

### **WAC 246-341-0600 – Clinical—Individual rights.**

- (1) Each agency licensed by the department to provide any behavioral health service must develop a statement of individual participant rights applicable to the service categories the agency is licensed for, to ensure an individual's rights are protected in compliance with chapters 71.05, 71.12, and 71.34 RCW. In addition, the agency must develop a general statement of individual participant rights that incorporates at a minimum the following statements. "You have the right to:"
  - (a) Receive services without regard to race, creed, national origin, religion, gender, sexual orientation, age or disability;
  - (b) Practice the religion of choice as long as the practice does not infringe on the rights and treatment of others or the treatment service. Individual participants have the right to refuse participation in any religious practice;
  - (c) Be reasonably accommodated in case of sensory or physical disability, limited ability to communicate, limited English proficiency, and cultural differences;
  - (d) Be treated with respect, dignity and privacy, except that staff may conduct reasonable searches to detect and prevent possession or use of contraband on the premises;
  - (e) Be free of any sexual harassment;
  - (f) Be free of exploitation, including physical and financial exploitation;
  - (g) Have all clinical and personal information treated in accord with state and federal confidentiality regulations;
  - (h) Review your clinical record in the presence of the administrator or designee and be given an opportunity to request amendments or corrections;
  - (i) Receive a copy of agency grievance system procedures according to WAC 182-538D 0654 through 182-538D-0680 upon request and to file a grievance with the agency, or behavioral health organization (BHO), if applicable, if you believe your rights have been violated; and
  - (j) Submit a report to the department when you feel the agency has violated a WAC requirement regulating behavioral health agencies.
- (2) Each agency must ensure the applicable individual participant rights described in subsection (1) of this section are:
  - (a) Provided in writing to each individual on or before admission;
  - (b) Available in alternative formats for individuals who are visually impaired;
  - (c) Translated to the most commonly used languages in the agency's service area;
  - (d) Posted in public areas; and
  - (e) Available to any participant upon request.
- (3) Each agency must ensure all research concerning an individual whose cost of care is publicly funded is done in accordance with chapter 388-04 WAC, protection of human research subjects, and other applicable state and federal rules and laws.
- (4) In addition to the requirements in this section, each agency providing services to Medicaid recipients must ensure an individual seeking or participating in behavioral health treatment services, or the person legally responsible for the individual is informed of their Medicaid rights at time of admission and in a manner that is understandable to the individual or legally responsible person.
- (5) The grievance system rules in WAC 182-538D-0654 through 182-538D-0680 apply to an individual who receives behavioral health services funded through a federal Medicaid program or sources other than a federal Medicaid program.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0600, filed 4/16/19, effective 5/17/19.]

## **WAC 182-538-180 – Rights and protections.**

- (1) People have Medicaid-specific rights when applying for, eligible for, or receiving Medicaid-funded health care services.
- (2) All applicable statutory and constitutional rights apply to all Medicaid people including, but not limited to:
  - (a) The participant rights under WAC 246-341-0600;
  - (b) Applicable necessary supplemental accommodation services including, but not limited to:
    - (i) Arranging for or providing help to complete and submit forms to the agency;
    - (ii) Helping people give or get the information the agency needs to decide or continue eligibility;
    - (iii) Helping to request continuing benefits;
    - (iv) Explaining the reduction in or ending of benefits;
    - (v) Assisting with requests for administrative hearings; and
    - (vi) On request, reviewing the agency's decision to terminate, suspend, or reduce benefits.
  - (c) Receiving the name, address, telephone number, and any languages offered other than English of providers in a managed care organization (MCO);
  - (d) Receiving information about the structure and operation of the MCO and how health care services are delivered;
  - (e) Receiving emergency care, urgent care, or crisis services;
  - (f) Receiving post-stabilization services after receiving emergency care, urgent care, or crisis services that result in admittance to a hospital;
  - (g) Receiving age-appropriate and culturally appropriate services;
  - (h) Being provided a qualified interpreter and translated material at no cost to the person;
  - (i) Receiving requested information and help in the language or format of choice;
  - (j) Having available treatment options and explanation of alternatives;
  - (k) Refusing any proposed treatment;
  - (l) Receiving care that does not discriminate against a person;
  - (m) Being free of any sexual exploitation or harassment;
  - (n) Making an advance directive that states the person's choices and preferences for health care services under 42 C.F.R. Sec. 489 Subpart I;
  - (o) Choosing a contracted health care provider;
  - (p) Requesting and receiving a copy of health care records;
  - (q) Being informed the cost for copying, if any;
  - (r) Being free from retaliation;
  - (s) Requesting and receiving policies and procedures of the MCO as they relate to health care rights;
  - (t) Receiving services in an accessible location;
  - (u) Receiving medically necessary services in accordance with the early and periodic screening, diagnosis, and treatment (EPSDT) program under WAC 182-534-0100, if the person is age twenty or younger;
  - (v) Being treated with dignity, privacy, and respect;
  - (w) Receiving treatment options and alternatives in a manner that is appropriate to a person's condition;

- (x) Being free from seclusion and restraint;
- (y) Receiving a second opinion from a qualified health care professional within an MCO provider network at no cost or having one arranged outside the network at no cost, as provided in 42 C.F.R. Sec. 438.206(b)(3);
- (z) Receiving medically necessary health care services outside of the MCO if those services cannot be provided adequately and timely within the MCO;
- (aa) Filing a grievance with the MCO if the person is not satisfied with a service;
- (bb) Receiving a notice of action so that a person may appeal any decision by the MCO that:
  - (i) Denies or limits authorization of a requested service;
  - (ii) Reduces, suspends, or terminates a previously authorized service; or
  - (iii) Denies payment for a service, in whole or in part.
- (cc) Filing an appeal if the MCO fails to provide health care services in a timely manner as defined by the state or act within the time frames in 42 C.F.R. Sec. 438.408(b); and
- (dd) Requesting an administrative hearing if an appeal is not resolved in a person's favor.

[Statutory Authority: RCW 41.05.021, 41.05.160, 2019 c 325, 2014 c 225, and 2018 c 201. WSR 19-24-063, § 182-538-180, filed 11/27/19, effective 1/1/20.]

## **WAC 246-337-075 – Resident rights.**

The licensee must establish a process to ensure resident rights are protected in compliance with chapter 71.12 RCW, this chapter, and other applicable laws, and are based on the service types provided in the RTF. This process must address how the RTF will:

- (1) In an understandable manner, inform each resident or their personal representative, designee or parent or guardian, of the following:
  - (a) All rights, treatment methods, and rules applicable to the proposed health care of the resident;
  - (b) The estimated cost of treatment;
  - (c) The name, address and telephone number of the department;
  - (d) How to file a complaint with the department without interference, discrimination, reprisal or facility knowledge; and
  - (e) Use of applicable emergency interventions such as:
    - (i) Behavior management;
    - (ii) Restraint or seclusion, if used in the RTF;
    - (iii) Special treatment intervention such as room or personal searches;
    - (iv) Restrictions of rights; and
    - (v) Confidentiality parameters based on terms of admission or confinement.
- (2) Treat each resident in a manner that respects individual identity, human dignity and fosters constructive self-esteem. Each resident has the right to:
  - (a) Be free of abuse, including being deprived of food, clothes, or other basic necessities;
  - (b) Be free of restraint or seclusion, except as provided in WAC 246-337-110;
  - (c) Participate or abstain from participation in social and religious activities;
  - (d) Participate in planning their own health care and treatment;
  - (e) Review or have their personal representative, designee, or parent or guardian review the resident's files in accordance with chapter 70.02 RCW;
  - (f) Refuse to perform services for the benefit of the RTF unless agreed to by the resident, documented in the individual service plan and in accordance with applicable law;

- (g) Have a safe and clean environment; and
- (h) Be free from invasion of privacy; provided that reasonable means may be used to detect or prevent items that may be harmful or injurious to the resident or others, from being possessed or used on the premises.
- (3) On or before admission, document that each resident, or the resident's personal representative, designee, parent or guardian receives a written copy of the resident's rights that includes all items in subsection (2) of this section.
- (4) Protect the confidentiality of:
  - (a) Treatment and personal information when communicating with individuals not associated or listed in the resident's individual service plan or confidentiality disclosure form;
  - (b) Residents when visitors or other nonresidents are in the RTF; and
  - (c) Residents receiving substance use disorder service in accordance with 42 C.F.R., Part II.
- (5) Comply with reporting requirements of suspected incidents of child or adult abuse and neglect in accordance with chapters 26.44 and 74.34 RCW.
- (6) Account for each resident's assets, including allowance, earnings from federal or state sources and expenditures.
- (7) Assist each resident, upon request, in sending written communications of the fact of the resident's commitment in the RTF to friends, relatives, or other persons.

[Statutory Authority: RCW 71.12.670. WSR 18-06-092, § 246-337-075, filed 3/6/18, effective 4/16/18. Statutory Authority: Chapter 71.12 RCW. WSR 05-15-157, § 246-337-075, filed 7/20/05, effective 8/20/05.]

### **Additional Rights**

- (1) Patients will be free from abuse, financial or other exploitation, retaliation, humiliation, and neglect while in the care of the organization.
- (2) Patients will have access to information in a timely manner to help inform their decision making.
- (3) Patients will have access to their records per company policy.
- (4) Patients will have informed consent, refusal, or expression of choice regarding service delivery, release of information, concurrent services, service delivery team, and their involvement in research projects.
- (5) Patients can request assistance for a referral to legal assistance, self-help support services, or advocacy support services.
- (6) For those patients who elect to participate in research projects, the organization will adhere to research guidelines and ethics for those patients that are involved in research projects as applicable.
- (7) Patients have the right to investigation and resolution of alleged infringement of rights.