

CFLC Input to proposed DMH MHSAs Issue Resolution Process Preliminary Discussion and Findings

At its March 27 meeting, the MHSOAC tasked the Client and Family Leadership Committee (CFLC) to take a lead consultation role in advising MHSOAC on the MHSAs issue resolution process. Feedback to DMH on the Issue Resolution Process is scheduled for MHSOAC's May 29, 2009 meeting as an Action Item.

Background

MHSAs Welfare and Institutions Code Section 5845(d)(7) provides that the Mental Health Services Oversight and Accountability Commission (MHSOAC) may refer critical issues related to the performance of a county mental health program to the Department of Mental Health (DMH).

A workgroup consisting of representatives of DMH, MHSOAC, California Mental Health Planning Council, and California Mental Health Directors Association met from April 2008 through February 2009 to advise DMH on the development of a process to respond to issues related to the MHSAs. The purpose of the issue resolution process, according to DMH, is "to develop a process for filing and resolving issues related to MHSAs community program planning process, service access, and consistency between program implementation and approved Plans." MHSOAC and California Mental Health Planning Council currently make referrals to DMH in response to complaints; DMH uses an interim process to respond to issues. Local and statewide processes are in place to respond to issues about other aspects of mental health services not related to the MHSAs. It is not clear how effective the current process is, although the lack of understanding about who and where issues may be addressed is an acknowledged source of confusion to stakeholders.

Most issues and responses occur at the local level. Counties differ in how they respond to issues that relate to MHSAs planning, plan development, or implementation. Many clients, family members, and representatives of publicly funded programs fear reprisals if they complain.

The DMH is seeking input from stakeholders until May 31, 2009, and conducted a web meeting for this purpose on April 2, 2009.

Many stakeholders look to MHSOAC for leadership when people feel they have not received an adequate response at the local level to concerns about MHSAs planning or programs. MHSOAC's role in issue resolution is not clearly defined. Some have asked that CFLC play a facilitative or listening role with regard to consumer and family grievances. At the 2008 strategic planning session of the MHSOAC, the CFLC was designated as the MHSOAC's lead for purposes of examining and reviewing issues of family and client concerns regarding MHSAs planning and implementation. This area of responsibility was affirmed in the 2009 CFLC Charter, to be adopted by the MHSOAC April 24, 2009.

Issue Resolution Process: Initial Response of CFLC Members (4/6/2009)

Fear of reprisals for raising issues at the local county level

CFLC members expressed concern about breakdowns of the process at the county level. It is hard to balance competing values: transparency and the need for people to go through the local level of issue resolution with the fact that anonymity is nearly impossible to achieve in many county settings. Reprisals, intentional or not, are a very real threat for individuals as well as for stakeholder organizations that are funded or supported by their county mental health authority or its political partners. Any consumer organization with county funding will be reluctant to raise issues publicly. The only person or organization who can safely express serious concerns at a county level is someone with no investment. People in small counties often have particular concerns about reprisals because of the impossibility of anonymity.

A good local issue resolution process would include a panel of consumers and family members. Some but not all local mental health commissions construe issue resolution as their responsibility. Statutory and designated "official" roles vary by county, which create a frequently unsatisfactory archipelago of advocacy channels with varying ties to county offices. Those people grieving or raising concerns in most cases still have to self-identify, or where they do not, the permeability of information in a small mental health community is such that confidentiality is not likely.

People who advocate to MHSOAC, Mental Health Planning Council, and other state-level entities have generally first gone to their counties. When they come to MHSOAC with an issue, it is not wise to send them back to the county where the problem originated. What if the local grievance process is the issue? A better approach might be a separate MHSA grievance process instead of an existing county grievance process?

We need a structure where people can give anonymous feedback and still get a response through a feedback loop. This link is essential for accountability.

Other concerns

What does CFLC want its role to be with regard to issue resolution?

As we move toward system integration, it will be harder to differentiate a MHSA issue or service. More thought about integration and differentiation among the mechanisms that exist to give feedback about mental health services is needed.

MHSA adds the element of community planning to potential grievances. There are no clear standards for how counties are accountable to respond to stakeholder suggestions in community planning.

It would be good to differentiate the roles between MHSOAC and MH Planning Council.

There is a need for education to Boards of Supervisors. Another need is for clearly established roles and authorities at county levels with mental health commissions, etc. so that clients and family members know where they may bring their concerns to have them treated with legitimacy and in an atmosphere that prevents reprisals.

Whistle-blowing conventions and protections should be clear and county mental health authorities should enact written commitment to these.

There is no specific office, individual or protected entity within any of the state organizations or DMH that is proposed to serve in an official capacity with regards to the issue process. The fear is that, lacking this specificity, concerns will simply be dropped into the black box of bureaucracy and that neither the individuals filing them, nor the process of investigation/reporting will be honored by a mechanism that is functional and transparent.

Other CFLC Member Suggestions

It is important to ensure that results of issue resolution are made available to the public? Counties should be required to tally the number and type of complaints they receive, the resolution, changes made as a result, etc. The requirement should specify that the county keep this documentation for some prescribed period of time and make the information public, including actively distributing the information on a regular basis. This kind of system would address the need for people to see that their concerns elicit a response and would also address the reluctance to speak up because of concerns about reprisals.

Transparency must be built into the process.

The CFLC should be informed and updated on concerns/complaints raised by the combination of staff and DMH liaison so that the CFLC can adequately advise the MHSOAC.

The time frame for a response should be specified.

The DMH process of review of issues needs to include consumers and family members, who have different insight about the context of complaints.

Community comments

The proposed issue resolution process is more applicable to planning than to services and is more focused on compliance than on quality improvement. Is there a need for service grievance in MHSA? Do we need to assess whether services fit MHSA requirements? In at least three counties, there are complaints that jobs reserved for clients are going to county staff. This might not come up as a compliance issue, but it's still very important. Issue resolution must be about making things work in the spirit of the MHSA, not just the technicalities. In some counties, FSP housing is done in Board and Cares. Is that a violation of the letter or spirit of the MHSA?

CFLC ought to take a very strong role.

Any jobs related to MHSA should go to clients and family members.

The part of the process that states that local process must first be exhausted before statewide process can be initiated needs to be re-written. Anonymity is impossible in a local grievance process. Retaliation is an ever-present threat when consumers bring forward an issue.

For state-level process, it can't be a closed loop. That it would go from county to state and state would resolve it based on a compliance model that is not up to the task is not going to work for many issues. There needs to be an independent state office that can receive and investigate state-level complaints. That would give two different state-level loops that people could access.

There should be a state and local process with formal and informal components. There should also be anti-harassment protection.

Process

CFLC members should send corrections and additions to this write-up by end of day 4/17/2009

CFLC will continue to discuss issue resolution at next meeting April 23 and will provide written feedback to MHSOAC for its May 29 meeting

DMH accepting written comments at issue.resolution@dmh.ca.gov

Public comments can be offered at all MHSOAC meetings