

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

330.1206a Mediation; notification of rights; funding; mediator and mediation requirements; report; "recording" defined.

Sec. 206a.

(1) A recipient or his or her individual representative must be offered an opportunity to request mediation to resolve a dispute between the recipient or his or her individual representative and the community mental health services program or other service provider under contract with the community mental health services program related to planning and providing services or supports to the recipient.

(2) The community mental health services program or service provider shall provide notice to a recipient, or his or her individual representative, of the right to request and access mediation at the time services or supports are initiated and at least annually after that. When the community mental health services program's or service provider's local dispute resolution process, local appeals process, or state Medicaid fair hearing is requested, notification of the right to request mediation must also be provided to the recipient or his or her individual representative.

(3) The department must provide funding and directly contract with 1 or more mediation organizations experienced in coordinating statewide case intake and mediation service delivery through local community dispute resolution centers.

(4) A mediator must be an individual trained in effective mediation technique and mediator standard of conduct. A mediator must be knowledgeable in the laws, regulations, and administrative practices relating to providing behavioral health services and supports. The mediator must not be involved in any manner with the dispute or with providing services or supports to the recipient.

(5) The community mental health services program or service provider described in subsection (2) involved in the dispute must participate in mediation if mediation is requested.

(6) A request for mediation must be recorded by a mediation organization, and mediation must begin within 10 business days after the recording. Mediation does not prevent a recipient or his or her individual representative from using another available dispute resolution option, including, but not limited to, the community mental health services program's local dispute resolution process, the local appeals process, the state Medicaid fair hearing, or filing a recipient rights complaint. A mediation organization shall ascertain if an alternative dispute resolution process is currently ongoing and notify the process administrator of the request for mediation. The parties may agree to voluntarily suspend other dispute resolution processes, unless prohibited by law or precluded by a report of an apparent or suspected violation of rights delineated in chapter 7.

(7) Mediation must be completed within 30 days after the date the mediation was recorded unless the parties agree in writing to extend the mediation period for up to an additional 30 days. The mediation process must not exceed 60 days.

(8) If the dispute is resolved through the mediation process, the mediator shall prepare a legally binding document that includes the terms of the agreement. The document must be signed by the recipient or individual representative and a party with the authority to bind the service provider according to the terms of the agreement. The mediator must provide a copy of the signed document to all parties within 10 business days after the end of the mediation process. The signed document is enforceable in any court of competent jurisdiction in this state.

(9) If the dispute is not resolved through the mediation process, the mediator must prepare a document that indicates the dispute could not be resolved. The mediator shall provide a copy of the document to all parties within 10 business days after the end of the mediation process.

(10) A contracted mediation organization must provide a report with aggregate data and a summary of outcomes to the department every 6 months, or as the department considers appropriate, to review and evaluate the effectiveness and efficiency of mediation in resolving disputes relating to planning and providing services and supports by the community mental health services program and its service providers.

(11) As used in this section, "recording" means a file that has been created after a request for mediation has been made by a recipient or his or her individual representative or received by a community mental health services program or other service provider under contract with the community mental health services program.

History: Add. 2020, Act 55, Imd. Eff. Mar. 3, 2020