SECTION XVII– NOTICE OF ADVERSE BENEFIT DETERMINATION

WHAT IS A NOTICE OF ADVERSE BENEFIT DETERMINATION?

Prior to implementation of the Final Rule, (Title 42, Code of Federal Regulations, part 438, Subpart F), five (5) types of Notice of Actions, referred to as NOA-A, NOA-B, NOA-C, NOA-D, and NOA-E, were the responsibility of the Network Providers to issue to beneficiaries. However, since the implementation of the Final Rule, these NOAs are obsolete and are replaced by Notices of Adverse Benefit Determination (NOABD) letters developed by the Department of Health Care Services and under the authority of the MHP for determinations on Specialty Mental Health Services.

A Notice of Adverse Benefit Determination (NOABD) is a determination made by the Mental Health Plan (MHP) to include: denial or limited authorization of a requested service, including determinations based on level of service, medical necessity, appropriateness, setting, or effectiveness of a covered benefit; the reduction, suspension or termination of a previously authorized service; the denial, in whole or in part, of a payment for a service; the failure to provide services in a timely manner; the failure to act within the required timeframes for standard resolution of grievances and appeals; and the beneficiary's right to dispute an extension of time proposed by the LMHP to make an authorization, and the denial of a beneficiary's request to dispute financial liability.

In accordance with federal regulations grievances and appeals system (42 CFR Sections 438.400 et al), and State of California Department of Health Care Services (DHCS) grievances and appeals regulations described in Title 22, CCR Sections e (3) and (4), 42 CFR, 438.10, DHCS Information Notice No. 18-010, the Los Angeles County Department of Mental Health (LAC-DMH), the Mental Health Plan, Intensive Care Division, shall adhere to actions that include: denial or limited authorization of a requested service, including determinations based on level of service, medical necessity, appropriateness, setting, or effectiveness of a covered benefit; the reduction, suspension or termination of a previously authorized service; the denial, in whole or in part, of payment for a service; the failure to provide services in a timely manner; the failure to act within the required timeframes for standard resolution of grievances and appeals; and the beneficiary's rights to dispute an extension of time proposed by the MHP to make an authorization decision.
The Notice of Adverse Benefit Determination (NOABD) letter shall include the enclosures: NOABD Your Rights, Nondiscrimination Notice, and Language Assistance. These enclosures are required to ensure that the beneficiary is informed of civil rights laws and the right to appeal a NOABD (Refer to Attachment I).

The NOABD letter must explain the following:

The adverse benefit determination the plan has made; a clear and concise explanation for the reason for the decision (determinations based on Medical Necessity Criteria must include the clinical reasons for the decisions and state why the beneficiary condition does not meet Specialty Mental Health Services); a description of the criteria used. For example, Medical necessity Criteria, and any processes, strategies or evidentiary standards used in making the determination; the beneficiary's right to be provided upon request and free of charge, reasonable access to and copies of all documents, records and other information relevant to the beneficiary's adverse benefit determination; and the name and direct telephone number of the decision maker shall be included in the NOABD.

An expression of dissatisfaction about any matter other than an Adverse Benefit Determination is a grievance.

A grievance may include, but not limited to, the quality of care or services provided, and aspects of interpersonal relationships such as rudeness of a provider or employee, failure to respect the beneficiary's rights regardless of whether remedial action is requested, and the beneficiary's right to dispute an extension of time proposed by the MHP to make an authorization decision. A complaint is the same as a formal grievance. A complaint shall be considered a grievance unless it meets the definition of an "adverse benefit determination", as described above.

The Notice of Adverse Benefit Determination (NOABD) and the Notice of Appeal Resolution (NAR) will describe what the beneficiary and the provider may receive when an action has been determined by the MHP that results in a requested service not authorized by the MHP (Refer to Attachment I, II & III). The example letters in Attachment I, II & III describe a *Denied* request for Psychological Testing and the *Notice of Appeal Resolution*. Please see these example letters for an understanding of the NOABD process in compliance with the Department of Health Care Services.

THE BENEFICIARY GRIEVANCE

A beneficiary may file a grievance in writing or verbally when they are dissatisfied or unhappy about the services they are receiving or have any other concerns about the network provider or the LMHP. A grievance may not be filed for a problem covered by the NOABD appeal process and State Hearing.

Beneficiaries may contact the LMHP Patients' Rights Office at (213) 738-4888 for assistance in filing a grievance or appeal (Refer to Section VI: The Beneficiary Services Program and Requirements for Providing Medi-Cal Beneficiary Material to Clients, for information on obtaining additional information on Grievance and Appeals Procedures and Beneficiary Grievance forms).

STATE HEARING

A State Hearing is an independent review conducted by the California Department of Social Services to ensure you have received the specialty mental health services to which you are entitled under the Medi-Cal program.
You can file an appeal with the State of California based on the following:

- You filed an appeal and received a Notice of Adverse Benefit Determination (NOABD) letter telling you that the MHP will still not provide the services or denies your request
- You were informed by a county contracted provider that you do not qualify to receive any Medi-Cal specialty mental health services because you do not meet the necessity criteria
- You were informed by your provider who thinks you need specialty mental health service and asks the MHP for approval, but the MHP does not agree and denies your provider's request or reduces the type or frequency of service
- Your provider has asked the MHP for approval, but the MHP needs more information to make a decision and doesn't complete the approval process on time

- Your MHP doesn't provide services to you based on the timelines (Refer to NOABD Policies and Procedures for Psychological Testing (Policy Number 313.42 can be located on the DMH website under Provider Central) and other specialty mental health services). The example in this manual includes psychological testing, but it is used for illustration purposes only and to show how the NOABD and NAR workflow process between the provider and the LMHP). Psychological Testing no longer requires authorization. Network Providers performing Psychological Testing are not required to obtain a pre-authorization for services after August 31, 2020 (MHSUDS Information Notice No. 19-026).
- You don't think the MHP is providing services soon enough to meet your needs
- Your grievance, appeal or expedited appeal wasn't resolved in time
- You and your provider do not agree on the specialty mental health services you need

You only have 120 days to ask for a State Hearing. The 120 day begins from the date on the NOABD letter. Refer to: DMH, Policy Clinical Operations, Intensive Care Division, Central Authorization Unit, Policy Number 313.42

State Hearings Division
California Department of Social Services
P.O. Box 944243, Mail Station 19-37
Sacramento, CA 94244-2433
Phone: (800) 952-5253

AID PAID PENDING

Aid Paid Pending (APP) is the suspension of an agency's proposed action until a hearing and/or a decision is rendered. The network provider and the LMHP are required to provide APP to Medi-Cal beneficiaries who want to continue to receive mental health services while in the process of resolving their dispute through an Appeal or State Hearing when the following criteria are met:

- The request for APP was filed 10 days from the date the NOABD was mailed, 10 days from the date the NOABD was personally given to the beneficiary, or before the effective date of the change, whichever is later;
- The beneficiary is receiving mental health services which do not require prior authorization; and
- The beneficiary is receiving mental health services under an existing service authorization which is being terminated, reduced or denied for renewal by the LMHP.

When the network provider or the LMHP receives a notice that the Medi-Cal beneficiary has requested an Appeal or State Hearing, the network provider or the LMHP is responsible for determining if the hearing request involved APP. If the criteria specified above for APP are met, the network provider and the LMHP are required to provide the APP.