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THE BEACON CENTER
Local Management Entity for Mental Health,
Developmental Disabilities & Substance Abuse Services

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Karen Salacki, Area Director

Memorandum

To: All Providers

From: Linda Hawley, Director of Quality Assurance and Provider Relations

Date: January 8, 2009

During our Provider Meeting on December 15, 2008 I announced that our agency would be presenting to our Board the Plan of Correction Policy that had been used for Endorsement to be considered as our agency wide policy. I also explained that this policy allows the Provider three opportunities to submit an Acceptable Plan of correction. This policy was presented to our Board on 12/16/08 and approved for use throughout our agency.


On January 2, 2009 our agency learned that The Division of MH/DD/SA had posted a new Plan of Correction Policy on their website that day and that it was effective on December 15, 2008. This policy allows the Provider two opportunities to submit an Acceptable Plan of Correction. We have contacted the Division to clarify how to proceed with Provider agencies that were involved in a current Plan of Correction action during the dates of December 15, 2008 through January 2, 2009. We were informed that any providers involved in a Plan of Correction action during that time would have to abide by the Division's Plan of Correction Policy that was posted on January 2, 2009.

Attached is the Plan of Correction Policy that is in effect. We will review it at our Provider Meeting on January 26, 2009. If you have questions prior to that time you may contact any of the Quality Assurance or Provider Relations staff within our agency.

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Section:	Resource/Regulatory Management	Effective Date:	Upon Signature
Team:	Accountability	Policy No.	ACC002
Subject:	Policy and Procedure for the Review, Approval and Follow-Up of Plan(s) of Correction (POC)	Revision date :	12/10/2008

Approved By:



Approval Date:

12/15/08

Purpose:

This policy establishes the criteria for determining the necessity of a Plan of Correction (POC) as well as the procedures for submission, review, and approval of the POC. This policy also identifies consequences for failure to comply with POC requirements.

Scope:

The following Policy shall apply to all Plans of Correction requirements originating from the Division of Mental Health, Developmental Disabilities and Substance Abuse Services or from one of the Local Management Entities.

Policy Statement:

This policy is designed to assure the citizens of North Carolina that the Division of Mental Health, Developmental Disabilities and Substance Abuse Services (DMH/DD/SAS) and/or the Director of the respective Local Management Entity (LME) has the responsibility to assign, review, and approve corrective actions as well as to provide technical assistance as needed to facilitate the successful implementation of appropriate corrective actions in the following circumstances:

1. When findings of endorsement reviews, monitoring or audits of mh/dd/sa services, or findings of investigations undertaken by the DMH/DD/SAS or LME, require corrective action in order for the issues identified and cited as out-of-compliance to be corrected;
2. When the circumstances which contributed to the out-of-compliance findings may be addressed so as to minimize or eliminate the cause of the out-of-compliance findings;
3. When the findings of out-of-compliance suggest the need for technical assistance that would address the systemic issues that contributed to the out-of-compliance findings; and

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4. When investigations of complaints or allegations of violations result in findings that a Program Operator is out-of-compliance with Federal or State Law, rules of the North Carolina Administrative Code, or published DMH/DD/SAS policy.

Enforcement:

The Accountability Team of the Resource and Regulatory Management Section of the Division of Mental Health, Developmental Disability and Substance Abuse Services and/or the Director of the Local Management Entity, hereafter jointly referred to as the "Oversight Personnel", is responsible for:

1. Determining that a POC is required;
2. Review and approval of the POC;
3. Follow-up to the POC
4. Referral of observed quality performance issues to the appropriate DMH/DD/SAS team(s) or other state or local entities for appropriate disposition.

Exceptions:

None



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Procedure:

Protocol for Determining if a Plan of Correction is Necessary

Oversight Personnel may determine that a POC is required as a result of any of the following circumstances:

1. A Medicaid audit results in a pattern of out-of-compliance findings.
2. An endorsement review results in a pattern of out-of-compliance findings.
3. A Provider Monitoring/Performance Review results in a pattern of out-of-compliance findings.
4. A Performance Management Agreement review results in a pattern of out-of-compliance findings.
5. An investigation of a complaint or allegation of violation which results in findings of non-compliance with Federal or State Law, rules of the North Carolina Administrative Code or published DMH/DD/SAS policy.
6. Any review, audit or monitoring which reveals systemic and or programmatic issues which are in violation or contrary to Federal or State Law, rules of the North Carolina Administrative Code, or published DMH/DD/SAS Policy

Protocol for Responding to Observed Quality Performance Issues in the Course of Performing Endorsement Reviews, Medicaid Audits, Performance Reviews, or Investigations of Complaints or Allegations of Violations

Oversight Personnel may, during the course of endorsement reviews, Medicaid audits, Provider Monitoring/Performance Reviews or investigation of a complaint determine that an issue outside the scope of their visit should be addressed. If the issue is within the scope of the Oversight Personnel's authority, a Plan of Correction may be required. In cases where the issue is outside the scope of the Oversight Personnel's authority, the Oversight Personnel shall determine the appropriate point of referral for the issue or circumstance observed. Such referrals may be made to the Division of Health Service Regulation, the Division of Social Services, the Division of Medical Assistance, the Department of Labor, the appropriate DMH/DD/SAS team or other appropriate agency.

Appeals/Recoupment

An appeal of an out-of-compliance finding does not negate the requirement for a POC. Should the appeal be decided in the favor of the Program Operator, the results will be noted in the master POC file and the Program Operator will be notified that the action is closed. Medicaid related decisions by the Division of Medical Assistance to uphold an out-of-compliance finding but not require recoupment of monies associated with this finding will not negate the need for a POC. A POC is due or deemed in effect until the Oversight Personnel provides written notice to the contrary.

Timetable for the Submission of the Plan of Correction

The POC is due to the location specified by the assigning Oversight Personnel no more than fifteen (15) calendar days from the date of receipt by or attempted delivery of the identified out-of-compliance finding document to the Program Operator. Receipt is defined as an employee of the Program Operator accepting delivery of the out-of-compliance finding document or verification from an outside source (such as UPS, Fed-Ex, USPS, etc.) that delivery was made.

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Attempted delivery is defined as verification from an outside source (such as UPS, Fed-Ex, USPS, etc.) that the out-of-compliance finding document delivery was attempted. Refusal of an Program Operator to accept the out-of compliance document does not alter the timetable. Submitting a POC to a location other than the one specified by the assigning Oversight Personnel is unacceptable and shall not be grounds for appeal.

Failure to Submit a Required Plan of Correction

Protocol for Plans of Correction originating with the DMH/DD/SAS:

The audit report, investigation report or letter identifying the need for a POC will serve as the initial request. Should a Program Operator fail to submit a POC within the specified timeframe, the Program Operator will be sent a final request letter and asked to submit the plan immediately. The final request letter will include the consequences of failure to submit a POC (pursuant to Rule 10A NCAC 26C .0502). The Program Operator will have ten (10) calendar days from receipt or attempted delivery to respond to the final request letter. If there is no response to the final request, within the specified timeframes, the matter will be submitted to the appropriate DMH/DD/SAS personnel for possible revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services pursuant to Rule 10A NCAC 26C .0504. The designated DMH/DD/SAS personnel will follow the *Protocol for Summary Suspension and Revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services*. If the Program Operator subject to revocation is endorsed, the designated DMH/DD/SAS personnel will notify the endorsing LME. The endorsing LME will immediately withdraw endorsements. Any and all appeals associated with a revocation will be made in accordance with North Carolina General Statutes and will supersede any appeal rights associated with endorsement withdrawal.

Protocol for Plans of Correction originating with the LME:

The Audit Report, Investigation Report or Letter identifying the need for a POC will serve as the initial request. Should a Program Operator fail to submit a POC within the specified timeframe, the Program Operator will be sent a final request letter and asked to submit the POC immediately. The final request letter will include the consequences of failure to submit a POC (pursuant to Rule 10A NCAC 26C .0502). The Program Operator will have ten (10) calendar days from receipt or attempted delivery to respond to the final request. If there is no response to the final request, within the specified timeframes, the matter will be submitted to the appropriate personnel for possible withdrawal of endorsement (for endorsed services) or revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services pursuant to Rule 10A NCAC 26C .0504 (for non-endorsed services). The designated personnel will follow the withdrawal section of the *POLICY AND PROCEDURES FOR ENDORSEMENT OF PROVIDERS OF Medicaid Reimbursable MH-DD-SA Services (10-01-07)*.

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Components of a Plan of Correction

A POC is a systematic method of eliminating or minimizing the reoccurrence of the out-of-compliance finding. At a minimum, the POC must include:

1. A reference to the finding of Out-Of-Compliance.
2. A description of how any corrections are to be made.
3. A timetable for the implementation and completion of the corrective action(s).
4. The responsible person(s) who will ensure that the Plan of Correction is followed.

Criteria for Review of the Plan of Correction

The Oversight Personnel reviews the POC against the following evaluative criteria:

1. Has the submitting party accurately stated the issue to be corrected?
2. Are the corrective action steps appropriate to address the issue to be corrected?
3. Are the corrective action steps realistic for the submitting party to accomplish?
4. Is the timetable realistic for the submitting party to accomplish?
5. Is the timetable compact enough to assure corrective action in a reasonable time?
6. Are the corrective action steps addressed in sufficient detail to indicate a thoughtful and well planned response to the issue(s) to be corrected?
7. If training is a component of the corrective action plan, is there sufficient detail present to indicate that the submitting party has undertaken the planning and implementation of the training? For instance, are dates for training, location of training, Providers of training established?
8. Is the POC of sufficient scope to ensure systemic root causes are identified and addressed?

Oversight Personnel Response to the Plan of Correction

The Oversight Personnel shall document receipt of the POC and send a letter to the Program Operator submitting the POC. The Oversight Personnel will assign the POC for review and provide a deadline for a decision on acceptance of the POC. The assigned reviewer will review the POC based on established criteria and make one of the following determinations:

1. Plan Approved - In this case, the POC reviewer has determined that the submitted plan is appropriate to the criteria for review.
2. Plan Not Approved - In this case, the POC reviewer has determined that the submitted plan does not substantially address the issues identified, and must be resubmitted in full. The POC reviewer returns the determination to the submitting party, along with a cover letter specifying the criteria by which the POC was determined to be unacceptable.

The Oversight Personnel shall mail a notification letter to the Program Operator submitting the POC within fifteen (15) calendar days of receipt of the POC by the Oversight Personnel. The notification letter will advise the Program Operator of the decision of the Oversight Personnel and the appropriate response expected from the Program Operator. The submitting party must resubmit the POC to the Oversight Personnel within ten (10) calendar days from the receipt of the notification letter.

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Protocol for Resubmitted Plans of Correction originating with the DMH/DD/SAS:

If the second submission is unacceptable, the matter will be submitted to the appropriate DMH/DD/SAS personnel for possible revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services pursuant to Rule 10A NCAC 26C .0504. The designated DMH/DD/SAS personnel will follow the *Protocol for Summary Suspension and Revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services*. If the Program Operator subject to revocation is endorsed, the designated DMH/DD/SAS personnel will notify the endorsing LME. The endorsing LME will immediately withdraw endorsements. Any and all appeals associated with a revocation will be made in accordance with North Carolina General Statutes and will supersede any appeal rights associated with endorsement withdrawal.

Protocol for Resubmitted Plans of Correction originating with the LME:

If the second submission is unacceptable, the matter will be submitted to the appropriate personnel for possible withdrawal of endorsement (for endorsed services) or revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services pursuant to Rule 10A NCAC 26C .0504 (for non-endorsed services). For endorsed services, the designated LME personnel will follow the withdrawal section of the *POLICY AND PROCEDURES FOR ENDORSEMENT OF PROVIDERS OF Medicaid Reimbursable MH-DD-SA Services (10-01-07)*. For non-endorsed services, the designated DMH/DD/SAS personnel will follow the *Protocol for Summary Suspension and Revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services*.

Follow-Up of Plans of Correction

No more than sixty (60) calendar days following the date the POC is approved, the assigned reviewer will follow-up to ensure the Program Operator has followed the approved POC and the items identified in the out-of-compliance finding are minimized or eliminated.

When the issue(s) addressed in the POC pertain(s) to items in the client record or personnel record, the complete record shall be presented for review. The reviewer may make an on-site visit or arrange with the Program Operator for the complete records to be brought to an agreed upon location. The reviewer will randomly select a sample of documentation to review which will verify that the items identified in the out-of-compliance finding are minimized or eliminated.

When the issue(s) addressed in the POC pertain(s) to items not contained in the client record or personnel record, the reviewer may, at his or her discretion, have documents mailed or faxed to the Oversight Personnel for review. The documents mailed or faxed should be of sufficient quantity and scope in order for the reviewer to render a decision as to whether the POC is being followed and the items identified in the out-of-compliance finding are minimized or eliminated.

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FIRST FOLLOW-UP:

If the reviewer makes the determination that the POC is being followed **and** the issue(s) identified in the out-of-compliance finding are minimized or eliminated, the reviewer will designate the action closed.

If the reviewer makes the determination that the Plan of Correction is not being followed or the issues are not minimized or eliminated, additional follow-up will be required. The Program Operator will be notified in writing of the need for additional follow-up, the reason for the additional follow-up and the possible consequences of a continued out-of-compliance finding (pursuant to Rule 10A NCAC 26C .0504).

FINAL FOLLOW-UP:

In approximately twenty (20) calendar days following receipt or attempted delivery of the "additional follow-up required" letter, the assigned reviewer will follow-up to ensure the Program Operator has followed the approved POC and the items identified in the out-of-compliance finding are minimized or eliminated. Due to the significant, and possibly, negative implications resulting from the final follow-up, the Oversight Personnel will make every effort to send at least two reviewers to the final follow-up.

If the reviewers make the determination that the Plan of Correction is being followed **AND** the issue identified in the out-of-compliance finding is minimized or eliminated, the reviewers will designate the action closed.

Issues Not Resolved - Protocol for Plans of Correction originating with the DMH/DD/SAS:

If the issues are still not resolved, the reviewers will submit the findings to the designated DMH/DD/SAS personnel. The designated DMH/DD/SAS personnel will follow the *Protocol for Summary Suspension and Revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services* and submit the documentation for revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services pursuant to Rule 10A NCAC 26C .0504. If the Program Operator subject to revocation is endorsed, the designated DMH/DD/SAS personnel will notify the endorsing LME. The endorsing LME will immediately withdraw endorsements. Any and all appeals associated with a revocation will be made in accordance with North Carolina General Statutes and will supersede any appeal rights associated with endorsement withdrawal.

Issues Not Resolved - Protocol for Plans of Correction originating with the LME:

If the issues are still not resolved, the matter will be submitted to the appropriate personnel for possible withdrawal of endorsement (for endorsed services) or revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services pursuant to Rule 10A NCAC 26C .0504 (for non-endorsed services). For endorsed services, the designated LME personnel will follow the withdrawal section of the *POLICY AND PROCEDURES FOR ENDORSEMENT OF PROVIDERS OF Medicaid Reimbursable MH-DD-SA Services* (10-01-07). For non-endorsed services, the designated DMH/DD/SAS personnel will follow the *Protocol for Summary Suspension and Revocation of authorization to receive*

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public funding for providing mental health, developmental disabilities and substance abuse services.

Correspondence

All correspondence originating from the Oversight Personnel shall be in writing and delivered through a traceable source (Certified Mail, Fed-Ex, UPS, etc) with the exception of the action closed notification which may be mailed USPS standard delivery.

Consequences of Inability or Unwillingness to Submit an Acceptable Plan of Correction

According to the POLICY AND PROCEDURES FOR ENDORSEMENT OF PROVIDERS OF Medicaid Reimbursable MH-DD-SA Services (10-01-07) and paragraph (6)(e) of Rule 10A NCAC 26C .0502, Definitions, substantial failure to comply can be demonstrated if the Program Operator has not submitted, revised or implemented a plan of correction in the specified timeframes. Should the process of negotiation between the Program Operator and Oversight Personnel not produce an acceptable POC, 10A NCAC 26C .0504 or POLICY AND PROCEDURES FOR ENDORSEMENT OF PROVIDERS OF Medicaid Reimbursable MH-DD-SA Services (10-01-07) may be invoked to initiate proceedings which may culminate in the eventual withdrawal of endorsement or revocation of the Program Operator's ability to provide publically funded mh/dd/sa services. Every effort should be made on the part of both the Program Operator and Oversight Personnel to agree on a suitable POC prior to this terminal action. In the event of withdrawal of endorsement or revocation, the action and reasons for the action will be reported to any accrediting, oversight or licensing bodies associated with the effected agency.