



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Health Care Authority, Washington Apple Health

Permanent Rule Only

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose:

The agency is revising this section to include standard resolution of appeals for noncrisis services provided by the Behavioral Health–Administrative Services Organization (BH-ASO) and to more fully describe the timing for both expedited and standard resolution notices.

Citation of existing rules affected by this order:

Repealed:
 Amended: 182-538C-110
 Suspended:

Statutory authority for adoption: RCW 41.05.021, 41.05.160

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 16-12-090 on May 31, 2016
 Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

Date adopted: July 13, 2016

NAME (TYPE OR PRINT)
 Wendy Barcus

SIGNATURE

TITLE
 HCA Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
 STATE OF WASHINGTON
 FILED

DATE: July 13, 2016

TIME: 9:08 AM

WSR 16-15-030

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>1</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	<u>1</u>	Repealed	_____

WAC 182-538C-110 Grievance system for behavioral health administrative services organizations (BH-ASOs). (1) This section applies to the behavioral health administrative service organization (BH-ASO) grievance system for ~~((individuals))~~ people within fully integrated managed care (FIMC) regional service areas.

(a) The BH-ASO must have a grievance system to allow ~~((an individual))~~ a person to file a grievance and ~~((seek))~~ request a review of a BH-ASO action as defined in this chapter.

(b) The agency's hearing rules in chapter 182-526 WAC apply to administrative hearings requested by ~~((an individual))~~ a person to review the resolution of an appeal of a BH-ASO action.

(c) If a conflict exists between the requirements of this chapter and other rules, the requirements of this chapter take precedence.

(d) The BH-ASO must maintain records of grievances and appeals.

(e) The BH-ASO is not obligated to continue services pending the results of an appeal or subsequent administrative hearing.

(2) The BH-ASO grievance system. The BH-ASO grievance system includes:

(a) A process for addressing ~~((a))~~ complaints about any matter that is not an action, which is called a grievance;

(b) An appeals process to address ~~((an individual's))~~ a person's request for a review of a BH-ASO action as defined in this chapter; and

(c) Access to the agency's administrative hearing process for ~~((an individual to seek))~~ a person to request a review of a BH-ASO's resolution of an appeal.

(3) The BH-ASO grievance process.

(a) ~~((An individual or an individual's))~~ A person or a person's authorized representative may file a ~~((complaint))~~ grievance with a BH-ASO. A provider may not file a ~~((complaint))~~ grievance on behalf of ~~((an individual))~~ a person without the written consent of the person or the person's authorized representative.

(b) There is no right to an agency administrative hearing ~~((in regards to the disposition of a complaint))~~ regarding the BH-ASO's decision on a grievance, since a grievance is not an action.

(c) The BH-ASO must notify ~~((individuals))~~ a person of the ~~((disposition of))~~ decision regarding the person's grievance~~((s))~~ within five business days of ~~((determination))~~ the decision.

(4) The BH-ASO appeals process.

(a) ~~((An individual, the individual's))~~ Parties to the appeal include:

(i) The person and the person's authorized or legal representative; or

(ii) The authorized representative of the deceased person's estate.

(b) A person, the person's authorized representative, or the provider acting with the ~~((individual's))~~ person's written consent may appeal a BH-ASO action.

~~((b))~~ (c) A BH-ASO must treat oral inquiries about appealing an action as an appeal in order to establish the earliest possible filing date for the appeal. ~~((The))~~

(d) The BH-ASO must confirm any oral appeal ~~((must be confirmed))~~ in writing ~~((by the BH-ASO.~~

~~(e)) to the person or provider acting on behalf of the person.~~

(e) The person or provider acting on behalf of the person must file an appeal, either orally or in writing, within ninety calendar days of the date on the BH-ASO's notice of action.

(f) The BH-ASO must acknowledge receipt of each appeal to both the ((individual)) person and the provider requesting the service within three calendar days of receipt. The appeal acknowledgment letter sent by the BH-ASO serves as written confirmation of an appeal filed orally by ((an individual)) a person.

~~((d) An appeal of a BH ASO action must be filed within ninety calendar days of the date of the notice of action.~~

~~(e) The BH ASO will not be obligated to continue services pending the results of an appeal or subsequent administrative hearing.~~

(f)) (g) If the person requests an expedited appeal for a crisis-related service, the BH-ASO must make a decision on whether to grant the person's request for expedited appeal and provide written notice as expeditiously as the person's health condition requires, within three calendar days after the BH-ASO receives the appeal. The BH-ASO must make reasonable efforts to provide oral notice.

(h) The BH-ASO appeals process:

(i) Provides the ((individual)) person a reasonable opportunity to present evidence and allegations of fact or law(, both in person and) in writing(,)).

(ii) Provides the ((individual)) person and the ((individual's)) person's authorized representative opportunity before and during the appeals process to examine the ((individual's)) person's case file, including medical records and any other documents and records considered during the appeals process(, and

~~(iii) Includes as parties to the appeal:~~

~~(A) The individual;~~

~~(B) The individual's legal representative; or~~

~~(C) The authorized representative of the deceased individual's estate.~~

~~(g))).~~

(iii) If the person requests an expedited appeal, the BH-ASO must inform the person that it may result in the person having limited time to review records and prepare for the appeal.

(i) The BH-ASO ensures the ((individuals)) staff making decisions on appeals:

(i) Were not involved in any previous level of review or decision making; and

(ii) Are health care professionals with appropriate clinical expertise in treating the ((individual's)) person's condition or disease if deciding any of the following:

(A) An appeal of an action; or

(B) ((A grievance or)) An appeal that involves any clinical issues.

~~((h)) (j) Time frames for standard resolution of appeals.~~

~~(i) ((A BH ASO resolves each appeal and provides notice as expeditiously as the individual's health condition requires and no longer than three calendar days after the BH ASO receives the appeal.~~

~~(ii) The BH ASO may extend the time frame by fourteen additional calendar days if:~~

~~(A) The individual requests the extension; or~~

~~(B) The BH ASO determines additional information is needed and the delay is in the interests of the individual.~~

(i)) For appeals involving termination, suspension, or reduction of previously authorized noncrisis services, the BH-ASO must make a decision within fourteen calendar days after receipt of the appeal.

(ii) If the BH-ASO cannot resolve an appeal within fourteen calendar days, the BH-ASO must notify the person that an extension is necessary to complete the appeal.

(k) Time frames for expedited appeals for crisis-related services or behavioral health prescription drug authorization decisions.

(i) The BH-ASO must resolve the expedited appeal and provide notice of the decision no later than three calendar days after the BH-ASO receives the appeal.

(ii) The BH-ASO may extend the time frame by fourteen additional calendar days if:

(A) The person requests the extension; or

(B) The BH-ASO determines additional information is needed and the delay is in the interests of the person.

(iii) If the BH-ASO denies a request for expedited resolution of a noncrisis related service appeal, it must:

(A) Process the appeal based on the time frame for standard resolution;

(B) Make reasonable efforts to give the person prompt oral notice of the denial; and

(C) Follow-up within two calendar days of the oral notice with a written notice of denial.

(l) Extension of a standard resolution or expedited appeal not requested by the person.

(i) The BH-ASO must notify the person in writing of the reason for the delay, if not requested by that person.

(ii) The extension cannot delay the decision beyond twenty-eight calendar days of the request for appeal, without the informed written consent of the person.

(iii) The appeal determination must not exceed forty-five calendar days from the day the BH-ASO receives the appeal.

(m) Notice of resolution of appeal. The notice of the resolution of the appeal must:

(i) Be in writing and be sent to the ((individual)) person and the provider requesting the services;

(ii) Include the results of the resolution process and the date it was completed; and

(iii) Include notice of the right to request an agency administrative hearing and how to do so as provided in the agency hearing rules in chapter 182-526 WAC, if the appeal is not resolved wholly in favor of the ((individual)) person.

(5) Agency administrative hearings.

(a) Only ((an individual or an individual's)) a person or a person's authorized representative may request an agency administrative hearing. A provider may not request a hearing on behalf of ((an individual)) a person.

(b) If ((an individual)) a person does not agree with the BH-ASO's resolution of an appeal, the ((individual)) person may file a request for an agency administrative hearing based on this section and the agency hearing rules in chapter 182-526 WAC.

(c) The BH-ASO is an independent party and responsible for its own representation in any agency administrative hearing, appeal to the board of appeals, and any subsequent judicial proceedings.

(d) (~~An individual~~) A person must exhaust the appeals process within the BH-ASO's grievance system before requesting an administrative hearing with the agency.

(6) Effect of reversed resolutions of appeals. If the BH-ASO's decision not to provide services is reversed on appeal by the BH-ASO (~~on appeal~~) or through a final order from the agency administrative hearing process, the BH-ASO must authorize or provide the disputed services promptly and as expeditiously as the (~~individual's~~) person's health condition requires.

(7) Grievance system termination. When available resources are exhausted, any appeals or administrative hearing process related to a request for authorization of a noncrisis service will be terminated, since noncrisis services cannot be authorized without funding, regardless of medical necessity.