


**Thurston-Mason Behavioral Health Administrative Services Organization**  
**POLICY AND PROCEDURE MANUAL**

<b>TITLE:</b>	Grievance and Appeal System		
<b>SECTION:</b>	Grievance System	<b>POLICY:</b>	1001
<b>EFFECTIVE:</b>	1.1.2020	<b>REVISIONS:</b>	10.1.2022
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**I. PURPOSE**

- A. To describe Thurston-Mason Behavioral Health Administrative Services Organization (Thurston-Mason BH-ASO) Grievance System that includes Grievance Process, Appeal Process, and access to the Administrative Hearing Process for contracted services. Network Provider claim disputes initiated by the Network Provider are not subject to this section.

**DEFINITIONS**

**Action:** means the denial or limited authorization of a contracted service based on medical necessity (contract definition). WAC definition says Action means the denial or limited authorization of a service covered under Thurston-Mason BH-ASO contract based on medical necessity.

**Administrative Hearing:** means an adjudicative proceeding before an Administrative Law Judge or a Presiding Officer that is governed by RCW Chapter 34.05 or the Agency’s hearing rules found in WAC Chapter 182-526 and other applicable laws.

**Adverse Authorization Determination:** means the denial or limited authorization of a requested contracted service for reasons of medical necessity (Action) or any other reason such as lack of Available Resources.

**Appeal:** means a request for review of an Action.

**Appeal process:** means Thurston-Mason BH-ASO’s procedures for reviewing an Action.

**Available Resources:** means funds appropriated for the purpose of providing behavioral health programs. This includes federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated by the Legislature.

**Expedited Appeal Process:** allows an Individual, in certain circumstances, to file an appeal that will be reviewed by Thurston-Mason BH-ASO more quickly than a standard appeal.

**Grievance:** means an expression of dissatisfaction about any matter other than an Action. Possible subjects for grievances may include, but are not limited to, the quality of care or services provided, and aspects of interpersonal relationships such as rudeness of a Network Provider or employee, or failure to respect the Individual’s rights.

**Grievance and Appeal System:** means the overall system that includes Grievances and Appeals handled by Thurston-Mason BH-ASO and access to the Administrative Hearing system.

**Grievance Process:** means the procedure for addressing Individuals’ Grievances (42 C.F.R. § 438.400(b)).

**II. POLICY**

- A. Thurston-Mason BH-ASO will have a Grievance and Appeal System that includes a Grievance Process, an Appeal Process, and access to the Administrative Hearing process for contracted services (WAC 182-538C-110). Network Provider claim disputes initiated by the Network Provider are not subject to this section.
- B. Thurston-Mason BH-ASO is responsible for accepting, responding, and resolving non-Medicaid Grievances related to the scope of work Thurston-Mason BH-ASO is contracted for and responsible to perform.
- C. The Managed Care Organizations (MCO) retain and do not delegate to Thurston-Mason BH-ASO the responsibility for responding to and resolving Medicaid funded Grievances. Thurston-Mason BH-ASO will transfer and refer any Grievance, for Medicaid services, to the MCO with which the Individual is enrolled no later than the end of the next business day following the date of receipt irrespective of whether such Grievance is related to Thurston-Mason BH-ASO, a Thurston-Mason BH-ASO sub delegate, an MCO or a Network Provider. Documentation provided must include if the Grievance was received in writing or verbally, who received from, date received, and issue.
- D. After the MCO's initial review and upon the MCO's request, Thurston-Mason BH-ASO will provide all reasonable assistance to the MCO in its investigation and resolution of a Grievance that relates to a service provided by Thurston-Mason BH-ASO, a Thurston-Mason BH-ASO subcontractor, or relates to or involves information held by Thurston-Mason BH-ASO. The MCO will be responsible for providing the notice of the resolution of a Grievance to the affected member or network provider.
- E. Individuals may use the free and confidential advocacy (formerly known as Ombuds) services that are contracted through the Office of Behavioral Health Advocacy (OBHA). OBHA services are offered to Individuals at any time to help them with resolving issues or problems at the lowest possible level during the Grievance, Appeal, or Administrative Hearing processes.

### III. PROCEDURES

- A. General Grievance System Requirements
  - 1. Thurston-Mason BH-ASO will have policies and procedures addressing the Grievance and Appeal System, which comply with the requirements of the Thurston-Mason BH-ASO Contract. Health Care Authority (HCA) must approve, in writing, all Grievance and Appeal System policies and procedures and related notices to Individuals regarding the Grievance and Appeal System.
  - 2. Thurston-Mason BH-ASO will give Individuals any reasonable assistance necessary in completing forms and other procedural steps for Grievances and Appeals. Thurston-Mason BH-ASO shall assure that interpreter services are provided for Individuals with a preferred language other than English, for Individuals who are deaf or hearing impaired at no cost to the Individual, this includes translation/ interpreting services including American Sign Language (ASL) and TTY/TTD and/or Washington Relay Services all free of charge.
  - 3. Thurston-Mason BH-ASO shall ensure adequate staffing to perform the Grievances and Appeals processes.
  - 4. Thurston-Mason BH-ASO shall staff its call center with a sufficient number of trained customer service representatives to answer the phones. Staff shall be able to access information related to Grievances and Appeals. See Desktop Script for more information.
- B. Thurston-Mason BH-ASO will ensure there are clear descriptions of the Grievance and Appeals functions in their subcontracts including information regarding the Grievance and Appeal system for General Fund State/Federal Block Grant funded contracted services. See Thurston-Mason BH-ASO Provider Guide Section 2.10, Grievance and Appeal System.

- C. Thurston-Mason BH-ASO will acknowledge receipt of each Grievance, either verbally or in writing, within two (2) business days.
- D. Thurston-Mason BH-ASO will acknowledge in writing, the receipt of each Appeal. Thurston-Mason BH-ASO will provide the written notice to both the Individual and requesting Network Provider within three (3) calendar days receipt of the Appeal.
- E. Thurston-Mason BH-ASO will ensure that decision makers on Grievances and Appeals were not involved in previous levels of review or decision-making.
- F. Decisions regarding Grievances and Appeals shall be made by health care professionals with clinical expertise in treating the Individual's condition or disease if any of the following apply:
  - 1. If the Individual is appealing an Action.
  - 2. If the Grievance or Appeal involves any clinical issues.
- G. With respect to any decisions described in subsection F (1-2) (above), Thurston-Mason BH-ASO will ensure the health care professional making such decisions:
  - 1. Has clinical expertise in treating the Individual's condition or disease that is age appropriate (e.g., a board-certified Child and Adolescent Psychiatrist for a child).
  - 2. A physician board-certified or board-eligible in psychiatry or child or adolescent psychiatry if the Grievance or Appeal is related to inpatient level of care denials for psychiatric treatment.
  - 3. A physician board-certified or board-eligible in addiction medicine or a sub-specialty in addiction psychiatry if the Grievance or Appeal is related to inpatient level of care denials for substance use disorder (SUD) treatment.
  - 4. Are one or more of the following, as appropriate, if a clinical Grievance or Appeal is not related to inpatient level of care denials for psychiatric or SUD treatment:
    - a) Physicians board-certified or board-eligible in Psychiatry, Addiction Medicine or Addiction Psychiatry;
    - b) Licensed, doctoral level clinical psychologists; or
    - c) Pharmacists.

#### **IV. GRIEVANCE PROCESS**

- A. The following requirements and procedures are specific to Thurston-Mason BH-ASO Grievance Process:
  - 1. Only an Individual or the Individual's authorized representative may file a Grievance with Thurston-Mason BH-ASO. A Network Provider may not file a Grievance on behalf of an Individual unless the Network Provider is acting on behalf of the Individual and with the Individual's written consent.
    - a) Thurston-Mason BH-ASO will request the Individual's written consent should a Network Provider request an Appeal on behalf of an Individual without the Individual's written consent.
  - 2. Thurston-Mason BH-ASO will accept, document, record, and process Grievances forwarded by HCA.
  - 3. Thurston-Mason BH-ASO will provide a written response to HCA within three (3) business days to any constituent Grievance. For the purpose of this subsection, "constituent

Grievance" means a complaint or request for information from any elected official or Network Provider director or designee.

4. Thurston-Mason BH-ASO will assist the Individual with all Grievance and Appeal processes and provide information about the availability of OBHA services to assist the Individual.
5. Thurston-Mason BH-ASO will cooperate with any representative authorized in writing by the Individual.
6. Thurston-Mason BH-ASO will consider all information submitted by the Individual or representative.
7. Thurston-Mason BH-ASO will investigate and resolve all Grievances whether received verbally or in writing. Thurston-Mason BH-ASO will not require an Individual or his/her authorized representative to provide written follow up for a Grievance or Appeal Thurston-Mason BH-ASO received verbally.
8. Thurston-Mason BH-ASO will complete the disposition of a Grievance and notice to the affected parties as expeditiously as the Individual's health condition requires, but no later than forty-five (45) calendar days from receipt of the Grievance.
9. The notification may be made verbally or in writing for Grievances not involving clinical issues. Notices of disposition for clinical issues must be in writing.
10. Individuals do not have the right to an Administrative Hearing in regard to the disposition of a Grievance.

## V. APPEAL PROCESS

- A. An Individual, the Individual's authorized representative, or a Network Provider acting on behalf of the Individual and with the Individual's written consent, may Appeal a Contractor Action.
  1. If a Network Provider has requested an Appeal on behalf of an Individual, but without the Individual's written consent, Thurston-Mason BH-ASO will not dismiss the Appeal without first attempting to contact the Individual within five (5) calendar days of the Network Provider's request, informing the Individual that an Appeal has been made on the Individual's behalf, and then asking if the Individual would like to continue the Appeal.
  2. If the Individual wants to continue the Appeal, Thurston-Mason BH-ASO will obtain from the Individual a written consent for the Appeal. If the Individual does not wish to continue the Appeal, Thurston-Mason BH-ASO will formally dismiss the Appeal, in writing, with appropriate Individual Appeal rights and by delivering a copy of the dismissal to the Network Provider as well as the Individual.
  3. For expedited Appeals, Thurston-Mason BH-ASO may bypass the requirement for the Individual's written consent and obtain the Individual's verbal consent. The Individual's verbal consent shall be documented in Thurston-Mason BH-ASO's records.
- B. If HCA receives a request to Appeal an Action of Thurston-Mason BH-ASO, HCA will forward relevant information to Thurston-Mason BH-ASO and Thurston-Mason BH-ASO will contact the Individual with information that a Network Provider filed an Appeal.
- C. For Appeals of standard service authorization decisions, an Individual, or a Network Provider acting on behalf of the Individual, must file an Appeal, either verbally or in writing, within sixty (60) calendar days of the date on Thurston-Mason BH-ASO's Notice of Action. This also applies to an Individual's request for an expedited Appeal.
- D. The Appeal process shall provide the Individual a reasonable opportunity to present evidence, and allegations of fact or law in writing. Thurston-Mason BH-ASO will inform the Individual of the limited time available for this in the case of expedited resolution.
- E. The Appeal process shall provide the Individual and the Individual's representative opportunity,

before and during the Appeals process, to examine the Individual's case file, including medical records, and any other documents and records considered during the Appeal process.

- F. The Appeal process shall include as parties to the Appeal, the Individual and the Individual's representative, or the legal representative of the deceased Individual's estate.
- G. In any Appeal of an Action by a Network Provider, Thurston-Mason BH-ASO or its Network Provider shall apply Thurston-Mason BH-ASO's own standards, protocols, or other criteria that pertain to authorizing specific services.
- H. Thurston-Mason BH-ASO will resolve each Appeal and provide notice, as expeditiously as the Individual's health condition requires, within the following timeframes:
  - 1. For standard resolution of Appeals and for Appeals for termination, suspension or reduction of previously authorized services a decision must be made within fourteen (14) calendar days after receipt of the Appeal, unless Thurston-Mason BH-ASO notifies the Individual that an extension is necessary to complete the Appeal; however, the extension cannot delay the decision beyond twenty-eight (28) calendar days of the request for Appeal.
  - 2. For any extension not requested by an Individual, Thurston-Mason BH-ASO must give the Individual written notice of the reason for the delay.
  - 3. For expedited resolution of Appeals or Appeals of behavioral health drug authorization decisions, including notice to the affected parties, no longer than three (3) calendar days after Thurston-Mason BH-ASO receives the Appeal.
- I. Thurston-Mason BH-ASO will provide notice of resolution of the Appeal in a language and format which is easily understood by the Individual. The notice of the resolution of the Appeal shall:
  - 1. Be in writing and sent to the Individual and the requesting Network Provider. For notice of an expedited resolution, Thurston-Mason BH-ASO will also make reasonable efforts to provide verbal notice.
  - 2. Include the date completed and reasons for the determination.
  - 3. Include a written statement of the reasons for the decision, including how the requesting Network Provider or Individual may obtain the review or decision-making criteria.
  - 4. For Appeals not resolved wholly in favor of the Individual:
    - a) Include information on the Individual's right to request an Administrative Hearing and how to do so.

## **VI. EXPEDITED APPEALS PROCESS**

- A. Thurston-Mason BH-ASO will establish and maintain an expedited Appeal review process for Appeals when Thurston-Mason BH-ASO determines or a Network Provider indicates that taking the time for a standard resolution could seriously jeopardize the Individual's life or health or ability to attain, maintain, or regain maximum function.
- B. The Individual may submit an expedited Appeal either verbally or in writing.
- C. Thurston-Mason BH-ASO will make a decision on the Individual's request for expedited Appeal and provide written notice, as expeditiously as the Individual's health condition requires, no later than three (3) calendar days after Thurston-Mason BH-ASO receives the Appeal. Thurston-Mason BH-ASO will also make reasonable efforts to provide verbal notice.
- D. Thurston-Mason BH-ASO may extend the timeframes by up to fourteen (14) calendar days if the Individual requests the extension; or Thurston-Mason BH-ASO shows there is a need for additional

information and how the delay is in the Individual's interest.

- E. For any extension not requested by an Individual, Thurston-Mason BH-ASO must give the Individual written notice of the reason for the extension within two (2) calendar days.
- F. Thurston-Mason BH-ASO will ensure that punitive Action is not taken against a Network Provider who requests an expedited resolution or supports an Individual's Appeal.
- G. If Thurston-Mason BH-ASO denies a request for expedited resolution of an Appeal, it shall transfer the Appeal to the timeframe for standard resolution and make reasonable efforts to give the Individual prompt verbal notice of the denial and follow up within two (2) calendar days with a written notice of denial.

## **VII. ADMINISTRATIVE HEARING**

- A. Only the Individual or the Individual's authorized representative may request an Administrative Hearing. A Network Provider may not request an Administrative Hearing on behalf of an Individual.
- B. If an Individual does not agree with Thurston-Mason BH-ASO's resolution of an Appeal, the Individual may file a request for an Administrative Hearing within one hundred and twenty (120) calendar days of the date of notice of the resolution of the Appeal. Thurston-Mason BH-ASO will not be obligated to continue services pending the results of the Administrative Hearing.
- C. If the Individual requests an Administrative Hearing, Thurston-Mason BH-ASO will provide to HCA and the Individual, upon request, and within three (3) business days, all contractor-held documentation related to the Appeal, including, but not limited to: transcript(s), records, or written decision(s) from participating Network Providers or delegated entities.
- D. Thurston-Mason BH-ASO is an independent party and is responsible for its own representation in any Administrative Hearing, Board of Appeals, and subsequent judicial proceedings.
- E. Thurston-Mason BH-ASO's Behavioral Health Medical Director or designee shall review all cases where an Administrative Hearing is requested and any related Appeals.
- F. The Individual must exhaust all levels of resolution and Appeal within Thurston-Mason BH-ASO's Grievance and Appeal System prior to filing a request for an Administrative Hearing with HCA.
- G. Thurston-Mason BH-ASO will be bound by the final order, whether or not the final order upholds Thurston-Mason BH-ASO's decision.
- H. If the final order is not within the purview of this contract, then HCA will be responsible for the implementation of the final order.
- I. The Administrative Hearing process shall include as parties to the Administrative Hearing, Thurston-Mason BH-ASO, the Individual and the Individual's representative, or the legal representative of the deceased Individual's estate and HCA.

## **VIII. PETITION FOR REVIEW**

- A. Any party may Appeal the initial order from the Administrative Hearing to HCA Board of Appeals in accordance with WAC Chapter 182-526. Notice of this right shall be included in the Initial Order from the Administrative Hearing.

## **IX. EFFECT OF REVERSED RESOLUTIONS OF APPEALS AND ADMINISTRATIVE HEARINGS**

- A. If Thurston-Mason BH-ASO's decision not to provide contracted services is reversed, either through a final order of the Washington State Office of Administrative Hearings or the HCA Board of Appeals, Thurston-Mason BH-ASO will provide the disputed services promptly, and as expeditiously as the Individual's health condition requires.

**X. RECORDING AND REPORTING GRIEVANCES, ADVERSE AUTHORIZATION DETERMINATIONS, APPEALS, AND ADMINISTRATIVE HEARINGS**

- A. Thurston-Mason BH-ASO will maintain records of all Grievances, Adverse Authorization Determinations including Actions, Appeals, and Administrative Hearings, for a period of no less than 10 years after the completion of the Grievance process.
- B. The records shall include Grievances, Adverse Authorization Determinations including Actions, Appeals, and Administrative Hearings handled by delegated entities, and all documents generated or obtained by Thurston-Mason BH-ASO in the course of these activities.
- C. Thurston-Mason BH-ASO will provide separate reports HCA, quarterly using the Grievance, Adverse Authorization Determination, Appeals, and Administrative Hearings reporting template due the 15<sup>th</sup> of the month following the quarter.
- D. Thurston-Mason BH-ASO is responsible for maintenance of records for, and reporting of these activities handled by delegated entities.
  - 1. Reports that do not meet the Grievance and Appeal System reporting requirements shall be returned to Thurston-Mason BH-ASO for correction. Corrected reports will be resubmitted to HCA within thirty (30) calendar days.
  - 2. The report medium shall be specified by HCA.
  - 3. Reporting of Grievances shall include all expressions of Individual dissatisfaction not related to an action. All Grievances are to be recorded and counted whether the Grievance is remedied by Thurston-Mason BH-ASO immediately or through its Grievance and quality of care service procedures.

**X. GRIEVANCE AND APPEAL SYSTEM TERMINATIONS**

- A. When Available Resources are exhausted, any Appeals or Administrative Hearings related to a request for authorization of a non-Crisis contracted service will be terminated since non-Crisis services cannot be authorized without funding regardless of medical necessity.

**ATTACHMENTS**

Desktop Script