

WAUPACA COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES
POLICY AND PROCEDURE MANUAL

CLIENT RIGHTS AND GRIEVANCE PROCEDURES

POLICY #23

The Waupaca County Department of Health and Human Services provides a complaint process for all its customers (clients/patients). When a customer applies for services under Wisconsin Statutes 51.61 and Administrative Code DHS 94 at the Department, the program staff will provide them with a copy of the Department's Complaint Process and Program Rights. Staff is expected to assure that each customer understands their Program Rights and Complaint Process. Waupaca County Department of Health and Human Services will comply with all Health Insurance Portability and Accountability Act (HIPAA) rules as they pertain to Department programs.

Attached are the Department's Complaint Procedure, Consumer Rights, and Complaint Report.

Attachments

Rev. 06/05

Adopted by Waupaca County DH&HS Board 5/7/97
Revisions Approved by WCDHHS Board 7/6/05

WAUPACA COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES
DHS 94 COUNTY GRIEVANCE PROCEDURE

POLICY #23A

Waupaca County Department of Health and Human Services has Policy #23 – Client Rights and Grievance Procedures – as a policy for managers and staff to follow in a grievance situation. Each Division may also have its own policy for clients.

The Department has identified the following person as Client Rights Specialist:

Lana Draeger
Waupaca County Department of Health and Human Services
811 Harding Street
Waupaca, WI 54981
(715) 258-6364

The Client Rights Specialist is a County employee of the Waupaca County Department of Health and Human Services, and was trained on June 2, 1998, at the training “Client Rights and Grievance Resolution” Sponsored by Wisconsin Department of Health and Family Services, Division of Supportive Living. The CRS is not directly involved in any client service provision, and the CRS does not supervise any staff members directly involved in any client service provision.

The CRS attended “Clients Rights and the Grievance Resolution Process”, sponsored by the Client Rights Office with the Department of Health and Family Services/Division of Disability and Elder Services, on March 24, 2005.

Waupaca County Department of Health and Human Services will comply with all Health Insurance Portability and Accountability Act (HIPAA) rules as they pertain to Department programs.

CUSTOMER COMPLAINT PROCESS

- I.
 - A. When you receive any type of service for mental health, alcoholism, drug abuse, or a developmental disability, you have rights under Wisconsin Statute sec. 51.61(1) and DHS 94 Wis. Administrative Code. The Bill of Rights is posted on the wall in the waiting area of the Waupaca County Health and Human Services Department, second floor of the Waupaca County Courthouse. Rights must be explained to you, the consumer, and you will be given and may keep the pamphlet entitled, “Your Rights and the Grievance Procedure” for Clients Receiving Services for Mental Illness, Alcohol or Other Drug Abuse, or Developmental Disabilities, printed by Division of Supportive Living, Department of Health and Family Services, Wisconsin, PSL-195.
 - B. Services to children for Child Protective Services and Juvenile Court Services of the Children and Families Division will follow Steps 1 through 5 of this grievance procedure. The process for child welfare complaints models DHS 94 for mental health, alcohol and/or other drug abuse, or developmental disabilities, however, Step 5 is the final step in the complaint process for child welfare. DHS 94 Step 6 is not available in child welfare services.
 - C. If you are concerned about benefits (financial, etc.) through the Economic and Employment Support Services Division, you will be given the “Request for Hearing” form to be completed, along with specific instructions for filing your complaint.
 - D. If you are receiving services through the Health Services or Elderly Services (of Community Care Division), you also have rights and may issue a complaint through this process.
 - E. HIPAA compliance rules will also follow this complaint process. If you wish to file a HIPAA complaint, you will be given the complaint form to complete. Your complaint will be investigated by a member of the HIPAA Committee.

- II. Personal Rights:
 - You must be treated with dignity and respect, free of any verbal or physical abuse.
 - You have the right to have staff make fair and reasonable decisions about your treatment and care.
 - You can decide whether you want to participate in religious services.
 - You can make your own decisions about things like getting married, voting, and writing a will.
 - You cannot be treated differently because of your race, national origin, sex, age, religion, disability, or sexual orientation.
 - ◆ You cannot be made to work, except for personal housekeeping chores. If you agree to do other work, you must be paid.
 - ◆ Your surroundings must be kept safe and clean.
 - ◆ You must be given the chance to exercise and go outside for fresh air regularly and frequently.

 - ◆ Rights designated with this symbol generally apply to inpatient and residential settings.

III. Treatment and Related Rights:

- You must be provided prompt and adequate treatment, rehabilitation, and educational services appropriate for you.
- You must be allowed to participate in the planning of your treatment and care.
- You must be informed of your treatment and care, including alternatives and possible side effects of medications.
- No treatment of medication may be given to you without your consent, unless it is needed in an emergency to prevent serious physical harm to you or others, or a court orders it. (If you have a guardian, however, your guardian can consent to treatment and medications on your behalf.)
- You must not be given unnecessary or excessive medication.
- You cannot be subject to electro-convulsive therapy or any drastic treatment measures, such as psychosurgery or experimental research without your written informed consent.
- You must be informed of any costs of your care and treatment that you or your relatives may have to pay.
- ◆ You must be treated in the least restrictive manner and setting necessary to safely and appropriately meet your needs.
- ◆ You may not be restrained or placed in a locked room (seclusion) unless in an emergency when it is necessary to prevent physical harm to you or to others.

IV. Communication and Privacy Rights:

- You may call or write to public officials or your lawyer or advocate.
- You may not be filmed or taped unless you agree to it.
- You may use your own money as you choose, within some limits.
- ◆ You may send and receive private mail. (Staff cannot read your mail unless you or your guardian asks them to do so. Staff may check your mail for contraband. They can only do so if you are watching.)
- ◆ You may use a telephone daily. *
- ◆ You may see (or refuse to see) visitors daily. *
- ◆ You must have privacy when you are in the bathroom. *
- ◆ You may wear your own clothing. *
- ◆ You must be given the opportunity to have your clothes washed. *
- ◆ You may keep and use your own belongings. *
- ◆ You must be given a reasonable amount of secure storage space. *

Some of your rights may be limited or denied for treatment or safety reasons. (See the rights with a * after them.) Your wishes and the wishes of your guardian should be considered. If any of your rights is limited or denied, you must be informed of the reasons for doing so. You may ask to talk with staff about it. You may also file a grievance about any limits of your rights.

- V. Record Privacy and Access Laws; HIPAA Compliance Laws:
Under Wisconsin Statute sec. 19.30 and HSS 92, Wis. Admin. Code and HIPAA:
- Your treatment information must be kept private (confidential)
 - Your records cannot be released without your consent, unless the law specifically allows for it.
 - You can ask to see your records. You must be shown any records about your physical health or medications. Staff may limit how much you can see of the rest of your records while you are receiving services. You must be informed of the reasons for any such limits. You can challenge those reasons in the grievance process. After discharge, you can see your entire record if you ask to do so. WCDHHS has set a minimum of 24 hours notice to review a file.
 - If you believe something in your record is wrong, you can challenge its accuracy. If staff will not change the part of your record you have challenged, you can put your own version in your records.
- V. Right of Access to Courts:
- You may sue someone for damages or other court relief if they violate any of your rights.
 - ◆ Involuntary patients can ask a court to review the order to place them in a facility.
- VI. Grievance Resolution Process:
- If you feel your rights have been violated, you may file a grievance.
 - You or another person (friend, family member, lay advocate, or staff member) may file a complaint on your behalf.
 - You may file as many complaints as you need to. Each complaint will be checked out (investigated) in the order you file them. Emergency complaints will be investigated first.
 - Complaints by more than one person will be investigated as one complaint.
 - You may file a complaint through the courts. If you choose to go through the courts, any complaint you file through the Waupaca County Department of Health and Human Services Grievance Procedure will be closed and will not be investigated further.
 - Any changes that are recommended because of your complaint need to occur in a reasonable time. Reasonable time depends on the recommendations and how hard it is to make changes. You have a right to know how long it will take to make the changes recommended.
 - You cannot be threatened or penalized in any way for filing a grievance.
 - You may, at the end of the grievance process, or any time during it, choose to take the matter to court. If you choose to go through the court, the complaint process will end on the date you begin court action.
 - ◆ The service provider or facility must inform you of your rights and how to use the grievance process.

It is the policy of Waupaca County Department of Health and Human Services to try to resolve the grievance informally by requesting the grievant to first meet with the staff member prior to being referred to CRS.

If at any time during the formal resolution process a grievant wishes to switch to the informal resolution process, and the other parties agree to the switch, the Client Rights Specialist may suspend the formal resolution process and attempt to facilitate a resolution of the matter between the parties without prejudice to positions of the grievant or the program. If the client chooses to use the informal resolution process and the matter is resolved, the Client Rights Specialist shall prepare a brief report indicating the nature of the resolution and file it with the Program Manager, with copies to the client, any person acting on behalf of the client, and the parent or guardian of a client if that person's consent is required for treatment.

Any person who is aware of a possible violation of a client's rights under ch. 51 Stats., ch HSS 92 or DHS 94 may present a grievance on behalf of a client. When a grievance is presented on behalf of a client by someone other than the client's parent or guardian, and the parent or guardian's consent is required for treatment, the CRS shall meet with the client and the client's parent or guardian to determine if the client or the guardian wishes the grievance investigated and resolved through the formal resolution process. If the client or guardian is opposed to using the formal resolution process, the CRS may proceed with the investigation only if there are reasonable grounds to believe that failure to proceed may place the client or other clients at risk of physical or emotional harm. If there is no parent or guardian, or if that person is not available, and the client is unable to express an opinion, the CRS shall proceed. When a grievance is filed on behalf of a client by a person who does not have a right to information about the client because of confidentiality issues, the person may only receive confidential information as part of the investigation or resolution of the grievance with the informed consent of the client or guardian, the parent of a client who is under the age of 18, if the parent's consent is required for release of information, or pursuant to an order of a court with jurisdiction over matters relating to the client. In the absence of this consent, a person presenting a grievance on behalf of a client shall be informed of the determination of the CRS regarding the merit of the grievance, but if the text of the determination contains confidential information to which the person is not privileged or for which a release has not been obtained, the text may not be disclosed to the person. A person presenting a grievance on behalf of a client may request additional review of an adverse decision, up to and including final state review. If the client is opposed to requesting additional review, the reviewing officer may only proceed if the person presenting the grievance provides sufficient information to demonstrate that there are reasonable grounds for believing that failure to proceed may place the client or other clients at risk of physical or emotional harm.

If time limits are suspended, they shall begin running again upon request of any party that the formal resolution process be resumed.

At any point in time, the client has the right under s. 51.61(7), Stats., to take the matter to Court. Once client has started a court process, the complaint filed will no longer be investigated through the grievance procedure.

A grievance may be presented to the program manager or any staff person in writing, orally, or by any alternative method through which the client or other person ordinarily communicates. If a translator is needed and client does not have one available, WCDHHS will attempt to obtain a translator as soon as reasonably possible to handle complaint.

All time limits are expressed in calendar days, unless otherwise noted.

The steps in filing a formal complaint are as follows:

Step 1:

If you have a disagreement or concern about your rights, you should first express your concern to the staff member involved. You should file a complaint by completing the Complaint Report (attached). Staff should try to work with you to resolve your complaint. The client or person acting on the client's behalf shall present the grievance to the Client Rights Specialist, staff person, or manager within 45 days of the occurrence of the event or circumstance in the grievance, or of the time when the event or circumstance was actually discovered or should reasonably have been discovered, or of the client's gaining or regaining the ability to report the matter, whichever comes last. The manager may grant an extension of the 45-day time limit for filing a grievance for good cause. In an emergency situation, the staff member will take the complaint to the manager immediately.

If you are concerned about benefits (financial, etc.) through the Economic and Employment Support Services Division, you will be given the "Request for Fair Hearing" form, which should be filled out in place of the Complaint Report.

Step 2:

If you are unable to resolve the disagreement with the staff member, you have two options. 1) Request the staff member to refer you to his/her immediate supervisor/manager. The supervisor/manager will contact you within three (3) days to meet and to attempt to resolve the complaint as best he/she can; or, 2) You may contact the CRS within five (5) days to request the next level review. The CRS will contact the supervisor/manager, who will contact you within three (3) days to meet and to attempt to resolve the complaint. Whether the complaint is resolved or not, the consumer will be informed in writing within ten (10) days following the meeting, with a copy of the report to the CRS, grievant, and staff member. If the grievance is resolved, the Program Manager issues a written report with copies to the CRS and client. In the case of an emergency, the Manager will take the complaint to the CRS to begin an investigation within 24 hours.

Step 3:

If you are not able to resolve the complaint with the supervisor/manager, you will be referred to contact the Client Rights Specialist (CRS) within seven (7) days. The CRS will contact you within three (3) days to meet and to attempt to resolve your complaint. The CRS will meet with the grievant, and client if other than grievant, and any staff members named in the grievance.

The CRS will review all necessary information, get release of information for consent to access records, if necessary, complete the investigation, and submit a written report within 30 days from the date the grievant contacted the CRS.

In an emergency situation, the CRS will begin investigation within 24 hours of receiving your complaint and a report will be issued within five (5) days after completion of the investigation.

The report will include a summary of the facts, laws applicable to the facts, and a finding whether founded or unfounded. The report will give a basis for the finding. If founded, the CRS will note ways to resolve the issue(s). The employee, along with his/her supervisor, will complete a report within 30 days and submit to the CRS with actions taken to correct the situation. The grievant and/or person(s) authorized to act on behalf of client/grievant will receive a report from the CRS stating changes that have taken place.

If the grievance is unfounded, but issues are identified that need to be resolved, the CRS identifies these and gives suggestions for improvement. Copies of the report will be given to the grievant and/or person(s) authorized to act on behalf of client/grievant, staff member, and manager.

If it is determined clients are at risk of harm and the program has not acted to eliminate the risk, the CRS must immediately inform Program Manager, County Director, and State Grievance Examiner. If the situation continues, State Grievance Examiner must take immediate action to protect clients.

Step 4:

If you disagree with the CRS's investigation, you must submit a request to the CRS for administrative review within fourteen (14) days. The CRS will gather information and transmit to the Director. The Director will investigate your complaint and send you a written decision by certified mail within thirty (30) days after receiving the complaint. A copy of the report will be given to the CRS, grievant, staff member, and manager. In an emergency, a report will be written within 10 days.

Step 5:

A grievant shall have 14 days from the date he or she receives a county director's decision to request a state level review under s. DHS 94.43 of the county director's decision. The request must go through the CRS. The CRS shall transmit a copy of the original grievance, the report of the Client Rights Specialist, the written decision, and the request for review to the reviewer. The state review decision will be issued within 30 days of receipt of the information. In an emergency, a report will be written within 10 days.

Step 6:

A grievant shall have 14 days from the date he or she receives the state review decision to request a final state review under DHS 94.44. A grievant seeking the final review shall present his or her request to the CRS, who shall transmit the request to an administrator designated, along with copies of the original grievance and all prior decisions and reports. A request by a Program Manager or County Director for final state review shall be presented to the designated administrator(s) on forms provided by the department and included with the request copies of the original grievance and all subsequent decisions and reports. A copy of the request for review shall be sent by first class mail to all other parties, including the client and the grievant, if other than the client. A request shall describe the portion or portions of the prior decision with which the party disagrees, the basis for the disagreement, and any arguments or additional information the party wishes the department to consider. If the grievant is unable to prepare a written request for final state review, the Program Manager or designee shall assist in completing the necessary forms. This step in the process is not available under child welfare complaints.

The administrator conducting the final state review shall prepare a final administrative determination for resolution of the grievance within 30 days. Copies of the decision shall be sent by first class mail to the Grievance Examiner, the County Director, the Program Manager, the client, the grievant, if other than the client, the Client Rights Specialist, the parent or guardian of a client if that person's consent is required for treatment, and all staff who received a copy of the state grievance examiner's decision. The decision shall contain a notice to the parties that there is no further administrative appeal beyond this state. The grievant shall be advised of the client's right to pursue additional consideration of the matter by bringing action in a court under s. 51.61(7) Stats.

MULTIPLE GRIEVANCES BY ONE CLIENT

When a client or person acting on behalf of a client has presented multiple grievances involving a variety of circumstances, the Client Rights Specialist may establish an expanded timetable with specific priorities for investigating the allegations in a manner which appears most likely to deal with the issues in an efficient manner, while addressing the most serious allegations first. This timetable may exceed the timeframes in this policy, but shall include reasonable time limits for completing the investigation of each grievance. The CRS shall notify the client, or person acting on behalf of the client, and the Program Manager of the timetable and priorities for resolution within 10 days after beginning the inquiry. If there is an objection to the proposed timetable or priorities, the CRS shall attempt to reach an informal resolution of the objection. If the client or person acting on behalf of the client continues to object, that person may request a review by the Director. In the absence of a request, the timetable and priorities established by the CRS shall be controlling.

RELATED GRIEVANCES BY SEVERAL CLIENTS

When two or more clients have presented individual grievances involving the same circumstances or a related group of circumstances relating to a single program, the CRS may conduct the investigation as if it were one grievance. This timetable may exceed the timeframes in this policy, but shall include reasonable time limits for completing the investigation of each grievance. The CRS shall notify the client or person acting on behalf of the client of the timetable and priorities for resolution within 10 days after beginning the inquiry. If there is an objection to the proposed timetable or priorities, the CRS shall attempt to reach an informal resolution of the objection. If the client, or person acting on behalf of the client, or the Program Manager continues to object, that person may request a review by the Director. In the absence of a request, the timetable and priorities established by the CRS shall be controlling.

COMPLAINTS RELATED TO THE EXISTENCE OR OPERATION OF GRIEVANCE RESOLUTION SYSTEMS

Clients or persons acting on behalf of clients may register complaints relating to failure of a program to have a grievance resolution system or relating to the operation of an existing grievance resolution system directly to the unit or office of the department designated to conduct administrative reviews. If the complaint regarding the existence or operation of a grievance resolution system is filed with the department, a state grievance examiner shall conduct an investigation to determine whether a grievance resolution system meeting the requirements is in place in the program. If the program lacks a grievance resolution system or if the existing system is not in substantial compliance with the requirements, the state grievance examiner shall issue a report identifying the steps necessary for the program to implement a grievance resolution system with a timeline for implementation. If the program fails to implement the required steps in the expected time period, the matter will be referred to the appropriate unit of office for oversight of the program for action related to certification, licensure, or reimbursement or for censure of the program.

Contact your Client Rights Specialist, whose name is shown on the brochure and Bill of Rights poster, to file a grievance or to learn more about the specific grievance process used by the agency from which you are receiving services.

**WAUPACA COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES
COMPLAINT REPORT**

Name – Complainant	Name – Patient (if not complainant)
Address	Address
Telephone Number(s)	Telephone Number(s)

This complaint states that my rights have been violated as described below.

Program _____ Right violated _____
Give number, if known

DESCRIBE YOUR COMPLAINT (use back of paper or additional paper if needed)
State all facts, including time, place of incident, name(s) of others involved, witnesses (if any) . . .

RELIEF SOUGHT

Circle: I (HAVE) (HAVE NOT) had discussion with the person(s) involved or program supervisor
I (HAVE) (HAVE NOT) submitted this complaint to the following agency:

SIGNATURE: _____

Date Submitted: _____ Date Received (Agency Use): _____