

BAY-ARENAC BEHAVIORAL HEALTH POLICIES AND PROCEDURES MANUAL

Chapter: 3	Member Rights and Responsibilities		
Section: 8	Customer Services		
Topic: 10	Behavioral Health Mediation Services		
Page: 1 of 6	Supersedes: Pol: Proc: 7-21-22	Approval Date: Pol: 7-21-22 Proc: 9-25-22	<hr style="border: none; border-top: 1px solid black;"/> <i>Board Chairperson Signature</i>
			<hr style="border: none; border-top: 1px solid black;"/> <i>Chief Executive Officer Signature</i>
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Policy

It is the policy of Bay-Arenac Behavioral Health Authority (BABHA) Board that a recipient or his or her individual representative must be offered an opportunity to request mediation to resolve a dispute between the recipient and BABHA or a service provider contracting with BABHA related to planning and providing services or supports to the recipient.

Purpose

The purpose of this policy is to comply with the Michigan Mental Health Code, Section 330.1206b, of Public Act 258 of 1974, as amended.

Applicability

- All BABHA Staff
- Selected BABHA Staff, as follows:
- All Contracted Providers: Policy Only Policy and Procedure
- Selected Contracted Providers, as follows:
 - Policy Only Policy and Procedure
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- Other:

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Definitions

Dispute: Any disagreement involving a recipient, or their individual representative related to planning and providing services or supports to the recipient including appeals, grievances, Medicaid Fair Hearing or alternative dispute resolution requests under the applicable Michigan Department of Health and Human Services (MDHHS) Medicaid or Community Mental Health Services and Supports contract.

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.

Mediator: an individual trained in effective mediation techniques and mediator standard of conduct. A mediator must be knowledgeable in the laws, regulations, and administrative practices relating to providing behavioral health services and supports. The mediator must not be involved in any manner with the dispute or with providing services or supports to the recipient.

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.

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Procedure

1. BABHA and all contracted service providers must inform each recipient, or his or her individual representative, of the right to request and access mediation. This must be done at the time services are initiated and on an ongoing annual basis.
2. BABHA will also provide notification of the right to request mediation to the recipient or his or her individual representative when BABHA’s local dispute resolution process, local appeals process, or state Medicaid fair hearing is requested.
3. BABHA’s Recipient Rights/Customer Service Department will assist recipients and/or their legally responsible parties navigate through the mediation request process upon request. The Recipient Rights Officer, as the Manager of the Customer Services Department, will serve as the Process Administrator. BABHA will ensure recipients/their legal representative are aware of the option for mediation and how to access it.
4. MDHHS will provide funding and contract directly with 1 or more mediation organizations experienced in coordinating statewide case intake and mediation service delivery through local community dispute resolution programs (CDRPs).
5. The CDRP mediator will be trained in effective mediation techniques and mediator standards of conduct. The CDRP mediator must be knowledgeable in the laws, regulations, and administrative practices relating to providing behavioral health services and supports. The mediator must not be involved in any manner with the dispute or with providing services or supports to the recipient.
6. BABHA or the contracted service provider involved in the dispute must participate in mediation if mediation is requested. The BABHA Chief Executive Officer will designate a responsible party to represent the agency in this process on a case by case basis. The designee will have authority to participate in mediation and commit to a mutually agreed resolution.

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7. Mediation does not prevent a recipient or his or her individual representative from using another available dispute resolution option, including, but not limited to, BABHA’s local dispute resolution process, the local appeals process, the state Medicaid fair hearing, or filing a recipient rights complaint.
8. BABHA will inform the assigned CDRP if an alternative dispute resolution process is currently ongoing and notify the process administrator of the request for mediation. The parties (BABHA, the contracted service provider, the recipient/legally responsible party) 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 the recipient’s rights.
9. Every request for mediation received must be recorded by the CDRP, and mediation must begin within 10 business days after the recording.
10. Mediation must be completed within 30 calendar days after the date the mediation was recorded unless the parties agree in writing to extend the mediation period for up to an additional 30 days but will not exceed 60 calendar days.
11. The CDRP must provide a copy of the signed document to all parties within 10 business days after the end of the mediation process. The signed document is enforceable in any court of competent jurisdiction in this state.
12. If the dispute is resolved through the mediation process, the CDRP shall prepare a legally binding document that includes the terms of the agreement. The document must be signed by the recipient or individual representative and a party with the authority to bind the service provider according to the terms of the agreement.

Attachments

“Mediation in Mental Health Dispute Resolution Technical Requirement, 8-16-22”

“Mediation in Mental Health Question and Answers, July 2022”

“Behavioral Health Mediation Program” Rack Card, Oakland Mediation Center, 2021.

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“Mediation Insert for Letters/Your Guide to Services, 2021”

Related Forms

N/A

Related Materials

N/A

References/Legal Authority

1. MDHHS Specialty Prepaid Inpatient Health Plan Contract for Medicaid 1115 Behavioral Health Demonstration Program, 1915(i) State Plan Benefit and concurrent 1915(c) Waiver Programs FY22
2. Michigan Mental Health Code (Act 258 of the Public Acts of 1964 as amended), Section 330.1206a Mediation.
3. Michigan Department of Health and Human Services/Community Mental Health Services Programs Managed Mental Health Supports and Services contract FY22

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SUBMISSION FORM				
AUTHOR/ REVIEWER	APPROVING BODY/COMMITTEE/ SUPERVISOR	APPROVAL /REVIEW DATE	ACTION (Deletion, New, No Changes, Replacement or Revision)	REASON FOR ACTION - If replacement list policy to be replaced
Melissa Prusi	Christopher Pinter	05/25/2055	New	New – Adds CMHSP Mediation
Melissa Prusi	Christopher Pinter	09/25/2022	Revised	Add MDHHS Requirements