

GUIDE TO FILING GRIEVANCES INVOLVING CHILD OR ADOLESCENT RECIPIENTS

We hope that this information will help explain how you can file a complaint, which is called a grievance, with the Department if you ever feel your rights have been ignored, or you feel you have been treated unfairly. The Department has set up a way for you to send in your complaint so you have the chance to talk about this with the right people. This is called the Rights of Recipients of Mental Health Services Grievance.

The information listed here will answer these questions:

- What is a grievance?
- What is the grievance process?
- How do I file a grievance?
- Where do I send my grievance form?
- What do I do if I do not agree with a decision made in the grievance process?
- Where can I get help with my grievance?

WHAT IS A GRIEVANCE?

If you believe that someone has violated your rights while you are looking for or receiving mental health services, you can file a grievance saying a violation of your rights has occurred. Filing a grievance is a way to make sure that you are heard when you believe that one of your rights has been violated. For example:

- You think your child's counselor gave information about your child or family to someone without your written permission. You believe that this is wrong and feel the counselor should not be sharing information without your permission. You believe your right to privacy and confidentiality has been ignored. *You can file a grievance.*
- Your case manager has promised to help you fill out forms to get some more services you need but keeps changing appointment dates and so, it never gets done. You have spoken with his or her supervisor but nothing happened. *You can file a grievance.*
- You want to read all of your child's treatment records but the agency providing your child's treatment refuses to let you. *You can file a grievance.*

These are just a few examples of why someone might file a grievance. Your reason for filing a grievance might be different from these, but the Grievance Process is the same no matter who files it and no matter what their grievance is about.

INFORMAL GRIEVANCES INVOLVING CHILD OR ADOLESCENT RECIPIENTS

We expect agencies to have a way for people receiving their services to talk about any complaints they may have with the agency. We encourage you to speak directly with your agency to try and settle things to everyone's satisfaction. Settling things this way is the easiest and usually the best way to handle your complaints. But, if you feel that this is not working, or is not to your satisfaction, or you are simply uncomfortable discussing your complaint with your provider, you may proceed at anytime with the formal resolution process that follows.

WHAT IS THE GRIEVANCE PROCESS?

The Grievance Process is a system created by the Department to make sure that if you feel your rights have been violated or ignored by a person, agency, or by the Department during the course of seeking or getting mental health treatment, you will have the opportunity to be heard in a meeting or hearing managed by an objective third party.

HOW DO I FILE A GRIEVANCE?

There may be other ways instead of filing a grievance that you may want to consider. For instance, you may ask for meeting with a representative of the hospital, agency, or person you are considering filing a grievance against, to talk about the situation and try to find a solution. If you want to find out more about other ways of resolving issues, contact one of the agencies listed at the end of this guide.

If you have been unable to resolve your grievance through speaking with your service provider, or you choose to take your complaint directly to the Department, you **must** send in a completed **Grievance Form**, which you will find at the end of this *Guide* and also available from all providers of mental health services to children and adolescents and at all DHHS offices.

The **Grievance Form** asks you to provide the following information about the problem or issue you wish to grieve:

- the name, address, phone number and date of birth of the child or adolescent recipient
- the name, address, phone number and relationship to the child/adolescent of the person filing the grievance
- the name, address, and phone number of the provider/agency involved
- the dates upon which the problem/issue which you are grieving took place
- the names of all people involved
- a description of what happened that has resulted in the filing of the grievance
- the specific issue that needs to be addressed
- your suggestions about possible ways to resolve the situation

If you need help in filling out the **Grievance Form**, your provider or a representative from DHHS is also available to assist you.

WHERE DO I SEND MY GRIEVANCE FORM?

Send the fully completed **Grievance Form** to the designated DHHS Grievance Coordinator listed at the bottom of the form, making sure to write *grievance* on the lower left corner of the envelope.

GRIEVANCE CHOICES

You may choose one of two ways to have your grievance heard:

- 1) *Mediation*
- 2) *Administrative Hearing*

MEDIATION

In mediation, a meeting is held with you and the party you have a complaint against and an impartial party runs the meeting trying to help you reach a solution. You, or the other party, may have a lawyer present to help, but it is not required to have attorneys there. A settlement is reached only with the full involvement and approval of the parties in the dispute. Every attempt will be made to hold the mediation meeting at a time and place convenient for you.

ADMINISTRATIVE HEARING

An administrative hearing is a more formal process conducted by an impartial hearing officer from the Office of Administrative Hearings, Department of Health and Human Services. The hearing must be conducted in accordance with state law and must be electronically recorded. The administrative hearing will take place at a location that is convenient for the parties and at a time when the hearing officer is available.

When you send in your **Grievance Form**, you can indicate on the form whether you choose mediation or an administrative hearing as a means to resolve your grievance. If you do not indicate one or the other, the Grievance Coordinator will contact you, because you must make a selection in order to have your grievance resolved.

WHAT HAPPENS IF I CHOOSE MEDIATION?

The DHHS Grievance Coordinator or the mediator will contact you to arrange a time and location for the mediation meeting to take place. This meeting **must** be held within **five (5) calendar days** of the Grievance Coordinator's receipt of the fully completed **Grievance Form**.

However, you may waive this requirement that the mediation meeting take place within five calendar days, if you desire. You will be considered to have waived this requirement if you are unavailable to attend any mediation meeting offered to you within this five day period. If this happens, the mediation meeting will be held as soon as practicable.

If mediation is successful, resolution of your grievance to your satisfaction will be achieved by the end of the mediation process.

If a resolution satisfactory to you has not been achieved by the conclusion of the mediation meeting, you may request a subsequent administrative hearing. If you request the administrative hearing before you leave the mediation meeting, then the written recommended decision of the hearing officer must be issued within two weeks of the Grievance Coordinator's receipt of the Grievance Form. However, if you request a subsequent administrative hearing at any time after the conclusion of the mediation meeting, your request will be treated in the same manner as if you had chosen an administrative hearing initially.

WHAT HAPPENS IF I CHOOSE AN ADMINISTRATIVE HEARING?

The DHHS Grievance Coordinator or the hearing office representative will contact you to arrange a time and location for the hearing to take place. The hearing **must** be held within **five (5) calendar days** of the Grievance Coordinator's receipt of the fully completed **Grievance Form**.

However, you may waive this requirement that the administrative hearing take place within five calendar days, if you desire. You will be considered to have waived this requirement if you are unavailable to attend any administrative hearing offered to you within this five day period. If this happens, the hearing will be held as soon as practicable.

The administrative hearing is a formal process, conducted in accordance with State law and presided over by an impartial hearing officer from the Division of Administrative Hearings of the Department of Labor. All hearings are recorded in a form susceptible to transcription, as required by law.

Pre-hearing Conference: A pre-hearing conference is not required by law, but the hearing officer will probably hold a meeting to talk to you and someone who represents the agency or facility that you have filed a grievance against. During this meeting, you will be asked to identify the issues that need to be discussed during the hearing. You may also be asked to talk about what, if any, witnesses and documents you may want to bring to the hearing, so that it will proceed as smoothly as possible.

The Administrative Hearing: At the hearing, you may present any witnesses to the event(s) under discussion, or present any documents that are relevant to the situation under review. In addition to yourself, providers as well as advocates for your child/adolescent may testify at the administrative hearing.

You also may examine and/or cross-examine witnesses; and have an attorney, a designated representative, or Disability Rights Center of Maine, or DHHS Office of Advocacy staff help you if you wish. While hearings are not conducted like courtroom trials, the hearing officer is allowed to establish and maintain rules that everyone present at the hearing must follow.

The Hearing Officer's Decision: The hearing officer will issue to the Commissioner of DHHS a formal written recommended decision that discusses the issues and testimony presented, and the facts of the situation, as he or she has determined them. This recommended decision must be issued within **one week** of the Grievance Coordinator's receipt of the Grievance Form, unless otherwise agreed to by the parties involved. If the administrative hearing was requested at the conclusion of mediation, then the hearing officer must issue the written recommended decision with findings of fact within **two weeks** of the Grievance Coordinator's receipt of the Grievance Form.

You may waive the deadline for a recommended decision, if you so desire. You will be considered to have waived the deadline if the hearing is held outside the five day period at your request or due to the unavailability of you or any person you want to have present at the hearing.

At any point after requesting an administrative hearing, you may elect mediation. If you do this, the deadline for scheduling the administrative hearing as well as the hearing officer's deadline for issuing a written recommended decision are suspended, and mediation will be held as soon as practicable.

It is important to remember that you can avoid a hearing and settle your grievance at any point in the process--until the hearing officer has issued his or her decision. You can even settle your grievance after the hearing has begun.

The Commissioner's Review: The commissioner will review the recommended decision and must issue a final decision adopting, modifying, or rejecting the hearing officer's recommended decision no later than **seven (7) business days** from the date of the hearing officer's recommended decision. Parties to the grievance may submit written memoranda to the Commissioner for his/her consideration no later than five (5) business days from the date of the hearing officer's recommended decision.

WHAT DO I DO IF I DO NOT AGREE WITH A DECISION MADE IN THE GRIEVANCE PROCESS?

The decision of the commissioner represents the final state agency action on the matter. **If you are still dissatisfied with the outcome of this ruling, you may appeal to the Maine Superior Court under Rule 80C of the Maine Rules of Civil Procedure.**

WHERE CAN I GET HELP WITH MY GRIEVANCE?

For more general information about or assistance with the grievance process, contact:

DHHS Office of Advocacy

Chief Advocate
11 SHS, Greenlaw Bldg. (3rd Floor?)
Augusta, ME 04333-0011
Phone: (207) 287-4228 Fax: (207) TTY: (207)

OR

Disability Rights Center of Maine (formerly Maine Advocacy Services)

Disability Rights Center of Maine
24 Stone Street
P. O. Box 2007
Augusta, ME 04338-2007
Phone and TTY: (207) 626-2774 or 1-800-452-1948 Fax: (207) 621-1419

All formal grievances involving child or adolescent recipients must be submitted on the attached DHHS Grievance Form to:

Children's Services Grievance Coordinator
DHHS
Office of Child and Family Services, Children's Behavioral Health Division
11 State House Station, 2 Anthony Avenue, 2nd Floor
Augusta, ME 04333-0011
Phone: (207) 624-7960; Fax: (207) 287-6156; TTY: 1-800-606-0215?

Department of Health and Human Services

GRIEVANCE FORM

This form *must* be used to notify the Department of a grievance involving a *child or adolescent recipient* of mental health services. Receipt of this completed form by the Department's Grievance Coordinator starts the clock on the timelines for resolution as stipulated in law.

Name of the Child or Adolescent Recipient: _____

Date of Birth: _____ Medicaid# _____ Phone: _____

Address: _____

Name of Person Filing This Grievance: _____

Relationship to Child or Adolescent Recipient: _____

Address: _____ Phone: _____

Date(s) upon which aggrieved action took place: _____

Name of Provider/Agency Involved: _____

Address: _____ Phone: _____

Names of all people, agency, including phone #: _____

Describe in detail your grievance and specify issues that need to be addressed (use the back of this form if more space is needed): _____

Suggest how the matter can be resolved including efforts undertaken toward resolution: _____

Indicate efforts to resolve issue(s) prior to this date. Contact was made with: Case Manager
 Agency whom grievance is filed against DHHS, Regional Office Mediation Services

Select one of two options to resolve your grievance: 1) Mediation or, 2) Administrative Hearing. The Mediation or Administrative Hearing must be held within five (5) calendar days of receipt of this form by the Department's Grievance Coordinator, unless you are not available or you waive this requirement, in which case the Mediation or Administrative Hearing will be held as soon as possible.

Mediation The Grievance Coordinator or the Mediator will contact you to arrange a time and location for the mediation session to take place. At the meeting, the mediator will attempt to resolve the grievance. You may select an Administrative Hearing at any time during the mediation process if you feel the Administrative Hearing would be more beneficial to you.

Administrative Hearing The Grievance Coordinator or the Hearing Officer will contact you to schedule the formal hearing, which will be presided over by an experienced hearing officer from the Department of Labor.

Submit this form to: Children's Services Grievance Coordinator
Dept. of Health & Human Services
Office of Child & Family Services, Children's Behavioral Health Division
11 State House Station, 2 Anthony Ave, 2nd fl.
Augusta, ME 04333-0011

Or Fax to: Children's Services Grievance Coordinator at (207) 287-6156

Please indicate Grievance in the lower left corner of the envelope