appeal process.
- 4.9 When a beneficiary files a grievance or requests an appeal, whether orally or in writing, the PRO Grievance/Appeal Coordinator will record the grievance or appeal on a Problem Resolution Log. Request for Fair Hearings will be recorded by the LMHP.

Grievances and Appeals

- 4.10 When a beneficiary desires to file a grievance or appeal, the beneficiary will contact the PRO orally or in writing, or visit the PRO and request that a PRA assist in resolving his/her grievance or appeal. A written statement by the beneficiary outlining his/her concerns must follow all oral grievances and appeals, with the exception of expedited appeals. Beneficiaries will be encouraged to complete the Grievance/Appeal/Expedited Appeal Request Form and Authorization for Use/Disclosure of Protected Health Information (Attachment 1) and/or the Request for Medi-Cal Fair Hearing Form (Attachment 2), if applicable.



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- 4.10.1 Completion of the Grievance/Appeal/Expedited Appeal Request Form and Authorization for Use/Disclosure of Protected Health Information shall constitute as beneficiary’s representative authorization for use and disclosure of any necessary PHI for the use in investigating grievances and appeals.
- 4.10.2 All communication involving use or disclosure of PHI during the Grievance and/or Appeal process shall be in accordance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Regulations, applicable state law, and LACDMH’s HIPAA Privacy Policies and Procedures. [LACDMH Policy No. 500.01, Use and Disclosure of Protected Health Information Requiring Authorization (Authority 5), and Policy 500.02, Use and Disclosure of Protected Health Information without Authorization (Authority 6)]
- 4.11 The beneficiary may contact the PRO directly or may designate a representative to act on his/her behalf.
 - 4.11.1 Evidence supporting the claim of the beneficiary may be presented directly to the PRO. Written claims are not required.
- 4.12 The PRO Grievance/Appeal Coordinator will acknowledge the receipt of a grievance or appeal to the beneficiary in writing.
- 4.13 The PRO will document in the Problem Resolution Log the substance/nature of the problem of each grievance or appeal filed with the PRO.
- 4.14 When the substance/nature of the problem is not clearly documented by the beneficiary/beneficiary’s representative in a written grievance/appeal, the PRO will contact the beneficiary/beneficiary’s representative and ensure the substance/nature of the problem is clearly captured.
- 4.15 During the process of resolving an appeal, the beneficiary may ask for a Fair Hearing at any time during his/her efforts to resolve issues resulting from an action.



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- 4.16 When the grievance or appeal issue(s) has been fully resolved, the PRA will attempt to mediate, if appropriate, any issues raised by the beneficiary. After a resolution has been made, the PRA will notify the beneficiary in writing of the results of the mediation attempts, the resolution made, and if appropriate a request for plan of correction regarding substantiated concerns.
- 4.17 The written response to the resolution of an appeal resulting from an action will clearly indicate that the Medi-Cal beneficiary may request a Fair Hearing if not satisfied with the resolution by the PRO.
- 4.18 When the grievance or appeal is resolved, the PRO Grievance/Appeal Coordinator will record the final disposition in the Problem Resolution Log, including the date of resolution and when the decision is sent to the beneficiary/beneficiary’s representative. A written notice will be sent and must contain the results of the grievance or appeal resolution process, the date the grievance or appeal was resolved and when the decision was made, the beneficiary’s right to a Fair Hearing and procedures for requesting a Fair Hearing if the concern was a result of an action and was not resolved to the beneficiary’s satisfaction during the appeal process.
- 4.18.1 Provider(s) cited or otherwise involved in the grievance, appeal, or expedited appeal shall be notified of the resolution of the beneficiary’s grievance, appeal, or expedited appeal.
- 4.18.2 The PRA making the decision on the grievance, appeal, or expedited appeal may not be involved in any previous review or decision-making on the issue presented in the respective problem resolution process.
- 4.18.3 If the grievance or appeal involves clinical issues, the PRA shall have appropriate clinical expertise as determined by the LMHP to treat the beneficiary’s condition.
- 4.19 Information (including aggregate data) concerning grievances, appeals, or expedited appeals process shall be transmitted to the Quality Improvement Committee (QIC), LMHP’s administration, or another appropriate body within LMHP for consideration in the LMHP’s Quality Improvement Program.



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Fair Hearing (Final) Level of Appeal

- 4.20 In response to an action, the Medi-Cal beneficiary may request a Fair Hearing. Beneficiaries who are not Medi-Cal recipients may not request a Fair Hearing.
- 4.21 The PRA will assist the beneficiary in filling out the Request for Medi-Cal Fair Hearing form (Attachment 2) and will ensure that the form is mailed properly, including postage, if necessary. The PRO may fax this information as appropriate.
- 4.22 If the beneficiary’s appeal is related to action by the LMHP which involves the termination, suspension, or reduction of a previously authorized service by an authorized provider, as per Section 2.2, the beneficiary shall be notified in writing that he/she may request an extension of benefits. The LMHP will continue to provide the authorized services until the appeal is satisfied, or the beneficiary withdraws the appeal, or ten (10) days have passed since the LMHP has ruled against the beneficiary, or a Fair Hearing results in an adverse decision to the beneficiary. The reference to continuation of services in these circumstances is referred to as “Aid Paid Pending.”
- 4.23 A PRA or other representative of the beneficiary’s choice may represent the beneficiary at the Fair Hearing.
- 4.24 When the appeal is finalized by the Fair Hearing, the LMHP will record the final disposition, including the date that written information about the decision was sent to the beneficiary/beneficiary’s representative.

Expedited Resolution of Appeals

- 4.25 An expedited resolution process may be requested by the beneficiary when the LMHP determines or the beneficiary and/or the beneficiary’s provider certifies that following the timeframes for an appeal as established in 9 CCR § 1850.207 would seriously jeopardize the beneficiary’s life, health, or ability to attain, maintain, or regain maximum function.
 - 4.25.1 If the LMHP denies a request for expedited appeal resolution, the LMHP shall transfer the expedited appeal request to the timeframe for appeal



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resolution. The PRO will make reasonable efforts to give the beneficiary and his or her representative prompt oral notice of the denial of the request for an expedited appeal and provide written notice within two (2) calendar days of the denial.

- 4.25.2 When granted, the expedited resolution of appeals must be resolved within three (3) working days.
- 4.26 The PRO Grievance/Appeal Coordinator will record the beneficiary’s request for an Expedited Appeal and the outcome of the request in the Problem Resolution Log.

Written Notification of Resolution and Completion of All Grievances and Appeals

- 4.27 The beneficiary/beneficiary’s representative shall be notified in writing of the resolution of their grievance or appeal. The content of the written notice must include the following:
 - 4.27.1 The results of the resolution process.
 - 4.27.2 The date it was completed.
 - 4.27.3 For appeals not resolved wholly in favor of the beneficiary:
 - 4.27.3.1 The right to request a Fair Hearing;
 - 4.27.3.2 Procedure for filing for a Fair hearing; and
 - 4.27.3.3 The right to request to receive benefits while the hearing is pending.
- 4.28 The Fair Hearing is the final arbiter of all appeals, and there are no other appeal levels.



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Time Frames for All Grievances and Appeals

- 4.29 The PRO will inform the beneficiary or affected parties in writing of the outcome of a grievance within 60 calendar days, for an appeal 45 calendar days, and no later than three (3) working days for expedited appeals of receipt. This time frame may be extended up to 14 days if the beneficiary requests an extension or the LMHP determines that there is a need for additional information and that the delay is in the beneficiary’s interest. If the LMHP extends the time frames, the LMHP shall, for any extension not requested by the beneficiary, notify the beneficiary of the extension and the reasons for the extension in writing.

- 4.30 For an expedited appeal, where a beneficiary requests continued services after services have been denied, reduced, or terminated by the LMHP, the LMHP must resolve the issue within three (3) working days. Oral requests for expedited appeals do not have to be followed with a written request. If the LMHP denies a request for expedited appeal resolution, the LMHP shall transfer the expedited appeal request within time frame for appeal resolution. The beneficiary must make reasonable efforts to give the beneficiary and his or her representative prompt oral notice of the denial or the request for an expedited appeal and provide written notice within two (2) calendar days of the date of the denial. The written notice of the denial of the request for an expedited appeal is not a NOA.

- 4.31 When the LMHP does not address and resolve grievances and/or appeals within the stated time frames, the lack of timeliness is an issue which can be appealed.

AUTHORITY

- 1. Code of Federal Regulations Title 42 Section 438.400
- 2. California Code of Regulations Title 9 Section 1850.205
- 3. Code of Federal Regulations Part 164 Section 164.508, Uses and Disclosures for which an Authorization is Required
- 4. LACDMH Policy No. 501.06, Client Rights to Amend Mental Health Information
- 5. LACDMH Policy No. 500.01, Use and Disclosure of Protected Health Information Requiring Authorization
- 6. LACDMH Policy No. 500.02, Use and Disclosure of Protected Health Information without Authorization



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ATTACHMENT (HYPERLINKED)

1. [Grievance/Appeal/Expedited Appeal Request Form and Authorization for Use/Disclosure of Protected Health Information](#)
2. [Request for Medi-Cal Fair Hearing Form](#)

RESPONSIBLE PARTY

LACDMH Patients' Rights Office