

Issue Resolution from Patrick Henning
(sent via email to Pete Best 8-19-09)

July ____, 2009

TO: Stephen W. Mayberg, PhD, Director, The California Department of
Mental Health

Ann Arneill-Py, Executive Officer, The California Mental Health Planning
Council

Beverly Whitcomb, Acting Executive Director, The Mental Health
Services Oversight and Accountability Commission

FROM: Patricia Ryan, MPA, Executive Director

**SUBJECT: Comments on the Mental Health Services Act (MHSA) Local and
State Issue Resolution Process**

On May 26, 2009 the California Mental Health Directors Association (CMHDA) requested to the State Department of Mental Health (DMH) that the comment period for the *Proposed* DMH MHSA Issues Resolution Process be extended until July 31, 2009. We appreciate the extended comment period which has allowed us time to consider key issues and to develop CMHDA's recommendations related to the MHSA issue resolution process at the local and state level.

CMHDA recognizes that this subject matter is of great interest to 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). The *Proposed* DMH MHSA Issue Resolution Process has begun a critical dialogue that warrants much more discussion and exploration as part of the continuous quality improvement process of the public community mental health system. In doing research on the subject matter, a complex web of current regulations, practices and policies related to issue, grievance and complaint resolution processes surfaced highlighting the need to get back to general principles.

While it was our initial intention to develop principles for an MHSA-specific Issue Resolution Process at both the state and local level, it became apparent that in doing so, CMHDA was 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 rather than focusing on addressing the problem.

One lesson we have learned from MHSA implementation is that we have overcomplicated and prescribed its principles rather than facilitate the change probable if such principles were allowed to seep into the mechanics of the community mental health system. Today CMHDA supports policies that shift away from this practice. As a result, what we believe could be useful at this time from the perspective of County Mental Health Directors is a general set of general principles for **ALL** issue/grievance/complaint resolution processes.

CMHDA is poised and eager to work with our Social Justice Advisory Committee, County Mental Health Directors, staff and local stakeholders, the California Mental Health Planning Council (CMHPC), the California Association of Local Mental Health Boards and Commissions (CALMHBC), the Mental Health Services Oversight and Accountability Commission (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 on-going implementation. To begin that exploration, CMHDA has included a list of additional issues we are interested in further exploring with interested parties through a continuous quality improvement framework.

Process:

To accomplish the specific task of developing recommendations, CMHDA created an ad-hoc workgroup 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 Social Justice Advisory Committee and seasoned MHSA coordinators familiar with the MHSA community planning process. Attempts were made to ensure that participating individuals came from counties across the state, large and small. Given the short-time frame to develop recommendations to the CMHDA Governing Board for consideration, the ad-hoc workgroup has made swift progress.

The final recommendations were adopted by the Governing Board and reflect input from the ad-hoc workgroup but not consensus. Individual ad-hoc committee members and/or

organizations represented on the Social Justice Advisory Committee may have additional or different recommendations for DMH's consideration. The Social Justice Advisory Committee provides recommendations, viewpoints and perspectives that may not be fully agreed to or adopted by CMHDA. Despite this, having different positions and perspectives are welcomed and respected. CMHDA encourages DMH to carefully weigh all recommendations.

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

The California Mental Health Directors Association (CMHDA) supports that issue/grievance/complaint resolution processes reflect consistent general principles. Regardless of the issue, grievance or complaint, County Mental Health Directors accept the responsibility to enhance open communication with the individuals, families, providers, and community members that interact with the public community mental health system. By actively listening to the community, County Mental Health Directors gain perspectives that improve their leadership in making public mental health services and supports more adaptable to meet local needs – even in the most challenging of fiscal times.

The Mental Health Services Act (MHSA) provides opportunities to significantly reengineer the delivery of public community mental health services and supports. Policies and procedures should not intentionally isolate MHSA funded efforts from the rest of the public community mental health system.

Rather, CMHDA supports that:

- **MHSA-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 MHSA-related issues cannot be handled through previously established channels, every effort should be made to resolve complaints at the lowest level possible.**

A resolution procedure should be instituted which includes:

- ❖ 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 and reference to state appeal processes

In addition, County Mental Health Directors should seek to apply the following general principles for any issue/grievance/compliant resolution process.

1. Issue/grievance/compliant 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 shall 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/compliant resolution processes.
3. Issue/grievance/compliant 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, and include a restatement of what the reviewer understands is the problem, and an assurance that the issue will be investigated and a resolution within a time period appropriate for the issue raised.

5. Issue/grievance/compliant resolution processes shall notify the client/family member/provider/community member of the resolution in writing and provide information regarding local and state appeal processes.

6. Issue/grievance/complaint resolution processes shall report trends which include consumer demographics such as culture and language, on issues filed and their resolutions as part of their quality improvement plan and to support the overall improvement of the public community mental health system.

Issues to Explore to Improve Issue/Grievance/Complaint Resolution Processes

July 20, 2009

County Mental Health Directors have a commitment and responsibility to improve 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/or complaints are brought forward.
 - a. Mediation, not arbitration, 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. 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 provide 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, 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 larger 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) Consumer and Family Leadership Committee and Cultural and Linguistic Competency Committee ways in which they can help support continuous quality improvement through analysis and/or review trends, etc.
7. Explore the future necessity, feasibility or/and practicality of minimum standards for issues/grievances/or complaints related to the MHSA community planning process.

July 31, 2009

Stephen W. Mayberg, Ph.D.

Director

California State Department of Mental Health

1600 – 9th Street, Room 151

Sacramento, CA 95814

Re: MHSAs Issue Resolution Process

Dear Dr. Mayberg,

The Community Partners would again like to thank you and the State Department of Mental Health (DMH) for extending the deadline for public comment on the MHSAs Issue Resolution Process. We realize that at this time, DMH is addressing the Issue Resolution Process within the framework of the requirements of the MHSAs statute and the need to develop regulations around process for MHSAs grievance issues at the state level.

We are asking that, beyond this limited purview, DMH work with all other MHSAs Partners to include in their currently developing procedure the multiple statewide issues described below. The goal would be to define consistent issue resolution procedures throughout the entire mental health system, beginning at the local level and continuing in a seamless process to the state level when necessary.

The Community Partners have identified the issues that are most important to us as a group and submit them here. Minimum standards need to be established for local issue resolution processes. DMH or the OAC could facilitate the creation of these standards in collaboration with community stakeholders. These minimum standards would ensure that regardless of the county in which a complaint took place, there would be a uniform process that was simple, easily understood,

Stephen W. Mayberg

July 31, 2009

Page 2

and user-friendly, which protected consumers, family members, and individuals from underserved communities.

1. Consumers, family members, and/or anyone making a complaint should not be required to exhaust a local process before bringing the issue to the state level. Currently, there is not enough trust in the local or county processes, and many counties do not have a well-developed or well-publicized issue resolution process in place. We recommend a compromise of a 1 year exception that allows consumers, family members, or providers to bring MHSA issues directly to the state without having to exhaust the local process; to be revisited and evaluated yearly to determine the continued need for the exception. This would give counties time to develop their formal process with adequate community input.
2. Adequate protections against retaliation must be in place for people making a complaint. There continues to be an unacceptable level of fear among consumers, family members, providers, and potential providers that prevents them from speaking freely about concerns they have, including matters about individuals, treatment, processes, policies, etc.
3. Feedback loops to the individuals or organizations filing the grievance should be in place at every point in the process. Upon receiving a complaint, DMH should not just speak to the county staff and make a determination without the opportunity for additional communication by the complainant for rebuttal or additional fact-finding.
4. A toll free number should be established and publicized statewide for individuals to access information about how to proceed for any/all types of grievances – service, stakeholder processes, policy, etc. This

number should be prominently displayed in services areas and be part of intake orientation packets.

5. Timelines should be established, publicized, and adhered to by public parties at all levels and for every point in the process.
6. All information regarding the MHSA Issue Resolution Process should to be available in threshold languages at both the state and county levels.

We appreciate your efforts to develop an effective MHSA issue resolution process at the state level. We look forward to working with you forwarding the future to ensure that the best principles of an effective issue resolution process are integrated throughout the mental health system. We await your response to this invitation.

Stephen W. Mayberg

July 31, 2009

Page 3

Sincerely,

For The Community Partners

Rusty Selix, Mental Health Association in California

Harriet Markell, California Coalition of Community Mental Health Agencies

Kathy Trevino, California Network of Mental Health Clients

Dede Ranahan, NAMI California

Diane Shively, United Advocates for Children and Families

Leticia Alejandrez, California Family Resource Association

Beatrice Lee, Racial and Ethnic Mental Health Disparities Coalition

cc: Sophie Cabrera, California Department of Mental Health

John Lessley, California Department of Mental Health

Andrew Poat, Mental Health Services Oversight and Accountability Commission

Beverly Whitcomb, Mental Health Services Oversight and Accountability Commission

Pat Ryan, California Mental Health Directors Association

Ann Arneill-Py, California Mental Health Planning Council

From: Larry Poaster [mailto:lpoast@comcast.net]
Sent: Monday, August 03, 2009 2:53 PM
To: Patrick Henning
Subject: Re: FYI: Comments on Issue Resolution Process

thanks patrick would love to see but can not open attachment. can you try it again. thanks

On Aug 3, 2009, at 1:07 PM, Patrick Henning wrote:

From: Ann.Arneill-Py@dmh.ca.gov [<mailto:Ann.Arneill-Py@dmh.ca.gov>]

Sent: Monday, August 03, 2009 11:53 AM

To: Lin Benjamin; Gail Nickerson; George Fry; Bev Abbott; Carmen Lee; John Ryan; Stephanie Thal; Patrick Henning; Dennis Beaty; Jim Bellotti; Jim Alves; Celeste Hunter; JoEllen Fletcher; Caroline Castaneda; Sophie Cabrera; Lana Fraser; Renee Becker; linne.stout@dss.ca.gov; Dale Mueller; Jonathan Nibbio; Curtis Boewer; monimarsh@gmail.com; maramos@hcd.ca.gov; Joe Mortz; Barbara Mitchell; Adrienne Cedro Hament; cease_doreen@lacoed.edu; Mark Refowitz; Shebuah Burke; Luis Garcia; Susan Mandel; doreen_cease@sbcglobal.net; Daphne Shaw; Edward Walker; Karen Hart; Walter Shwe; Jennie Montoya; jblack@stancounty.com; kim35@usc.edu; Jorin Bukosky

Cc: Heidi Nalley; Laurie West; Jennifer Ramel; Shebuah Burke; lalford@ochca.com; Andrea Stout

Subject: Comments on Issue Resolution Process

Now that the public comment period is over for the Issue Resolution Process, we have received the comments from CMHDA and the Community Partners. I am passing them on to you for your information.

Ann

Ann Arneill-Py, PhD, Executive Officer
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<Issue Resolution Comments CMHDA.doc>

From: Deborah.Lee@dmh.ca.gov [<mailto:Deborah.Lee@dmh.ca.gov>]

Sent: Wednesday, August 19, 2009 9:05 AM

To: phenning@surewest.net

Cc: Jose Oseguera; Peter Best
Subject: issue resolution

Larry Poaster mentioned that you had sent him some documents (CMHDA? Planning Council?) on Issue Resolution. Larry accidentally deleted them, but thought they would be useful for the work group discussing Issue Resolution. Would you mind forwarding to me and to Jose Oseguera and Pete Best (copied on this email).

Thanks so much,
Deborah

Deborah Lee, Ph.D.
MHSOAC Consulting Psychologist
415-386-6651