



July 30, 2009

TO: Stephen W. Mayberg, PhD, Director, Department of Mental Health
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Accountability Commission

FROM: Patricia Ryan, MPA, Executive Director
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**SUBJECT: Comments on the DMH-Proposed Mental Health Services Act (MHSA) Local and
State Issue Resolution Process**

On May 26, 2009 the California Mental Health Directors Association (CMHDA) requested that the state Department of Mental Health (DMH) comment period for its proposed MHSA Issue Resolution Process be extended until July 31, 2009. That request was granted, which has allowed us time to consider key issues and develop CMHDA's recommendations related to the MHSA issue resolution process at the local and state levels.

CMHDA fully recognizes that this issue is of great interest to many stakeholders, as expressed in public comment venues at both the California Mental Health Planning Council (CMHPC) and the Mental Health Oversight and Accountability Commission (MHSOAC).

It was our initial intention to develop principles for an MHSA-specific Issue Resolution Process at both the state and local levels. However, after further analyzing the complex maze of already-existing laws and regulations regarding issue resolution and grievance processes, it became apparent that in doing so, CMHDA would be reinforcing further bifurcation of the MHSA within the community mental health system. In short, we were on track to recommend yet another layer of administrative processes to our current community mental health system, rather than focusing on addressing the real problems identified by various stakeholders.

One difficult lesson we have learned from MHSA implementation thus far is that we have overcomplicated and prescribed its principles, rather than facilitating the change probable if the principles embedded in the Act were allowed to be assimilated into the mechanics of the community mental health system. CMHDA supports policies that will shift us away from this practice. As a result, we believe adoption of a general set of principles for **all** issue/grievance/complaint resolution processes is the most appropriate solution.

CMHDA has begun significant dialogue with its Social Justice Advisory Committee members and their staff, local stakeholders, the CMHPC, the California Association of Local Mental Health Boards and Commissions (CALMHBC), the MHSOAC and other interested parties on long term strategies that will shift the focus to improving the quality of the MHSA community planning process and ongoing implementation. As a result of that process (described below), we have also identified a list of additional issues we intend to further explore with interested parties through a continuous quality improvement framework.



Process:

To accomplish the specific task of developing recommendations to DMH, CMHDA created an ad hoc work group consisting of individuals who could provide various perspectives and expertise on issue resolution and grievance processes. These individuals represented viewpoints from CMHDA's Medi-Cal Policy/Quality Improvement Committee, the SJAC, and seasoned MHSAs familiar with the MHSAs community planning process. Attempts were made to ensure that participants came from counties across the state, large, medium and small.

Our final recommendations were adopted by the Governing Board, and reflect input from the ad hoc work group members. Individual work group members and/or organizations represented on the SJAC may have additional or different recommendations for DMH's consideration. The SJAC provides recommendations, viewpoints and perspectives that may ultimately not be fully agreed to or adopted by CMHDA. However, CMHDA members highly value and respect the various positions and perspectives brought forth by SJAC members, and believe that their input can only enhance our ultimate product and recommendations. We also recognize that individual work group members and/or organizations represented on the SJAC may have additional or different recommendations for DMH's consideration.

Recommended General Principles for All Issue/Grievance/Complaint Resolution Processes

The California Mental Health Directors Association (CMHDA) supports issue/grievance/complaint resolution processes across the community mental health system that reflect consistent general principles. Regardless of the issue, grievance or complaint, county mental health directors accept the responsibility for ensuring and facilitating open communication with the individuals, families, providers, and community members who interact with the public community mental health system. **To support overall efficiency, timely resolution and the unique limitations of small counties, efforts should be made to simplify and streamline resolution processes.**

The Mental Health Services Act (MHSAs) provides significant opportunities for counties to re-engineer the delivery of public community mental health services and supports. Policies and procedures should not intentionally isolate MHSAs-funded efforts from the rest of the public community mental health system. Rather, CMHDA supports that:

- **MHSAs-related issues/grievances/complaints shall be addressed, to the extent possible, through procedures already established by the county involved. The ability to streamline processes to avoid duplication and redundancy is critical for all counties.**
- **To the extent that MHSAs-related issues cannot be handled through previously established channels, every effort should be made to resolve complaints at the lowest level possible.**

Resolution processes should include:

- ❖ publicly available written policies and procedures;
- ❖ public notification/posting of the process;
- ❖ designated personnel responsible for ensuring appropriate handling of complaints;
- ❖ established timeframes for processing complaints;
- ❖ notification of resolution to the complainants; and



- ❖ an established appeals process, including referral when appropriate to state appeals processes.

In addition, county mental health directors should seek to apply the following general principles to any issue/grievance/complaint resolution process:

1. Issue/grievance/complaint resolution processes shall include strong protections against retaliation, with the aim of building trust so that issues can be resolved at the lowest level possible. While all counties must comply with current legal protections against retaliation, such as outlined in Welfare and Institutions Code Section 5550, county mental health directors can provide leadership by maintaining an open door policy to hearing concerns from the community.
2. Consistent with the Americans with Disabilities Act (ADA), the issue/grievance/complaint resolution processes shall ensure that everyone has the right to file a grievance and have a choice in how to file that grievance. The county/state shall provide assistance in filing an issue/grievance/complaint, and provide more than one choice or method of how to submit their issue/grievance/complaint within a department. Steps should be taken to ensure that clients, family members and other community stakeholders have been educated and understand available issue/grievance/complaint resolution processes.
3. Issue/grievance/complaint resolution processes shall be available in a culturally competent manner, which would, at minimum, provide instructions on the process in all applicable threshold languages.
4. Issue/grievance/complaint resolution processes shall confirm receipt of the issue/grievance/complaint with the client/family member/provider/community member, include a restatement of what the reviewer understands is the problem, and an assurance that the issue will be investigated and resolved within a time period appropriate for the issue raised.
5. Issue/grievance/complaint resolution processes shall notify the client/family member/provider/community member of the resolution in writing, and provide information regarding any local and state appeals processes.
6. Issue/grievance/complaint resolution processes shall report trends that include consumer demographics (such as culture and language) on issues filed, as well as information on how they were resolved, as part of their quality improvement plan.
7. If it is applicable for a body to review and respond to an issue/grievance/complaint, efforts should be made to ensure that such a body includes appropriate representation from clients, family members, parents/caregivers and members of local ethnic and cultural communities. Ideally, such representatives would be able to broadly communicate with the constituents they represent.



Additional Issues to Explore to Improve Issue/Grievance/Complaint Resolution Processes July 20, 2009

County mental health directors have a commitment to improving the quality of the public community mental health system. Demonstrating that commitment, CMHDA acknowledges that the following issues should be further explored as potential long-term strategies that support the continuous quality improvement of the public community mental health system:

1. Explore strategies that could support more culturally competent MHSA Issue Resolution Processes. How can the state and counties acting jointly share resources (like translation and exchanging best practices) in a way that is efficient and effective?
2. Explore strategies that can effectively address concerns raised about fear of retaliation if issues/grievances/complaints are brought forward.
 - a. Mediation strategies that are feasible. Some advocates feel that mediation should be from an independent 3rd party not selected by the county or state DMH. What are some models to investigate?
 - b. Use of local Mental Health Boards and Commissions to review and/or provide opportunities for appropriate resolution, including mediation, on issues filed.
 - c. Use of advocacy organizations to act as independent bodies on behalf of the issue filer or to assist in fact finding, as long as all confidentiality requirements are met.
3. Explore the use of a statewide toll-free number that can provide basic instructions on how issues/complaints can be filed, including referrals to local processes. For example, what are strategies used by other state-level entities, such as the Office of Patient Advocate, that hear complaints about managed healthcare plans? Strategies should be cost-effective and provided in all threshold language.
4. Investigate additional ways in which issue/grievance/complaint resolution process information can be provided in an efficient manner, such as: during the general intake process, or distributed at community planning meetings and mental health board meetings if resources are available to do so. Identify and share local best practices among counties that are efficient and effective.
Exchange suggestions that are appropriate for small, medium and large counties.
5. Identify and share best practices across counties. **Processes should be streamlined to support not only the unique limitations of small counties, but overall efficiency in achieving resolution.**
6. Discuss with the California Mental Health Planning Council, California Association of Local Mental Health Boards and Commissions and the Mental Health Services Oversight and Accountability Commission's (MHSOAC) Client and Family Leadership and Cultural and Linguistic Competency Committees ways in which they can help support continuous quality improvement through analysis and/or review of trends, etc.
7. Explore the future necessity, feasibility or/and practicality of minimum standards for issues/grievances/ complaints related to the MHSA community planning process.