

**Arizona Department of Health Services
Division of Behavioral Health Services
PROVIDER MANUAL**

Section 5.3 **Grievance and Requests for Investigation for Persons
Determined to have a Serious Mental Illness (SMI)**

5.3.1	Introduction
5.3.2	References
5.3.3	Scope
5.3.4	Definitions
5.3.5	Objectives
5.3.6	Grievance and Requests for Investigation Principles
5.3.7	Procedures
5.3.7-A.	Filing grievances and requests for investigations
5.3.7-B.	Grievance and request for investigation resolution process

5.3.1 Introduction

A grievance and request for investigation process has been established for persons determined to have a Serious Mental Illness who are enrolled in the ADHS/DBHS behavioral health system. The grievance and request for investigation process for persons determined to have a Serious Mental Illness focuses on situations in which:

- The rights of a person determined to have a Serious Mental Illness have been violated;
- The person has been abused or mistreated;
- There is a death of a person.

The intent of this section is to describe behavioral health provider responsibilities related to grievances and requests for investigations involving persons who have been determined to have a Serious Mental Illness.

5.3.2 References

The following citations can serve as additional resources for this content area:

- [A.R.S. 41, Chapter 6, Article 10](#)
- [A.A.C. R9-21-101\(B\)](#)
- [A.A.C. R9-21-103](#)
- [9 A.A.C. 21, Article 4](#)
- [ADHS/RBHA Contract](#)
- [ADHS/TRBHA IGA](#)
- [Section 3.10 SMI Eligibility Determination](#)
- [Section 5.4 Special Assistance for SMI Members](#)
- [Section 5.2 Member Complaints](#)
- [Section 7.3 Seclusion and Restraint Reporting](#)
- [Section 7.4 Reporting of Incidents, Accidents and Deaths](#)

5.3.3 Scope

To whom does this apply?

This applies to all persons who have been determined to have a Serious Mental Illness and are enrolled in the ADHS/DBHS behavioral health system.

Arizona Department of Health Services

Division of Behavioral Health Services

PROVIDER MANUAL

5.3.4 Definitions

Abuse - The infliction of, or allowing another person to inflict or cause physical pain or injury, impairment of bodily function, disfigurement or serious emotional damage which may be evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior. Such abuse may be caused by acts or omissions of an individual having responsibility for the care, custody or control of a client receiving behavioral health services or community services. Abuse shall also include sexual misconduct, assault, molestation, incest, or prostitution of, or with, a client under the care of personnel or a mental health agency.

Administrative Appeal – An appeal to the ADHS/DBHS of a decision made by the AzSH or a T/RBHA as the result of a grievance.

Appeal – A request for review of an action and for a person determined to have a SMI, an adverse decision by a T/RBHA or ADHS/DBHS.

Condition Requiring Investigation - An incident or condition that appears to be dangerous, illegal or inhumane, including the death of a person with Serious Mental Illness.

Dangerous - A condition that poses or posed a danger or the potential of danger to the health or safety of a person with Serious Mental Illness.

Grievance or Request for Investigation - For purposes of this section means a complaint that is filed by a person with Serious Mental Illness or other concerned persons regarding a violation of the person with Serious Mental Illness's rights or a condition requiring an investigation.

Illegal - An incidence or occurrence that is or was likely to constitute a violation of a state or federal statute regulation, court decision or other law.

Inhumane - An incident, condition or occurrence that is demeaning to a person with Serious Mental Illness or which is inconsistent with the proper regard for the right of the person to humane treatment.

5.3.5 Objectives

To ensure that behavioral health providers allow persons determined to have a serious mental illness appropriate access to the grievance and request for investigation process.

5.3.6 Grievance and Requests for Investigation Principles

It is ADHS/DBHS' intent that the grievance and request for investigation process for persons determined to have a Serious Mental Illness must:

- Resolve in an expeditious and equitable manner any allegations that a rights violation or a condition requiring investigation has occurred with regard to persons determined to have a Serious Mental Illness;
- Maintain confidentiality and privacy of the grievance matters and records at all times;
- Take the necessary steps to protect the health, safety and security of any person determined to have a Serious Mental Illness, witness or individual filing the grievance;
- Communicate, as appropriate, timely information on matters and decisions related to the grievance and investigation to affected parties;
- Involve the active cooperation and participation as deemed appropriate of providers with a direct interest in the matter under review; and

Arizona Department of Health Services

Division of Behavioral Health Services

PROVIDER MANUAL

- Serve as a means for identifying system deficiencies and developing corrective action plans to resolve any deficiencies identified.

5.3.7 Procedures

5.3.7-A. Filing grievances and requests for investigations

A grievance or request for investigation may be submitted orally or in writing by a person determined to have a Serious Mental Illness who is enrolled with a T/RBHA or by any other concerned person in situations in which it is alleged that:

- A violation of the person's rights may have occurred; or
- A condition requiring investigation currently exists or has occurred.

If asked, a behavioral health provider must assist a person in initiating an oral or written grievance or request for investigation.

If a behavioral health provider has reason to believe that a rights violation or condition requiring investigation has occurred, they must ensure that a grievance or request for investigation is filed. When requested, failure of an employee or individual under contract with a provider to file a grievance or request for investigation may be grounds for corrective action against the employee.

All grievances or requests for investigation must be:

- Submitted orally or in writing to **NARBHA Grievance and Appeals, 1300 S. Yale Street, Flagstaff, AZ 86001, 928-214-7128 or 800-640-2123 or 877-923-1400.**
-
- Reduced to writing on the ADHS/DBHS grievance or request for investigation form (see [PM Form 5.3.1](#)) by either the person filing the grievance or request for investigation or by the provider to whom the grievance or request for investigation is made.
- Filed orally or in writing within one year of the alleged rights violation or condition for investigation occurred.

5.3.7-B. Grievance and request for investigation resolution process

The entity initially responsible for resolving grievances or requests for investigation differs depending on the nature of the grievance or request for investigation:

- Allegations of rights violations involving abuse or the death of a person determined to have a serious mental illness are investigated by ADHS/DBHS; and
- Allegations of rights violations other than abuse or death are investigated by:
 - The Arizona State Hospital if the violation occurred at the Hospital;
 - The RBHA if the violation occurred at the RBHA or at one of its providers; or
 - ADHS/DBHS if the violation occurred at the TRBHA or at one of its providers.

The process for resolving grievances or requests for investigation may also vary in length; ranging from:

- Immediate disposition without investigation;
- An investigation and final decision;
- An administrative appeal; or

Arizona Department of Health Services

Division of Behavioral Health Services

PROVIDER MANUAL

- An administrative hearing.

How is time computed?

When computing any period of time associated with this process:

- The period begins the day after the act, event or decision occurs and includes all calendar days and the final day of the period. If the final day of the period is a weekend or legal holiday, the period is extended until the end of the next day that is not a weekend or a legal holiday;
- If the period of time is not designated as calendar days and is less than 11 days, then intermediate Saturdays, Sundays and legal holidays must not be included in the computation.

What are the responsibilities of a behavioral health provider?

Behavioral health providers are not directly responsible for the resolution of the grievance or request for investigation, but are required to actively participate in the process as follows:

- Cooperate in the investigation by participating in any private face-to-face interviews the investigator requests. Failure to cooperate may lead to corrective action;
- Provide information requested by the RBHA or ADHS/DBHS designated investigator;
- Continue to cooperate and participate as necessary in any subsequent appeal proceedings relating to the grievance or request for investigation; and
- Implement any immediate, reasonable action required to protect the health and safety of any person determined to have a serious mental illness or involved staff.