

EFFECTIVE
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NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

206 NAC 2

TITLE 206 BEHAVIORAL HEALTH SERVICES

CHAPTER 2 ADMINISTRATION

001. CONTRACTS. The Division will contract for the delivery of behavioral health programs and services.

001.01 SUBMISSION OF REPORTS AND OTHER DOCUMENTS. The Division has the authority to request that all contractors provide reports, evaluations, plans, and any other documents as deemed necessary by the Division for monitoring and accountability.

001.02 INSPECTIONS. The Division has the authority to inspect all programmatic and fiscal records of each all contractors, which must allow access for on-site monitoring by authorized representatives of the Division.

002. ALTERNATIVE COMPLIANCE. The Division has the discretion to authorize alternative methods of compliance with any standards or compliance procedures specified in these regulations, as deemed appropriate to further the development and implementation of recovery-oriented and person-centered community-based behavioral health services.

002.01 REQUESTING ALTERNATIVE COMPLIANCE. To apply for alternative compliance with a regulation, a provider must submit a written request to the Division. This request must include:

- (A) The citation of the specific regulation for which alternative compliance is being requested;
- (B) Reasons for the request for alternative compliance;
- (C) If appropriate, activities or performance criteria to replace the requirement of the regulation and the date the provider is expected to attain compliance;
- (D) The signature of the organization's program director or individual provider;
- (E) Authorization from the provider's governing body, if applicable, to request alternative compliance;
- (F) Approval by the regional governing board when the provider is under contract with the Regional Behavioral Health Authority; and
- (G) Documentation of how alternative compliance with the regulation would enhance quality, accessibility, public safety, and cost effectiveness.

002.02 DIVISION DETERMINATION. The Division will make a determination to grant the request for alternative compliance when the provider's proposal:

- (A) Is consistent with the intent of the specified regulation;
- (B) Conforms to good and customary administrative management and programmatic practices;

- (C) Protects the rights, health, and safety of the consumers;
- (D) Does not relieve the provider of the responsibility to comply with other pertinent regulatory requirements; and
- (E) Contains documentation of how alternative compliance with the regulation would enhance quality, accessibility, public safety, and cost effectiveness.

002.03 DIVISION DECISION. The Division will review the request and issue a decision and send a copy to the regional governing board when the provider is under contract with the Regional Behavioral Health Authority. When alternative compliance is granted:

- (A) It will be for a specified time period not to exceed the end of the program certification;
- (B) A provider must receive the written decision from the Division before implementing alternative compliance; and
- (C) A provider must meet all the conditions prescribed by the Division in granting alternative compliance. Failure to comply with the specified conditions voids the authorization for alternative compliance.

002.04 APPEAL. A provider aggrieved by a decision to deny a request for alternative compliance may appeal to the Director.

003. INFORMAL DISPUTE RESOLUTION AND ADMINISTRATIVE APPEALS. A client, guardian, or provider has the right to appeal a service authorization denial after all available appeals through the service authorization appeals process have been exhausted.

003.01 COMMENCEMENT OF APPEAL PROCESS. A client, guardian, or provider may begin the appeal process by either:

- (A) Requesting an informal dispute resolution in writing within 14 calendar days following the service authorization denial; or
- (B) Requesting a formal administrative appeal in writing within 30 calendar days following the service authorization denial.

003.02 INFORMAL DISPUTE RESOLUTION SUSPENSION OF TIME PERIOD. If a client, guardian, or provider requests an informal dispute resolution, the 30-day period to request a formal appeal will be suspended, beginning on the day the Division receives the request for informal dispute resolution until the day the Division notifies the client, guardian, or provider of the outcome of the informal dispute resolution. Following the informal dispute resolution process, if the client, guardian, or provider still wishes to dispute the Division's decision, the client, guardian, or provider may request a formal appeal until the expiration of the 30-day period as calculated above.

003.03 INFORMAL DISPUTE RESOLUTION. Upon receiving a request for an informal dispute resolution, the Division will schedule a meeting between the client, guardian, or provider and the appropriate Department staff. An informal dispute resolution may be held in person, by video, or by telephone. The Division's Chief Clinical Officer or designee serves as the decision-maker for the informal dispute resolution process, and will issue a written decision.

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003.04 ADMINISTRATIVE APPEAL. Administrative appeals are conducted in accordance with the Administrative Procedure Act, Neb. Rev. Stat. §§ 84-901 to 84-920.