

Training Guide for Vermont's Designated Agencies:

GRIEVANCES AND APPEALS UNDER VERMONT'S GLOBAL COMMITMENT TO HEALTH

**Department of Mental Health*
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***Developed in collaboration with
Lamoille County Mental Health Services**

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Client Process

- Tell any staff member orally and/or in writing about any dissatisfaction with staff or services or loss of service.
- It is the responsibility of the staff member receiving a grievance or complaint to inform the agency's grievance & appeals coordinator.

Complaint

- The client expresses dissatisfaction about aspects of interpersonal relationships—rudeness, failure to be respectful, staff misconduct, or poor quality of care, for example.
- The client does not want a formal written response to his or her complaint.
- Complaints may be made orally or in writing by the client to any staff.

Grievance

- The client expresses dissatisfaction about aspects of interpersonal relationships—rudeness, failure to be respectful, staff misconduct, or poor quality of care, for example.
- The client wants a formal written response.
- Grievances may be made orally or in writing by the client to any staff.

Complaint vs. Grievance

- Both involve expressions of client dissatisfaction about anything other than an action—failure to be respectful, poor quality of care, and other examples.
- Complaint—the client does not want a formal written response from the agency.
- Grievance—the client does want a formal written response from the agency.

Grievance Process

- A client must file a grievance within 60 days of the incident/event that caused the client's dissatisfaction.
- The client will receive a notification from the agency of his/her grievance within 5 calendar days of the request for a formal written response.
- The client may withdraw a grievance at any time.

Grievance Process (cont'd.)

- If the client withdraws a grievance, he/she will receive within 5 days a written notification of the withdrawal from the agency.
- Grievances have a 90-day time period to be resolved, starting on the date the grievance was filed.

Grievance Process (cont'd.)

- If the client gets an adverse decision on a grievance, he/she can request a grievance review by the Department of Mental Health.
- The client has 10 calendar days from receiving notice of an adverse decision to request a grievance review by DMH.

Grievance Process (cont'd.)

- The purpose of the grievance review is to ensure that the grievance process is functional and the resolution impartial.
- The grievance review is not necessarily to reverse the grievance resolution.
- DMH's decision on the grievance review is final.

Appeal

- An appeal is a formal request from a client to a designated agency to rethink its decision on an action when a client disagrees with a notice of termination, suspension or reduction of a previously authorized course of treatment or service plan.

Reconsideration without an Appeal

- A request for reconsideration of the decision to terminate, suspend, or decrease services is an informal way to ask the DA/SSA to rethink the decision.
- A client may request a reconsideration of an action without filing an appeal.

Reconsideration without an Appeal (cont'd.)

- During the reconsideration, more information can be submitted to clarify or add to what has already been provided.
- If a reconsideration is requested, an appeal can be filed up to 90 days from the notification of DA action.

Appeal Process

- Appeals may be made orally or in writing by the client to any staff.
- Appeals must be filed within 90 calendar days of the notice of DA's action.
- It is the responsibility of the staff member receiving the appeal to inform the agency's grievance and appeals coordinator.

Appeal Process (cont'd.)

- Appeals decisions are made within a 45-day time period.
- The client can request a 14-day extension.

Appeal Process (cont'd.)

- Services continue during an appeal if:
 - The client requests the continuation of services
 - The appeal was filed in a timely manner (on or before the tenth day after the notice of action was mailed or by the intended effective date of the proposed action)
 - The appeal involves the termination, suspension, or reduction of a previously authorized course of treatment
 - The annual plan of care has not expired

Appeal Process (cont'd.)

- Service continuation applies only to services being terminated or reduced.
- The service must be continued until one of the following occurs
 - The client withdraws the appeal
 - The client does not request a Fair Hearing following an adverse appeal resolution
 - The DMH appeal decision is made that is also adverse to the client and no Fair Hearing is requested
 - The annual treatment plan expires

Appeal Process (cont'd.)

- Appeals have two steps that must be completed within 45 days unless a 14-day extension is requested.
- The first step is an internal review, which takes up to 15 days, conducted by the DA.
- If the internal review's finding is favorable to the client, a new Notice of Decision shall be sent to the client, with a copy to the DMH Quality Management Director.

Appeal Process (cont'd.)

- The second step is continuation of the appeal with review by DMH if the DA's original decision remains unchanged after the internal review.
- Continuation of the appeal with DMH occurs within the remaining 45 days of the appeal timeframe.

Appeal Process (cont'd.)

- The appeal at DMH will review the information in the internal review plus any new information the client presents.
- DMH will send the client written notification of DMH's decision on the appeal.
- If a client is dissatisfied with DMH's decision on the appeal, he/she has 30 days to request a Fair Hearing before the Human Services Board if a Fair Hearing has not already been requested.

Expedited Appeal

- An expedited appeal occurs when the standard time for considering an appeal would jeopardize the client's life or health or ability to attain, maintain, or regain maximum functioning or would have potential for harm to others.
- DMH will decide all expedited appeal requests within 3 working days, but decisions may be made more expeditiously on a case-by-case basis.

Expedited Appeal (cont'd.)

- If DMH determines that the appeal does not meet criteria for an expedited appeal, the appeal will follow the standard time frame of 45 days.
- The client will immediately be given spoken notification and afterward will be sent a written notice from the DA within 2 days, with a copy to the DMH Quality Management Director.

Fair Hearing

- A client can request a Fair Hearing at any time between first filing an appeal and 30 days after notification of an adverse decision by DMH.
- The first steps in the Fair Hearing process involve DMH review of the appeal documentation, in collaboration with the DA and DMH's Legal Unit, with a view to resolving the service disagreement between the client and the agency prior to the Fair Hearing, if possible.

Fair Hearing (cont'd.)

- If the service disagreement remains unresolved, a status conference will be held with a Hearing Officer prior to the Fair Hearing.
- Depending on the information presented at the status conference, the Fair Hearing may move forward and an advisory opinion may be offered to the Human Services Board.

Fair Hearing (cont'd.)

- The Human Services Board will issue a Final Order to the Secretary of the Agency of Human Services (AHS).
- The AHS Secretary has 10 days to accept the Human Services Board's order or request a reversal of the order.
- All parties must comply with the final determination.

DA/SSA Grievance and Appeal Form

If you are dissatisfied with your agency, a member of its staff, or decisions about services that you receive, you may complete this form and give it to the agency's grievances & appeals coordinator so that issues can be resolved reasonably quickly. This form is made available for your convenience, but you may write your concerns down in any way you choose. Or, if you prefer, you may talk to the grievances & appeals coordinator about your concerns.

We encourage you to express your dissatisfaction openly.

Your concerns are considered confidential.

Your services will not be affected if you file a grievance or appeal an action.

No staff member will treat you poorly if you express your concerns.

You are entitled to an agency decision regarding your concerns and reasons for the agency's decision.

Name: _____ (required in order to provide a response)

Address: _____ or e-mail _____

Telephone #: _____ (if preferred) Date: _____

What best describes your concerns? If your concerns are about a denial, reduction, or stoppage of service, please give as much detail as possible. If your concerns are about the agency or staff, please describe the issues.

The following categories may help, but you are not limited to this list:

Examples of Grievance Issues:

1. Dissatisfaction with a staff/contractor
2. Dissatisfaction with management
3. Dissatisfaction with program decision
4. Dissatisfaction with policy decision
5. Dissatisfaction with quality of services
6. Dissatisfaction with accessibility of services
7. Dissatisfaction with timeliness of response
8. Dissatisfaction with services not offered or not available

Examples of Appeal Issues:

1. Denial or limited authorization of a requested covered service.
2. Reduction, suspension, or termination of an authorized service or service plan
3. Denial, in whole or in part, of payment for a service
4. Failure to provide services in a timely manner
5. Failure to provide clinically indicated covered services
6. Denial of request for covered services outside Medicaid network

Describe your concerns and what steps you have taken to resolve the problem so far: _____

How would you like to see the problem resolved? _____
