


**Delaware Division of Substance Abuse and Mental Health  
Provider/Contractor Policy  
POLICY AND PROCEDURE**

<b><u>POLICY TITLE:</u></b> Appeal Process	<b><u>POLICY #:</u></b> DSAMH03
<b><u>PREPARED BY:</u></b> DSAMH Policy Committee	<b><u>DATE ISSUED:</u></b> 3/1/2019
<b><u>RELATING POLICIES:</u></b> DSAMH01, DSAMH02	<b><u>REFERENCE:</u></b> EEU manual, DSAMH contracts (community and in-patient), 42 CFR 438.400: 5000 Fair Hearing Practice and Procedures
<b><u>DATES REVIEWED:</u></b> 2/15/2019	<b><u>DATES REVISED:</u></b> 4/16/20
<b><u>APPROVAL:</u></b> Gregory A. Valentine 5/14/2020 	<b><u>NOTES:</u></b>
<b><u>APPROVAL DATE:</u></b>	

**I. PURPOSE**

The purpose of this policy is to clarify the process for contracted providers to appeal decisions made by the Division of Substance Abuse and Mental Health (DSAMH).

**II. POLICY STATEMENT**

DSAMH is responsible to ensure the provision of a public behavioral health system that serves all Delaware adults in need of such services. For that reason, DSAMH requires that its contracted provider system accept referrals that DSAMH assigns to them. This policy provides an avenue for those rare times when a provider believes a referral may not be appropriate for their particular program. It is important to remember that, even when that occurs, DSAMH is still responsible to assure an appropriate placement within our contracted network.

While DSAMH's Eligibility and Enrollment Unit (EEU) makes every effort to ensure client and provider satisfaction, there may be disagreements between the EEU and the provider. Clients and community providers have the right to appeal authorization decisions made by DSAMH/EEU/PROMISE under the Fair Hearing Practice and Procedure set forth by Medicaid<sup>1</sup>.

**III. Definitions:** ***“ACT”*** means Assertive Community Treatment Team.

***“CRISP”*** means Community Reintegration Support Program.

***“Day”*** means calendar day, unless business day is specified.

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**"Discharge"** means closure from the contracted provider services, and/or from PROMISE services.

**"DSAMH"** means the Division of Substance Abuse and Mental Health.

**"EEU"** means the DSAMH Enrollment and Eligibility Unit.

**"Group Home (GH)"** means a residential facility licensed as a Group Home for Persons with Mental Illness by the Division of Long Term Care Clients Protection (DLTCRP), together with the legal entity to which the license was issued.

**"ICM"** means Intensive Case Management team.

**"PROMISE Program"** means Promoting Optimal Mental Health for Individuals Through Supports and Empowerment (PROMISE) Home and Community-Based Services (HCBS) waiver program.

**"PAC"** means PROMISE Assessment Center.

**"SUD"** means Substance Use Disorder.

## **V. SCOPE**

All clients served by DSAMH.

## **V. PROCEDURE**

### **PROMISE Referrals:**

1. The DSAMH Appeal process is to be utilized as a last resort. It is the expectation of DSAMH that the EEU staff, the PAC staff, community provider/partners, and client, have exhausted all attempts to define services that both meet medical-necessity criteria and attempt to meet client preferences. The appeal process is utilized when these efforts have been exhausted, client and provider are given education on decision, and client and/or provider decide to pursue DSAMH appeal, in spite of best efforts to reach a resolution by good faith collaboration and review of eligibility criteria process. Clients under Managed Care Organizations (MCOs) also have an additional appeal process under the Division of Medicaid and Managed Care and may appeal directly through the Medicaid appeals process.
2. When a client is discharged from the PROMISE program, the EEU sends the individual a Notice of Action (NOA) stating the reason for the closure. Per the NOA, the client does have 90 days from the date of the NOA to file an appeal and have a hearing; however, given the frequency with which some clients enter and exit the program, if the client contacts the EEU to return to services within 14 days, the client can return to services without having to go through the intake process. If the client contacts the EEU after 14 days, the individual will have to complete a brief screen and initial assessment with the PROMISE program. When clinically appropriate, EEU Director and PROMISE Director may reverse an administrative closure up to 15-60 days, if it is determined closure was premature, or if expedited care is required, providing service can be reinitiated with previous clinical provider.
3. An ACT, ICM, CRISP, GH provider, or any other PROMISE service may disagree with a referral sent by the EEU, a level of care change recommended by PROMISE, and/or a discharge recommendation, including EEU/PROMISE stating NOT to discharge a client.

- a. If the provider disagrees with a referral sent by the EEU, the team leader or other designee may submit the Community Appeal Request Form (Appendix A) to the Director of the EEU to state their reasons. This must be submitted within 3 business days of the receipt of the referral. Acceptable reasons to question a referral include, but are not limited to: previous violence/threat of violence or other safety issue against a team member by the client being referred, over capacity, or conflict of interest. The Director will respond to the request within 3 business days. If it is determined that the EEU Director agrees with the provider, the referral will be sent to another provider. If it is determined that provider should accept the referral, the provider can appeal this decision in writing within 3 business days to the Director of Community Behavioral Health Services. The Director will respond within 3 business days and the decision is final.
- b. EEU/PROMISE acknowledges that the community provider likely has more interaction with the client and thus knows the client well. The provider may make a level of care (LOC) recommendation to PROMISE. This may include decreased or increased services. PAC staff will complete an assessment and submit to the EEU for review. If the EEU staff does not agree with the LOC recommendation, they will reach out to PAC staff for collaboration and additional information. If EEU staff still does not agree with the LOC recommendation, it will not be approved and the PAC and the provider will be notified. If the provider disagrees with this decision, the team leader or other designee may submit the Community Appeal Request Form to the Director of the EEU to state their reasons. This must be submitted within one business day of the notification of LOC denial. The Director of the EEU and the Director of PROMISE Services will review the appeal request, the PROMISE care packet with the LOC recommendation, the assurances form completed by EEU staff, and other supporting documentation. A decision will be made and relayed to the provider within 5 business days. If the provider disagrees with this decision, the provider can appeal this decision in writing to the Director of Community Behavioral Health Services. The Director of Community Behavioral Health Services will consult with the DSAMH Medical Director to review all information. A response will be sent within 10 business days and the decision is final.
- c. Community providers are expected to make good faith efforts to engage clients in services; however, there are a number of possible reasons why a provider may discharge a client from services. Regardless of the reason, the provider must contact PROMISE prior to discharge to discuss the appropriateness of the discharge and coordinate the discharge date. If an agreement cannot be reached, regarding the appropriateness of discharge or the date, an Appeal Request Form may be submitted to the Director of the EEU. The Director of the EEU will meet with the Director of PROMISE Services to review the client file and make a decision regarding the discharge within 5 business days. The provider can appeal this decision in writing to the Director of Community Behavioral Health Services. The Director of Community Behavioral Health Services will consult with the DSAMH Medical Director to review all information. A response will be sent within 10 business days and the decision is final.

### **Psychiatric Hospitalization, Substance Use Services Referrals:**

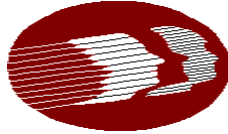
4. The EEU staff completes utilization review (UR) for Fee-for-Service Medicaid and state-pay private psychiatric hospital clients. EEU staff also complete UR for substance use disorder (SUD) residential for state-pay clients. Private psychiatric hospitals and SUD residential facilities must meet continued care criteria, including but not limited to, being safe to discharge to the community, symptom management, and services able to be rendered in a less restrictive setting. In the event that the facility disagrees with the EEU's decision to no longer authorize payment for services, the facility may appeal the decision.

An Inpatient Appeal Request Form (Appendix B) may be completed by UR staff or designee from the facility and submitted to the Director of the EEU. The appeal should be filed within two business days of the last authorized day and documentation supporting the request should be submitted, along with the appeal form. The EEU Director will review the documentation with other EEU staff not involved in the initial denial. The provider will be notified in writing of the decision within 5 business days. If the denial is reversed, UR by EEU staff will continue. If the denial is upheld, the provider may appeal again by submitting the Inpatient Appeal Request Form and the ENTIRE client record for review within 7 days of the determination. This should be submitted directly to the DSAMH Medical Director. The Medical Director will form a panel to review all information and make a decision within 30 business days. This decision will be relayed to the provider in writing and is final.

### **FORMS:**

Community Appeal Request Form – Appendix A; Inpatient Appeal Request Form – Appendix B; NOA – specific to circumstance – not attached here.

Appendix A:



## DSAMH EEU COMMUNITY APPEAL REQUEST

Provider:

Client Name:

MCI:

DOB:

Admission Date:

Consulted Clinical Services Administrator PROMISE PAC and EEU issuing Notice of Intent:  Yes  No

Date of 30 Day Notice of Intent to Discharge: Client Response to 30 Day Notice (if any):

Client voluntary signed discharge?  Yes  No

Coordination of care efforts documented in record?  Yes  No

Discharge Date:

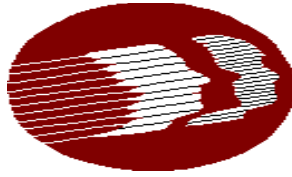
Date submitted to PROMISE:

Discharge Considerations: (Check all that apply)

- Change in psychiatric status  Change in functional status  Safety  Client Refusal
- Client is refusing to comply with treatment plan  Competency or Legal Guardian involved
- Long-term Psychiatric Hospitalization specialized treatment facility  Financial Refusal
- Long-term Medical placement specialized treatment facility
- Criminal Justice System  Emergency Discharge  Other:

Primary reason for discharge:
Treatment team efforts and interventions to mitigate issues leading to determination to discharge:
What level of care does provider recommend for client?
If current level of care is appropriate, what barriers prevent this provider maintaining client or re-admitting client in the near future?
Other narrative that may support Discharge Determination:
Supporting documentation included:
Submitted by:
This appeal request form, and supporting clinical and other documentation, should be submitted via secure transmission to <a href="mailto:DHSS_DSAMH_EEU_Appeals@delaware.gov">DHSS_DSAMH_EEU_Appeals@delaware.gov</a> . If you have any questions regarding this process, or a specific appeal, please contact the EEU at 302-255-9458.

Appendix B:



**DSAMH**

**EEU INPATIENT APPEAL REQUEST**

IMD MAKING REQUEST: \_\_\_\_\_

PATIENT NAME: \_\_\_\_\_

DATE OF ADMISSION: \_\_\_\_\_

DSAMH LAST COVERED DAY: \_\_\_\_\_

REASON COVERAGE DISCONTINUED: \_\_\_\_\_

REASON APPEAL IS BEING REQUESTED: (how does person meet continued stay criteria?)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IMD CONTACT PERSON: \_\_\_\_\_

This appeal request form and clinical record should be submitted via secure transmission to [DHSS\\_DSAMH\\_EEU\\_Appeals@delaware.gov](mailto:DHSS_DSAMH_EEU_Appeals@delaware.gov).

Decisions regarding the appeal will be made within 30 days of receipt of the appeal. All appeal decisions are final.