

Mediation in Mental Health

Definitions

Mediation

A confidential process in which a neutral third party facilitates communication between parties, assists in identifying issues, and helps explore solutions to promote a mutually acceptable resolution. A mediator does not have authoritative decision-making power.

Process Administrator

The CMHSP point of contact/representative(s) for the mediation center in mediation matters. The CMHSP must designate a staff person(s) from customer services as the contact.

Recipient

An individual who receives mental health services, either in person or through telemedicine, from the department, a community mental health services program, or a facility or from a provider that is under contract with the department or a community mental health services program. For the purposes of this act, recipient does not include an individual receiving substance use disorder services under Chapter 2A unless that individual is also receiving mental health services under this act in conjunction with substance use disorder services.

Recipient's representative

A recipient's legal guardian, minor recipient's parent, or other person authorized by law to represent the recipient in decision-making related to the recipient's services and supports.

Frequently Asked Questions

1. What Services are open to mediation?

A recipient or his or her individual representative may request mediation to resolve a dispute between the CMHSP or other service provider under contract with the CMHSP related to planning and providing services or supports to the recipient.

Per 1206, the array of mental health services include:

- A. The purpose of a community mental health services program shall be to provide a comprehensive array of mental health services appropriate to conditions of individuals who are located within its geographic service area, regardless of an individual's ability to pay. The array of mental health services shall include, at a minimum, all of the following:
 - 1) Crisis stabilization and response including a 24-hour, 7-day per week, crisis emergency service that is prepared to respond to persons experiencing acute emotional, behavioral, or social dysfunctions, and the provision of inpatient or other protective environment for treatment.
 - 2) Identification, assessment, and diagnosis to determine the specific needs of the recipient and to develop an individual plan of services.
 - 3) Planning, linking, coordinating, follow-up, and monitoring to assist the recipient in gaining access to services.

- 4) Specialized mental health recipient training, treatment, and support, including therapeutic clinical interactions, socialization and adaptive skill and coping skill training, health and rehabilitative services, and pre-vocational and vocational services.
- 5) Recipient rights services (cannot be mediated as processes are defined in statute)
- 6) Mental health advocacy.
- 7) Prevention activities that serve to inform and educate with the intent of reducing the risk of severe recipient dysfunction.
- 8) Any other service approved by the department.

B. Services shall promote the best interests of the individual and shall be designed to increase independence, improve quality of life, and support community integration and inclusion. Services for children and families shall promote the best interests of the individual receiving services and shall be designed to strengthen and preserve the family unit if appropriate. The community mental health services program shall deliver services in a manner that demonstrates they are based upon recipient choice and involvement and shall include wraparound services when appropriate.

2. What Services are not open to Mediation?

A. Medical necessity determinations:

Medical necessity determinations are completed before the CMHSP becomes involved with planning and providing services or supports to the recipient, therefore, mediation cannot be used to resolve disputes regarding medical necessity determinations.

B. Recipient Rights:

Disputes regarding recipient rights processes cannot be mediated as they are defined in statute

C. Assisted Outpatient Treatment (AOT) Court Order:

Once a probate judge has granted an AOT court order, mediation cannot be used as a step to dispute the court's order of AOT services, or the services identified in the court order.

3. Who can request mediation services?

A recipient or recipient's representative only. Any recipient or recipient's representative of a CMHSP or contracted provider can request mediation. The statute does not define recipient by funding source.

4. What if the recipient or representative is engaged in other dispute resolution options?

Mediation does not prevent a recipient or his or her individual representative from using another available dispute resolution option, including, but not limited to, the community mental health services program's local dispute resolution process, the local appeals process, the state Medicaid fair hearing, or filing a recipient rights complaint. The mediation organization ascertains if an alternative dispute resolution process is currently ongoing and notifies the process administrator of the request for mediation. The parties may agree to voluntarily suspend other dispute resolution processes, unless prohibited by law or precluded by a report of an apparent or suspected violation of rights delineated in Chapter 7.

5. Who provides/pays for translator services?

Per contracts with the MDHHS and the CMHSP, the PIHP, CMHSP must provide/pay for such services.

6. Can the same issue be mediated again if an agreement was not reached?

No provision exists for this in PA 55. Drafters of Mediation language did not anticipate that the same issue could be mediated again. The recipient may choose to access other dispute resolution options if not exhausted. A recipient rights complaint may also be filed if not already done so.

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