

## *Member Rights*

NBH firmly supports the rights of the individual consumer. In as much, NBH complies with all Federal, State, and local regulations regarding rights of the consumer and requires all providers to do the same.

Rights Regarding Treatment and Service Delivery as written in the Consumer Handbook

The Consumer has the right to:

- Be treated with dignity and respect.
- Have your privacy respected.
- Have an independent advocate.
- Be told what your diagnosis means.
- Get information about treatment choices so that you can understand.
- Take part in decisions about your treatment.
- Refuse treatment, except as stated in law.
- Have a service plan for your treatment with your input.
- Get a second opinion without a fee.
- Be told about the medications you have to take, and their side effects.
- Get treatment from people who are competent and who understand your culture.
- Make an Advance Directive and expect your directions to be followed.
- Be free from any action by your provider to control you, make you do something, discipline you through any form of restraint or seclusion, or take away your rights.
- File a complaint and get help filing about: the services you are receiving, the denial of services or violation of treatment rights.
- Get special services such as translation or oral interpretation of the language you speak, signing if you cannot hear well, audio or large print if you cannot see well.
- Ask for and get a copy of your records, and request that they be changed or corrected.
- Choose a Care Coordinator (provider) or ask that one be added to the network.
- Be told about stopped services, or changes to your services or Care Coordinators.
- Be free to use all of your rights and state an opinion about NBH services. You can talk to regulatory agencies, legislative bodies, or the media. NBH cannot take away or change your services.
- Get information about your mental health benefits and how to use them.

- Any other rights under state or federal law.

#### Rights Regarding Privacy of Healthcare Information

- The right to receive a Notice of Privacy Practices from your healthcare provider;
- The right of access to inspect and obtain a copy of protected healthcare information within 20 days of your request, except where deniable by law; fees may apply for copying, postage and preparation;
- The right to request an amendment of protected healthcare information, and receive a response to the amendment request within 60 days of the request;
- The right to request an accounting of disclosures of protected healthcare information made by the provider in the six years prior to the date on which the accounting is requested, except for those disclosures needed to carry out treatment, payment or healthcare operations; or were pursuant to an authorization; or were released under Federal provisional exceptions [164.51(k)(2) or 164.512(k)(5)]; or that occurred prior to April 14, 2003;
- The right to request a restriction of uses and disclosures of protected healthcare information pertaining to treatment, payment or healthcare operations;
- The right to request receipt of communications of protected healthcare information from the provider by a reasonable alternative means or an alternative location; and
- The right to require your written authorization to release information except for communications needed to carry out treatment, payment, and healthcare operations, and exceptions provided by State and Federal laws and that the release must be the minimum necessary to meet the purpose for which permission is granted.

#### Communication and Distribution of Consumer Rights

NBH, Centers, and Independent Providers will distribute copies of the Consumer Handbook to enrollees at intake. Consumer charts will be audited at site reviews for presence of receipt of the handbook.

#### Ensuring that Providers take rights into account when providing services:

NBH will ensure that Center staff and independent providers take rights into account when providing services to enrollees through various means:

- NBH communicates the information in the Provider Manual which is given to all providers during the credentialing process and updated as needed.
- NBH communicates the information through Orientation Training monthly at centers for new center employees. NBH will monitor attendance records annually.

- NBH requires training for new and existing Center staff and independent providers annually through the NBH website with electronic log-in and signature of completion. NBH will monitor training records annually.
- NBH will conduct focused chart audits annually to examine the process of taking rights into account by checking for signed service plans.
- NBH OCFA Director will analyze all Grievance/Concerns for taking rights into account and request corrective action as needed.
- The NBH QIAS Committee will review Grievance/Concern and appeals information for evidence that rights were taken into consideration and correct procedures were followed.
- NBH will contract annually with an independent reviewer to audit NBH Grievance/Concern and appeals procedures.

### **Second Opinion**

Consumers have the right to receive a second opinion regarding their clinical evaluation or diagnosis with another NBH Provider/Center at no cost. NBH does not cover the cost of a second opinion from outside the Provider/Center network. A request for a second opinion may be directed to a number of sources - Care Coordinator, Consumer Service Representative, Parent/Family Advocate, Director of Consumer and Family Affairs, or some other staff member. Independent providers, consumers, and family members may also request a second opinion by directly contacting Utilization Management at NBH. Regardless of who receives the request, the following procedure will be implemented:

#### **Independent Provider Network**

- The request will be routed to the NBH Director of Utilization Management who will work with the consumer, parents, and others with legal custody to ascertain the specific concerns that give rise to the request.
- The Director of Utilization Management will document the request, with accompanying concerns, and arrange for a second opinion with a Center staff or a member of the Independent Provider Network. The consumer, or other requestor, will be provided with a list of available providers. If a therapist outside of the network is requested, that preference will be honored if possible, and appropriate arrangements will be made.

#### **Mental Health Center**

- The request will be routed to the appropriate Program Director who will work with the consumer, parents, and others with legal custody to ascertain the specific concerns that give rise to the request.
- The Program Director will document the request, with accompanying concerns, and arrange for a second opinion with another staff member or

a member of the Internal Provider Network. The consumer, or other requestor, will be provided with a list of available staff. If a therapist outside of the network is requested, that preference will be honored if possible, and the Program Director will make appropriate arrangements.

In the event of an emergency or urgent situation, NBH will provide a second opinion within eight hours (emergent) or 24 hours (urgent) when requested.

Procedures and reports obtained from a second opinion consultation will become a part of the consumer's clinical record

#### NBH Responsibilities

Enrollees will be informed of this right and given instructions for seeking a second opinion in the consumer handbook.

### **Notification of Service Termination, Reduction or Denial**

Consumers will be sent a Notice of Action whenever:

- A service is denied or limited in type or level as requested;
- A previously authorized service is reduced, suspended or terminated.
- A request for a provider outside the NBH network in rural areas with only one MCO.
- A payment (in whole or in part) for services is denied.

Refer to Utilization Management section in this manual for procedures used when issuing a Notice of Action.

### **Notification of Provider Termination**

This procedure applies to individual clinical relationships, such as Care Coordinator, therapist, case manager, or psychiatrist. This does not apply to providers on a team, such as staff at a residential facility, hospital, or day treatment program.

#### NBH Responsibilities

NBH will provide written notification to all consumers who received primary mental health care from, or were seen on a regular basis by, a terminated therapist or psychiatrist who was a member of NBH's Internal Provider Network. This notification will include information on how the consumer can continue services, contact name, and their telephone number and how to select a new provider. Utilization Management team will contact the internal provider to facilitate the issuance of the notification.

#### Center Responsibilities

Within 15 days of receiving or issuing a termination notice of an individual service provider, the centers will provide written notification to all consumers who received primary mental health care from, or were seen on a regular basis, by the terminated provider. The notification will include information on how the

consumer can continue services, contact name and phone number, and how to select a new provider.

If possible, service providers will send the notifications to their consumers before leaving the center. The provider's administrative supervisor will be responsible for ensuring that the notice is mailed to consumers in a timely manner. A copy of the notification letter will be included in the clinical record.

## Advance Directives

### Definitions

*Advance Directives* are written instructions recognized under State law relating to the making of medical treatment decisions and the provision of health care when or if an individual is incapacitated. Advance directives recognized under Colorado law include, but are not limited to:

*Medical Durable Power of Attorney* is a legal document naming an "agent" or "attorney in fact" to make health care decisions for an individual if he/she can not make them, even if he/she is not terminally ill.

*Living Will* instructs the individual's physician to withhold or withdraw life-sustaining procedures in the event that at some future time the individual is terminally ill, or has been unconscious, comatose or otherwise incompetent for a specific period of time of no less than 48 hours, or is unable to make or communicate responsible decisions about his/her care.

*Cardiopulmonary Resuscitation (CPR) Directive* instructs medical personnel not to revive the individual, either by CPR, breathing tubes, electric shock, or anything else, if his/her heart and/or lungs stop.

NBH does not have conscientious objections to the implementation of advance directives. NBH is firm in its stand that consumers have the right to execute advance directives.

### NBH Responsibilities

Written information on advance directives will be provided to each adult enrollee at the time of initial enrollment. This information will be in the Consumer Handbook and mailed to each enrollee at the initial enrollment to Medicaid. The information provided to adult enrollees will describe enrollees' rights under State law to make decisions regarding their medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate, at the individual's option, advance directives

### Provider/Center Responsibility

Adult consumers receiving mental health services shall be given additional written information on advanced directives through the Consumer Handbook and a brochure at intake. Information will include consumer rights under Colorado law, NBH policy related to consumer rights, and that complaints concerning non-

compliance with advance directive requirements may be filed with the Center or the State Department of Public Health and Environment.

On intake, all consumers will be asked if they have advanced directives as part of the registration process and their responses will be recorded in the computer system. Consumers with advanced directives will be encouraged to bring in a copy. If a consumer creates an advance directive after intake, the assigned clinician will update the computer registration. The execution, amendment, or revocation of an advance directive, either at intake or later during treatment, will be documented in a prominent part of the individual's current medical or patient care record. Consumer advanced directives shall be accessed and followed as allowed by state and federal law.

The Provider/Center is not required to assist adult consumers in developing advance directives, but will direct adult consumers to available resources (i.e., the Colorado Bar Association, websites, etc.).

The Provider/Center shall provide advance directive information to the consumer's family or surrogate if the consumer is incapacitated at the time of initial enrollment due to an incapacitating condition or mental disorder and is unable to receive the information. Once the consumer is no longer incapacitated, advance directive information will be given to the consumer.

The Provider/Center may not condition the provision of services based on whether the consumer has executed an advance directive. Consumers may not be discriminated against based on whether they have executed an advance directive.

The Provider/Center will make no attempt to persuade an adult consumer to revoke or alter an existing advance directive. The provision of care is not conditioned on the presence or absence of an advance directive. Individuals will not be discriminated against on the basis of whether or not an advance directive has been executed, amended, or revoked.

Adult consumers will be informed via the Consumer Handbook of their responsibility to provide the Provider/Center and applicable facilities with a copy of their advance directive. Applicable facilities include hospitals, nursing care facilities, home health agencies, providers of home health care or personal care services, and hospices.

The Provider/Center will educate the appropriate staff concerning its policies and procedures regarding advance directives.

### **Written Information Requirements**

Written material will use easily understood language and format. Written material must be at sixth-grade reading level. Upon request written material must be available in alternative formats such as large print or audiotapes and in an appropriate manner that takes into consideration the special needs of those who, for example, are visually limited or have limited reading proficiency. The Provider may

contact NBH (888-296-5827 or 970-347-2366) to request these materials

NBH, its providers and Centers will make written information available in the prevalent non-English language. *Prevalent Non-English Language* means a non-English language spoken by a significant number or percentage of enrollees in the service area that, in the NBH service area, is Spanish.

### **Oral Interpretation Services**

NBH, its providers and centers will make oral interpretation services available free of charge to each enrollee and to provide, for those enrollees who do not speak English, oral interpretation services in their respective primary language. Signing will be provided for those who are hearing impaired.

### **Consumer Choice**

Consumers in the State of Colorado Medicaid Managed Care Program have the option of choosing their treatment from any of the mental health centers or from the NBH Independent Provider Network.

If a consumer chooses to receive care from one of the mental health centers, he/she also has a choice of providers within the selected center. At the initial appointment, a staff member will help consumers identify any specific preferences related to location and hours of services, expertise of the provider, a specific provider, and any cultural considerations. NBH will provide consumers with culturally appropriate services, and match them with providers who meet their needs.

Consumers who do not have a preference will be referred to the clinician the intake therapist thinks would be a good fit for their particular needs. In the event the original choice is not a good match, a consumer can change to another clinician.

Consumers currently receiving mental health services with someone not affiliated with one of the mental health centers who desire to continue receiving care from their current provider may request that NBH contract with the current provider to continue their care. Care will be authorized for 60 days while credentialing is in progress. NBH will send a credentialing packet to that provider. If the provider refuses to become credentialed in the network, or is unable to be credentialed, NBH will provide the consumer a choice among available alternatives. If a consumer feels his/her needs cannot be met through one of the mental health centers, he/she may seek services through one of the independent network providers. Consumers may receive information about the independent network providers included in the NBH plan by calling NBH at 888-296-5827 or 970-347-2366.

Consumers who are unable to develop a relationship with any NBH Network Provider may file a request with Health Care Policy and Financing for an exemption from NBH's program. Please note that while an exemption may allow consumers to access providers outside the NBH network, it will also limit the types of services available, such as residential or vocational services. Consumers may

begin the exemption process by notifying NBH in writing of request for exemption. Consumers may receive assistance from the Director of Consumer and Family Affairs at 888-296-5827 or 970-347-2367.

### *Member Responsibilities*

NBH believes that part of recovery is assumption of responsibilities on the part of the consumer while receiving services from NBH.

Consumer Responsibilities as written in the Consumer Handbook:

- Keep your appointment, or call to cancel or change if you cannot get to it.
- Take medications as they are written for you.
- Ask questions when you don't understand or need more information.
- Make goals that will help you in your recovery.
- Use other community services that could also help you.
- Tell your Care Coordinator if you are having any symptoms, or are not feeling well.
- Tell the medical staff if your medications are making you feel worse since you started taking them.
- Treat your Care Coordinator and other staff as you would like to be treated.
- Know your rights, and understand how to use the complaint process.
- Protect the privacy and confidentiality of others.
- Give providers the information they need to help you better.
- Follow the requirements of NBH as described in the Member Handbook.
- Tell NBH of any third party insurance including Medicare.

### **Communication and Distribution of Consumer Rights**

NBH, Centers, and Independent Providers will distribute copies of the Consumer Handbook to enrollees at intake. Consumer charts will be audited at site reviews for presence of receipt of the handbook.

### *Participation of Consumers and Family Members or Advocates in Service Planning*

NBH firmly supports adult consumers and parents of children as well as family members/advocates as invited by the adult consumers to be actively involved in all stages of the service plans.

The consumer should be an active participant with the clinician in the assessment of needs, and in the development of goals and objectives. Besides exercising choice while discussing preference for type of clinician(s), i.e., age, gender, cultural sensitivity, language, etc, their preferences about services should be identified at all points at intake, assessment, development of service plan, and during review of the

service plan. For specific procedures, refer to the NBH Policy and Procedures for Continuity of Care.

While the involvement of the consumer's family or legal guardian is mandatory for children and adolescents, NBH expects providers to involve family members/advocates of adults and older adults as much as possible to increase the success of their supportive roles for consumers. To encourage their involvement, appointments will be scheduled at convenient places and times and in settings that are comfortable and accessible. To encourage information sharing and practical planning, consumers will be asked to sign a release at their first appointment to include family members/advocates in their planning.

### *Transportation*

NBH will assist consumers to find transportation in the least restrictive way to get to appointments.

Although NBH is not responsible for the cost of transportation, providers will give assistance to consumers in finding transportation to access needed mental health treatment services. Such assistance shall include, but not be limited to, assisting consumers to access transportation.

To the extent possible, in consideration of community resources, consumer and staff safety, transportation to access involuntary treatment will be provided in the least restrictive manner possible.

Residents of nursing homes who cannot reasonably travel to a service site, or for whom transportation cannot be found, will receive treatment in the nursing home. NBH providers will work with nursing facility staff to arrange transportation to service sites for those who can travel, but will not pay for the transportation.

### *Dual Medicaid/Medicare Eligibility*

Dual Medicaid/Medicare eligibility is a common occurrence among certain groups of consumers, such as those who have severe and persistent mental illnesses, nursing home residents, elderly placed out of nursing homes, developmentally disabled persons, and others.

NBH will assist these consumers to find qualified Medicare providers who are willing to provide medically necessary Medicare-covered services. If a NBH is unable to find a qualified provider who is willing to provide the services, NBH will provide for those services.

If a Medicaid/Medicare eligible consumer is a resident of a nursing home and is unable to travel to a service site, NBH will provide for services on-site in the nursing home.

### *Grievance/Concern*

A Grievance/Concern about any aspect of mental health care that is described in the NBH contract with Medicaid, Federal and State Medicaid Regulations, and the Colorado 27-10 statute may be filed by any interested party including the consumer, legal guardian, or designated client representative within twenty (20) calendar days from the date of the incident.

*Grievance/Concern* refers to any oral or written expression of dissatisfaction about any aspect of mental health services. A Grievance/Concern may include but is not limited to access issues, quality of care issues, aspects of interpersonal relationships such as rudeness, or failure to respect a consumer's rights.

A Grievance/Concern may be filed with a Center Consumer Representative, Parent/Family Advocate; or the NBH Director of Consumer and Family Affairs by phone, in person, or in writing. Consumers may call any of the numbers listed in their handbook for a Consumer Representative, Parent/Family Advocate, or the Director of Consumer and Family Affairs.

NBH supports the right of the consumer to contact the Ombudsman for Medicaid Managed Care. The Ombudsman for Medicaid Managed Care is an independent facilitator contracted by the Department of Health Care Policy and Financing to receive and respond to concerns and issues of consumers enrolled in Colorado Medicaid managed care. (Refer to the Ombudsman poster in the Provider Issues section of this manual)

Center Consumer Representatives and Parent/Family Advocates should refer to the Grievance/Concern manual for specific instructions and regulations regarding the process for resolution of a grievance/concern.

### *Appeal of an Action*

*Appeal of an action* is the process for a consumer to ask for a review of an action stated in a letter from the service provider about which the consumer disagrees; or the dissatisfaction that services are not provided in a timely manner or that the provider did not send the letter of action within 10 calendar days before the denial, reduction, or termination of a service. *Consumer*, for the purpose of an appeal of an action, also means a parent/legal guardian of a child, a designated consumer representative, or a legal representative of a deceased person's estate. *Designated consumer representative (independent advocate)* means any person, including a treating health professional, family member or other person, authorized in writing by the consumer to represent his/her interests related to Grievance/Concerns or appeals about health care benefits and services.

*Action* is the decision made by a service provider:

- To deny or limit a type or level of service that a Member has requested;
- To reduce, suspend or terminate a previously authorized service;

- To deny (in whole or part) payment for a service;
- To refuse to make a referral;
- To refuse the consumer access to a provider of his/her choice;
- To deny a requested service that is not a covered service of the program; or
- To deny a request for services outside the network in a rural area where there is only one MCO.

A consumer has the right to appeal an Action, which denies, reduces, or terminates any service. A Notice of Action is issued by the NBH Utilization Department. The Director of Consumer and Family Affairs is responsible to respond to an appeal.

An appeal may be filed with the NBH Director of Consumer and Family Affairs by phone, in person, or in writing.

As a provider of services to a consumer, you may file an appeal of an Action on behalf of the consumer. You will need to have the consumer name you as a designated consumer representative.

NBH provides for the continuation of benefits while the NBH appeal and/or the State fair hearing are pending if the member files the appeal timely, the appeal involves the termination, suspension or reduction of a previously authorized course of treatment, the services were ordered by an authorized provider, the original period covered by the original authorization has not expired, and the member requests an extension of benefits in writing.

A consumer may request an expedited appeal. *Expedited Appeal* means that a faster process (decision within 3 working days) could be used in situations when the member, the provider, or BHO indicates that taking time for a standard appeal resolution could seriously jeopardize a member's life, health, or ability to attain, or to maintain or regain maximum function.