

Behavioral Healthcare, Inc.

155 Inverness Drive West • Suite 201 • Englewood, CO 80112

Utilization Management

Subject: UM-810 Notice of Action (NOA)		Effective Date: 9/1/2003
Authorized by: Jennifer Conrad, MSW, LCSW Director of Utilization Management	Page: 1 of 9	Review Date: 9/1/03, 6/7/04, 9/5/05, 12/31/07, 1/15/10, 7/7/11

I. Policy:

Behavioral Healthcare, Inc. (BHI) provides written Notice to Members (including legal guardians and Designated Client Representatives (DCRs)) for each Action taken by BHI.

II. Purpose:

To ensure timely written notification to BHI Members (including legal guardians and DCRs) regarding Actions taken by BHI.

III. Definitions:

A. An **Action** includes:

1. The denial or limited authorization of a requested service, including the type or level of service;
2. The reduction, suspension or termination of a previously authorized service;
3. The denial, in whole, or in part, of payment for a service;
4. The failure to provide services in a timely manner;
5. The failure to act within the required timeframes for the grievance and appeal processes; and/or
6. For Members in rural areas, the denial of a Member's request to exercise his or her right to obtain services outside the BHI network.

B. An **Appeal** means a request for review of an Action.

C. A **Designated Client Representative (DCR)** means any person, including a treating health care professional, authorized in writing by the Member (or the Member's legal guardian) to represent his/her interests related to grievances or Appeals about health care benefits and services.

D. **Medically Necessary** describes a service that, in a manner in accordance with professionally accepted clinical guidelines and standards of practice in behavioral health care:

1. Is reasonably necessary for the diagnosis or treatment of a covered mental health disorder or to improve, stabilize or prevent deterioration of functioning resulting from such a disorder; and

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2. Is clinically appropriate in terms of type, frequency, extent, site and duration;
3. Is furnished in the most appropriate and least restrictive setting where services can be safely provided; and
4. Cannot be omitted without adversely affecting the Member's mental health and/or physical health conditions associated with the Member's covered mental health diagnosis, or the quality of care rendered. (BHO Contract FY 2010, page 4)

- E. A **Notice of Action (Notice or NOA)** means the written Notice sent to the Member (or the Member's legal guardian or DCR) for each Action taken by BHI.
- F. A **State Fair Hearing** means the formal adjudication process for Appeals described in 10 CCR 2505-10 § 8.057.

IV. Procedure:

- A. Upon review of a request for mental health services, the BHI Utilization Management (UM) Department staff (or delegate) may determine that the request does not meet BHI service authorization criteria for reasons including but not limited to:
1. The requested services are not medically necessary as defined in the behavioral health organization (BHO) contract;
 2. The requested services do not target a covered diagnosis under the Colorado Medicaid Community Mental Health Services Program;
 3. The requested services are not covered benefits under the Colorado Medicaid Community Mental Health Services Program; and/or
 4. The requested services do not meet the BHI utilization criteria.
- B. The BHI Utilization Management (UM) Department staff makes all routine Action decisions and is responsible for sending the routine Notice of Action to the Member (or the Member's legal guardian or DCR).
1. The BHI UM staff consults with the appropriate individuals (e.g., the Member, family members/legal guardian, the provider, other treatment team members, the BHI Office of Member and Family Affairs (OMFA), and/or the BHI Medical Director) as indicated, to determine if a Notice of

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Action is necessary. All consultations must be documented to demonstrate adequate consultation with the requesting provider or other individuals relevant to making a decision.

2. All denial decisions are based on utilization review criteria specific to the identified level of care.
3. In the event the BHI UM staff is not a licensed behavioral health professional with appropriate clinical expertise in assessing and treating the Member's mental health disorder, s/he refers the Action Recommendation to the BHI Director of UM for disposition.
4. Provider may recommend an Action be taken by notifying the BHI UM Department staff (see BHI Policy Notice of Action recommendation).

The timelines and procedures for such a recommendation are the same as other routine Notices. If the community mental health center (CMHC) uses the entire review time period prior to submitting the recommendation to BHI for further review, the CMHC must request an extension to allow adequate time for BHI to conduct its clinical review for medical necessity.

- C. If the BHI UM staff determines that a Notice of Action is necessary, s/he sends a Notice of Action letter on behalf of BHI:
 1. The Notice of Action letter is mailed within the specified timeframes, depending on the type of Action:
 - a) Standard service authorization decisions that deny or limit services must be sent within ten (10) calendar days from the date the service was requested.
 - b) Expedited service authorization decisions that deny or limit services must be sent within three (3) working days from the date the service was requested.
 - c) Termination, suspension or reduction of currently authorized services must be sent on the same day as the Action decision is made and ten (10) calendar days before the effective date of the Action.
 - d) For denial of payment, on the same day as the Action decision is made.

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2. All required fields in the letter are completed. (See attached template.)
 - a) The only Notices in which the effective date should be included are for Actions that terminate, suspend, or reduce currently authorized services. The effective date, for these Notices, is ten (10) calendar days from the date of the Notice.
 - b) In all other cases the effective date is the same as the date the Action decision was made.
 - c) The appeal date is thirty (30) days from the date of the Notice for all Actions, with the following exception:

For those Actions terminating, suspending, or reducing currently authorized services, the Appeal date is the same date as the effective date (i.e. 10 calendar days from the date of the Notice of Action).
 3. The “explanation of reason” for the Action taken describes the clinical rationale, including any alternative services offered, in clear, non-clinical terms so the Member (or Member’s legal guardian or DCR) can understand and respond to the reason if s/he chooses to appeal.
 4. A copy of the 30 Day Appeal document is included with the Notice of Action letter to the Member (or Member’s legal guardian or DCR).
 5. A copy of the Notice of Action letter is placed in the clinical record and sent to all Providers (i.e., treatment team members), as applicable, and the BHI Director of OMFA.
- D. The BHI UM staff may extend the timeframe in #2.a above up to fourteen (14) additional calendar days from the date of the request, if:
1. The Member (or Member’s legal guardian or DCR), or the provider, requests an extension; or
 2. The BHI UM staff requires additional time to obtain information to determine the need for an Action.
- E. If the BHI UM staff extends the timeframe,
1. The BHI UM staff gives the Member (or Member’s legal guardian or DCR) written notice of the reason for the decision to extend the timeframe,

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including his/her right to file a grievance if s/he disagrees with that decision. The notice must be sent within ten (10) days of the request.

2. The BHI UM staff makes and carries out the determination as expeditiously as the Member's health condition requires and no later than the date the extension expires. This allows no longer than 24 calendar days from the date of the request to make a decision.
- F. If BHI does not support the provider's Action recommendation, the BHI UM Department offers the Member a choice of Network Providers from either the CMHCs or the contract provider network (CPN) who is qualified to address the Member's mental health needs.
- G. If the Member is dissatisfied with the Notice of Action decision and/or referrals made, the Grievance System process is available to him/her. (See Grievance System policy and procedure.)
- H. Monitoring Notice of Action Procedures
1. On a monthly basis, the BHI Director of UM, or his/her designee, conducts an audit of all Notices of Action, assessing the timeliness and accuracy of each.
 2. Based on this audit, the BHI Director of UM, or his/her designee, addresses any errors in procedures and/or timeliness with the BHI and/or CMHC UM staff.
 3. The BHI Director of UM provides a Notice of Action Report quarterly to the BHI UM Committee, regarding the number of Notices of Action, the types of Action, and compliance with standards.
- I. BHI will send the Member a written Notice for each Action. (10 CCR 2505-10 § 8.209.4.A.1)
- J. The Notice will be in writing.
1. The Notice will be available in English and Spanish (the prevalent non-English language spoken by Medicaid Members throughout the State of Colorado). (10 CCR 2505-10 § 8.209.4.A.1.)
 2. The English version of the Notice will contain a statement in Spanish instructing the reader how to request a Spanish translation of the letter.

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3. The Notice will contain a statement instructing the reader how to access the Teletypewriting Device for the Deaf/Teletypewriter (TTY/TTD) line.
- K. The Notice will state the following:
1. The Action BHI has taken or intends to take;
 2. The reason(s) for the Action;
 3. The Member's or the DCR's right to file an Appeal with BHI;
 4. Instructions on how to file an Appeal;
 5. The date the Appeal is due;
 6. The right of the Member to a reasonable opportunity to present evidence, and allegations of fact or law, in person as well as in writing, in an Appeal;
 7. The right of the Member to examine their case file, before and during the appeal process, including medical records and any other documents and records considered during the appeal process.
 8. The Member's right to request a State Fair Hearing;
 9. The procedures for exercising the right to a State Fair Hearing;
 10. The circumstances under which expedited resolution is available and how to request it;
 11. The Member's right to have benefits continue pending resolution of the Appeal, and how to request that benefits be continued; and
 12. The circumstances under which the Member may be required to pay the cost of these services. (10 CCR 2505-10 § 8.209.4.A.2.a - i)
- L. All Notices of Action involving the denial, reduction, suspension, termination, or limited authorization of a requested type or level of service that involve clinical issues (i.e., failure to meet medical necessity criteria) will be reviewed and signed by a board-certified licensed psychiatrist.
- M. BHI will mail the Notice of Action within the following timeframes:

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1. For termination, suspension or reduction of previously authorized Medicaid covered services, at least ten (10) calendar days before the date of the Action, except in the following circumstances:
 - a) BHI may shorten the period of advance notice to five (5) calendar days for the date of Action if:
 - i. BHI has facts indicating probable fraud by the Member; and
 - ii. These facts have been substantiated through secondary sources.
 - b) BHI may mail the Notice no later than the date of the Action if:
 - i. BHI has factual information confirming the death of the Member
 - ii. BHI receives a clear written statement signed by the Member stating that:
 - iii. S/he no longer wishes services; or
 - iv. Gives information that requires the termination or reduction of services and indicates that s/he understands that this is the result of supplying the information;
 - v. The Member has been admitted to an institution where s/he is ineligible under the Colorado Medicaid Community Mental Health Services Program for further services;
 - vi. The Member's whereabouts is unknown and the United States Postal Service (USPS) returns mail directed to him/her indicating no forwarding address;
 - vii. BHI establishes the fact that the Member has been accepted for Medicaid services by another county, State, territory, or commonwealth;
 - viii. A change in the level of medical care is prescribed by the Member's physician;
 - ix. The Notice involves an Action made with regard to the pre-admission screening requirements of 1919(e) (7) of the Social Security Act; or

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- c) Notice required to be provided by a nursing facility seeking to transfer to discharge a resident means a written statement which contains information pertaining to items below, in addition to the requirements above:
- i. The reason for the transfer or discharge;
 - ii. The effective date of the transfer or discharge;
 - iii. The location to which the resident is transferred or discharged;
 - iv. The name, address and telephone number of the State long term care ombudsman;
 - v. For nursing facility residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act;
 - vi. For nursing facility residents who are mentally ill, the mailing address and telephone number of the agency response for the protection and advocacy of mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act;
 - vii. The safety of individuals in the facility would be endangered;
 - viii. The health of the individuals in the facility would be endangered;
 - ix. The individual's health improves sufficiently to allow a more immediate transfer or discharge;
 - x. An immediate transfer or discharge is required by the resident's urgent medical needs; or
 - xi. The resident has not resided in the facility for thirty (30) days. (10 CCR 2505-10 § 8.209.4.A.3.a.i - viii)
2. For denial of payment, at the time of any Action affecting the claim. (10 CCR 2505-10 § 8.209.4.A.3.b)

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3. For standard service authorization decisions that deny or limit services, within ten (10) calendar days. (10 CCR 2505-10 § 8.209.4.A.3.c)

N. If BHI extends the timeframe, the Member is given written Notice of the reason(s) for the decision to extend the timeframe.

1. The written Notice of Extension informs the Member of the right to file an Appeal if s/he disagrees with the extension.

2. BHI will carry out the determination as expeditiously as the Member's health condition requires and no later than the due date the extension expires. (10 CCR 2505-10 § 8.209.4.A.4)

O. For service authorization decisions not reached within ten (10) calendar days, Notice is mailed to the Member on the date the timeframe expires. (10 CCR 2505-10 § 8.209.4.A.5)

P. For expedited service authorization decisions, within three (3) working days. (10 CCR 2505-10 § 8.209.4.A.6)

V. Attachments:

UM-810 Attachment – Notice of Action Letter

UM-810 Attachment – Notice of Action Letter (Spanish)

UM-810, 821 Attachment – BHI Action Recommendation and NOA Training