

Welcome to training: The Grievance and Appeals Process for Individuals Living with a Serious Mental Illness

You were automatically muted upon entry. Please only join by phone or computer. Please use the chat feature for questions or raise your hand.

Thank you.



Zoom Webinar Controls

Navigating your bar on the bottom...



- Windows: You can also use the Alt+Y keyboard shortcut to raise or lower your hand.
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Audio Settings





Welcome!

What to expect during the training:

- Information regarding The Grievance and Appeals Process for Individuals Living with a Serious Mental Illness (SMI),
- Real-time answers to related questions in the chat, and
- Links to relative sources.

What to expect after the training:

- Concluding with Q&A session,
- Each participant will receive this presentation,
- Contact information for the OHR for questions on other topics, and
- Survey link.





Frequently Asked Questions

Who is in the audience?

Who can see my chats?

What if I don't want to talk during this meeting but would prefer to talk offline?

Why is this training based on AHCCCS policy and the Arizona Administrative Code?



Agenda

- Overview: The Division of Community Advocacy and Intergovernmental Relations (DCAIR)
- Overview: The Office of Human Rights (OHR)
- The Grievance and Appeals Process for Individuals with a Serious Mental Illness
- Overview: The Office of Individual and Family Affairs (OIFA)
- Advocacy Resources
- Upcoming Forums and Training

* AHCCCS Acronyms Guide







The Grievance and Appeals Process for Individuals Living with a Serious Mental Illness

Presented by: The Office of Human Rights (OHR) The Office of Individual and Family Affairs (OIFA) AHCCCS/Division of Community Advocacy and Intergovernmental Relations (DCAIR)



June 21, 2023



Overview

Division of Community Advocacy and Intergovernmental Relations (DCAIR)

> Alex Demyan DCAIR Assistant Director



DCAIR Departments

The Division of Community Advocacy and Intergovernmental Relations (DCAIR) is an AHCCCS division that houses functions that interface with our individuals, family individuals and other stakeholders. These areas are very important as they ensure the voice of the community is heard.

Office of Individual and Family Affairs (OIFA)	Office of Human Rights (OHR)	Federal Relations and Special Engagements
		Team (FRAS)
Peer and Family Support,	Advocacy for persons	
and Individual	with a Serious Mental	Waiver, State Plan, Tribal
Engagement	Illness	Relations



DCAIR Community Involvement

DCAIR routinely engages with our communities to educate, inform, and solicit feedback from individuals, families, providers, and stakeholders. We also facilitate or participate in workgroups & committees to address health care needs including:

- Behavioral Health Planning Council
- Arizona Council of Human Service Providers

See the <u>AHCCCS Community</u> <u>Events Calendar</u> for more public events. OIFA Advisory Council



The State Medicaid Advisory Committee



Sources for Feedback

- Public comments on policy,
- Calls received by the Advocate of the Day (AOD),
- Q&A with the community, and
- Other departments at AHCCCS like OIFA.







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Overview The Office of Human Rights (OHR) Andrea Sitter, OHR Advocate



The Office of Human Rights

Mission Statement

The OHR Provides advocacy to individuals living with a SMI to help them understand, protect and exercise their rights, facilitate self-advocacy through education, and obtain access to behavioral health services in the public behavioral health system in Arizona.



Special Assistance



The support provided to an individual designated with a SMI who is unable to articulate treatment preferences and/or participate effectively in:

- The development of the Individual Service Plan (ISP),
- Inpatient Treatment, and Discharge Plan (ITDP), and
- Grievance and/or appeal processes.

This is due to a cognitive or intellectual impairment and/or medical condition.



Special Assistance Data as of June 1, 2023





OHR Advocacy at-a-Glance





Community Education

9 community education session in the past year, engagement with over **1800 attendees** at these trainings:

- Rights of Individuals living with a Serious Mental Illness,
- Court-ordered Evaluation and Court-ordered Treatment for Individuals Living with a Serious Mental Illness,
- The Individual Service Plan and Why it Matters for Individuals Living with a Serious Mental Illness,
- Inpatient Treatment and Discharge Planning for Individuals with a Serious Mental Illness,
- The Grievance and Appeals Process for Individuals Living with a Serious Mental Illness,
- The Power of Collaboration and Advocacy for Individuals Living with a Serious Mental Illness, and
- Why Assess for Special Assistance for Individuals Living with a Serious Mental Illness,
- Provider Case Management for Individuals living with a Serious Mental Illness, and
- The Role of the Office of Human Rights for Individuals living with a Serious Mental Illness.

Previous OHR trainings are available here.



Education Results in Growth

of Special Assistance Growth Trend



Year





The Grievance and Appeals Process



Navigating SMI Rights

There are several ways individuals can protect their SMI rights:

- Informal approach (provider),
- Complaint,
- Appeal, and/or
- Grievance.

Staff **cannot** retaliate against a person for self-advocating and/or using the processes in place to address problems.

R9-21-203.A.8

One-pager on SMI complaints, appeals, and grievances is available here.



SMI Grievance and Appeal Process

Formal actions that can be taken when a individual needs to resolve an issue in accordance with <u>the</u> <u>Arizona Administrative Code R9-21-401 and 403</u>.

SMI Grievance: filed when there is an allegation that a individual living with an SMI has had their rights violated. This process is in accordance with <u>AHCCCS Contractor Operations Manual (ACOM) 446</u> for grievances and investigations.

SMI Appeal: filed when a individual disagrees with decisions regarding eligibility for behavioral health services, including TXIX services, fees and waivers; assessments and further evaluations; and services and treatment plans. This process is in accordance with <u>AHCCCS Contractor</u> <u>Operations Manual (ACOM) 444</u> for the notice and appeal requirements.







The SMI Grievance Process

Emily Lopex, OHR Advocate



SMI Grievance

- A grievance may be filed by any individual when a violation of rights has occurred.
 - SMI rights may have been violated,
 - A member was mistreated or felt abused*, and/or
 - A concern about the quality of care or services a member received.
- Grievances must be filed within one (1) year from the alleged rights violation.**



*Abuse means, 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. Abuse shall also include sexual misconduct, assault, molestation, incest, or prostitution of, or with, a client under the care of personnel of a mental health agency. **This timeframe may be extended for good cause as determined by AHCCCS or the Contractor in accordance with <u>AHCCCS Contractor Operations</u> <u>Manual (ACOM) 446</u>



Filing a SMI Grievance

• An individual, and their guardian, shall communicate the grievance orally or submit the grievance in writing to any employee of a mental health agency who shall forward the grievance to the appropriate person as identified in R9-21-404.*



• If asked to do so by a member, an employee shall assist them or shall direct them to available staff who shall assist them in making an oral or written grievance.

* It is best to file grievances in writing using the <u>SMI Grievance/Appeal Form</u> and keep a copy for your records.



Filing a SMI Grievance



Within five days of receipt of a grievance, the person filing the grievance shall be informed by the agency director, in writing, that the grievance request has been received.



Within seven days of receipt of the grievance, the person filing the grievance shall be informed by the agency director, in writing, of the dated appointment and name of the investigator, and procedure by which the investigation will be conducted.

This process is in accordance with the AHCCCS Contractor Operations Manual 446

All timelines are subject to an extension in accordance with the Arizona Administrative Code R9-21-410



Disposition without Investigation

Within seven days of receipt of the grievance, the agency director may resolve a grievance without a full investigation, where the matter:

- Involves no dispute,
- Is clearly frivolous, or
- Is resolved fairly and efficiently within seven days without a formal investigation.

If the grievance is dispositioned, the agency director shall prepare a written, dated decision, explaining the essential facts, the reason the matter is believed to be appropriately resolved without investigation, and the resolution.



SMI Grievance Investigation

- Within 10 days of appointment, the investigator shall hold an interview with the person who filed the grievance and the person receiving services who is identified as the subject of the violation.
- Within 15 days of appointment, the investigator shall interview the person alleged to be the perpetrator of the rights violation.



This process is in accordance with the AHCCCS Contractor Operations Manual 446

All timelines are subject to an extension in accordance with the Arizona Administrative Code R9-21-410



SMI Grievance Resolution After Investigation



Within 10 days of completing all interviews with the parties, but not later than 30 days from the date of the appointment, the investigator shall prepare a written, dated report briefly describing the investigation and containing findings of fact, conclusions, and recommendations.



Within five days of receiving the investigator's report, the agency director shall review the report and prepare a written, dated decision accepting or rejecting the report. The decision shall include a notice of the right to request an appeal of the decision within 30 days from the date of receipt of the decision.

All timelines are subject to an extension in accordance with the Arizona Administrative Code R9-21-410



SMI Grievance Resolution After Investigation

- The report will contain:
 - Information provided during the interview or found in documents reviewed,
 - Any other activities conducted as a part of the investigation,
 - A description of any issues identified during the investigation that, while not related to the allegation, constitutes a rights violation,
 - Describing factors that led to the conclusion that the alleged violation is either substantiated or not substantiated based on evidence, and
 - Recommended actions or a recommendation for required corrective action, if indicated.



SMI Grievance Resolution After Investigation

• The agency director will either:



Accept the investigator's report and send a copy of the decision to the investigator, the individual who filed the grievance, and the individual who is the subject of the grievance, or



Reject the report for insufficient facts and return the matter for further investigation. A revised report is due to the agency director within 10 days.

One-pager on the SMI grievance process is available here.

All timelines are subject to an extension in accordance with the Arizona Administrative Code R9-21-410





Appeal Rights of Grievances Kisha Kimber, OHR Advocate



Dissatisfied with Outcome?



- If dissatisfied with the grievance decision, a request for an Administrative Appeal with AHCCCS may be filed within 30 days from the date of the grievance decision.
- The request for Administrative Appeal shall specify the basis for the disagreement. Failure to specify the basis for the disagreement may result in a summary determination in favor of the grievance decision.



Appeal Rights of Grievances

- Within 15 days* of the filing of the appeal, AHCCCS shall review the Appeal and the investigation case record and may discuss the matter with any of the persons involved or convene an informal conference, and shall prepare a written, dated decision that will either:
 - Accept the investigator's report, in whole or in part, at least with respect to the facts as found, and affirm, modify,
 - Reject the decision of the agency director with a statement of reasons, or
 - Reject the investigator's report for insufficiency of facts and return the matter with instructions to the agency director for further investigation and decision. In such event, the further investigation shall be completed and a revised report and decision shall be completed within 10 days.

*All timelines are subject to an extension in accordance with the Arizona Administrative Code.



Further Appeal to Administrative Hearing

- A final decision will be determined upon receipt of the report.
- If dissatisfied with the agency director's decision, the appealing party may file a notice requesting a fair hearing before an Administrative Law Judge within 30 days of the date of the director's decision.



See <u>the Arizona Administrative Code R9-21-401 (G.)</u> and <u>AZ Office of Administrative Hearing</u> for more on the hearing process



The Importance of the SMI Grievance Process

- It provides a vessel that allows a chance to speak to the rights violations and creates a path for self advocacy.
- It allows for a fair, timely, impartial procedure, and the right not to be retaliated against.
- It ensures that violations are being investigated.
- It creates a way to have the member's voice heard.
- It provides a path to disagree with the grievance decision by requiring appeal rights.





SMI Appeal

- An individual, and their guardian, can communicate the appeal in writing or verbally with a health plan customer service department or the AHCCCS Office of Behavioral Health Grievances and Appeals (BHGA).
- If asked to do so by a member, an employee shall assist them or shall direct them to available staff who shall assist them in making an oral or written grievance.
- Must appeal within 60 days of action or decision.




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The SMI Appeals Process

Ywchari Manos, OHR Advocate



What to Appeal

- Issues that can be appealed include, but not limited to:
 - The reduction, suspension, or termination of a service the member was receiving,
 - The failure to provide timely services,
 - The failure to act within timeframes for resolving an appeal or complaint, and/or
 - The denial of a request for services outside of the provider network when services are not available within the provider network.

This is in accordance with the Arizona Administrative Code R9-21-401



Appeal Process and Outcomes

- After an appeal is filed:
 - An informal conference takes place between the member, the provider and the RBHA or TRBHA to try to find a solution to the appeal.
 - If the issue is not resolved, a second informal conference can be scheduled with the AHCCCS/Behavioral Health Grievance and Appeals (BHGA) office, unless the conference is waived or the appeal involves SMI eligibility.

All timelines are subject to an extension in accordance with the Arizona Administrative Code R9-21-410



The SMI Appeal Process*



Must be acknowledged in writing by the health plan within five (5) days.

The first informal conference must be held within seven (7) days.



Within three days, the appeal will forward to next level of informal conference with notes being made available if not resolved.

Second informal conference will be held within 15 days.

Review a one-pager on the SMI appeal process <u>here</u>. This information is in accordance with <u>the Arizona</u> <u>Administrative Code</u> and with the <u>AHCCCS Contractor Operations Manual (ACOM) 444</u> for the notice and appeal requirements.

*All timelines are subject to an extension in accordance with the Arizona Administrative Code.





SMI Appeal Rights John Pizzo, OHR Advocate



Dissatisfied with Outcome?

If the issue is not resolved through the informal conference(s), a member has the right to request an administrative hearing.

- Within three days, the appeal must be forwarded to the Office of Administrative Appeals (OAH) with the notes being available.
- At the administrative hearing, the member will present evidence through testimony of witnesses and records to support the appeal.
- The administrative law judge then issues a proposed decision, which the AHCCCS Director or designee reviews before issuing a final decision (in writing).



Expedited Appeal

An appeal can be expedited upon request if it involves:



- The denial or termination of crisis or emergency services,
- The denial of admission to or the termination of inpatient services, or
- The individual can show good cause to support the need for an expedited appeal.



Expedited Appeal



Within one day of receipt, the health plan shall acknowledge receipt of the appeal in writing with the time, date and location of informal conference, or issue a written decision stating that the Appeal does not meet criteria as an expedited Appeal and state the right to request an Administrative Review from AHCCCS.



Within two days of receipt of a written request, the health plan shall hold an informal conference to mediate and resolve the issues in dispute.



Within two days of notification from the health plan, AHCCCS shall hold an informal conference to mediate and resolve the issue in dispute, if the matter is not resolved, the Appeal shall be forwarded within one day to AHCCCS to schedule an administrative hearing.



Continuation of Services During an Appeal

Services may continue during the appeal process if requested and if an appeal is filed timely, unless a clinician determines that the modification or termination is necessary to avoid a serious or immediate threat to health or safety, or if there is a disagreement on the modification or termination of services.



There is an option to request continued service during the appeal process. with the statement of understanding that the requestor may be required to pay for the cost of services provided if the appeal is not successful.



446, Attachment A - Page 2 of proval Dates: 03/20/28, 05/30/29, 02/02/21

Roadmap to the Appeal Steps

File Appeal

This must be done within 60 days of an action, notice or decision.

2 Informal Conference

At the conclusion of the informal conference, the member can agree with the resolution, withdraw or opt to escalate the matter if necessary.



At the conclusion of the second informal conference, the member can agree with the resolution, withdraw or opt to escalate the matter if necessary. 4 Administrative Hearing

Uniform Administrative Hearing Procedures -Chapter 6, Article 10



The Importance of the SMI Appeal Process

- It provides a path to disagree with a decision that was made about services.
- Allows guardians, designated representatives, or service providers to file an appeal per A.A.C. R9-21-401(D).
- Services may continue during the appeal process when an appeal is filed timely (A.A.C. R9-21-401[J]).
- It could overturn a decision.
- It empowers voice and choice.
- It strengthens self-advocacy.

This is in accordance with <u>the</u> <u>Arizona Administrative Code</u> <u>R9-21-401</u>







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Overview The Office of Individual and Family Affairs (OIFA)

Cynthia Burr OIFA Children's Behavioral Health Liaison



OIFA Mission

The Office of Individual and Family Affairs promotes recovery, resiliency, and wellness for individuals whose lives have been impacted by mental health and/or substance use challenges.





Office of Individual and Family Affairs (OIFA)

The AHCCCS Office of Individual and Family Affairs (OIFA) takes pride in helping individuals and family individuals in the public health care system. OIFA is dedicated to three core areas:



Our actions, initiatives, and successes drive us toward our core goals.







View the calendar of events at: https://www.azahcccs.gov/shared/AHCCCScalendar.html



Ending Stigma

- Stigma shapes how we perceive mental illness and mental health. Stigma may influence who people interact or socialize with.
- Negative public perceptions hamper access to housing, employment, and health care.
- This discrimination can seriously affect a person's willingness to seek or continue treatment for mental illness.
- Stigma erodes a person's self-esteem and sense of dignity so that shame prevents them from seeking help.



Advocacy Resources Denard Stewart, OHR Advocate





Self-Advocacy

- During the grievance and appeal processes:
 - \circ $\,$ Attend the scheduled meetings
 - \circ Give input
 - Keep records and prepare relevant exhibits
 - Talk with the investigator at the health plan and explain the issue in detail
- Questions or concerns during the process?
 - Call the OHR at 1-800-421-2124 for assistance in understanding, exercising & protecting SMI rights.



Self-Advocacy

- Prepare for your grievance/appeal discussions
 - Member's Name
 - Your role to the member
 - \circ Clinic
 - Case manager and clinical supervisor name and contact
 - Grievance/appeal subject
 - Desired outcome (what do you want aka proposed solution)
 - Date grievance/appeal filed
 - Keep record of correspondence and timeframes

 It is best to file in writing using the <u>SMI Grievance/Appeal Form</u> and keeping a copy for your records.





Advocate of the Day

OHR operates a single statewide phone line during business hours to provide technical assistance to anyone living with a Serious Mental Illness. Technical assistance could include:



- Providing education and resources for behavioral health services in Arizona,
- Helping a person understand their rights as an individual living with a Serious Mental Illness,
- Helping an individual to understand their treatment options, and
- Educating about the grievance and/or appeal process.

1-800-421-2124



Health Plans, ACC-RBHA and TRBHA Contacts

Health Plans, ACC-RBHA or TRBHA	Customer Service	Webpage
Banner – University Family Care LTC	1-833-318-4146	Banner UFC
Mercy Care LTC	1-800-624-3879	Mercy Care LTC
Care1st Arizona	1-866-560-4042	Care1st Arizona
Mercy Care RBHA	1-800-564-5465	Mercy Care RBHA
AHCCCS American Indian HP	1-800-654-8713	American Indians-AIHP
United Healthcare LTC	1-800-293-3740	UHC LTC
Arizona Complete Health	1-888-788-4408	AZ Complete Health
Gila River TRBHA	1-520-562-3321	Gila River TRBHA
Pascua Yaqui TRBHA	1-520-879-6060	Pascua Yaqui TRBHA
Navajo Nation TRBHA	1-928 871-6000	Navajo Nation TRBHA
White Mountain Apache TRBHA	1-928-338-4811	White Mountain Apache TRBHA



Resources: Rule and Statutes

Arizona Administrative Code: <u>Rights for individuals Living with a Serious</u> <u>Mental Illness-Arizona Administrative Code</u> (R9-21)

Arizona Revised Statutes:

Court Ordered Evaluation and Treatment-A.R.S. Articles 4 & 5, 520-544

Confidential Records-A.R.S. 36-509

Guardianship of Incapacitated Adults- Title 14, Chapter 5, Article 3





Resources: Policies and Manuals AHCCCS Medical Policy Manual (AMPM)

Discharge Planning - AMPM 1020/Utilization Management

Special Assistance for individuals with a SMI - AMPM 320-R

Behavioral Health Covered Services- AMPM 310-B

Medical Records and Communication - AMPM 940

Case Manager Requirements - AMPM 570

AHCCCS Contractor Operations Manual (ACOM) <u>SMI Appeals-ACOM 444</u> <u>SMI Grievance and Investigations-ACOM 446</u> <u>SMI Grievance/Appeal Form</u>



Additional Advocacy Resources

AHCCCS OHR Web page

AHCCCS OIFA Web page

AHCCCS Related Acronyms

AHCCCS Contract and Policy Dictionary

AHCCCS Community Events Calendar







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AHCCCS Website <u>www.azahcccs.gov</u>



Navigating the AHCCCS Website





Learn about AHCCCS' Medicaid Program on YouTube!





Watch our Playlist:

Meet Arizona's Innovative Medicaid Program





Upcoming Forums and Trainings



Upcoming AHCCCS Advocacy Training

Register for upcoming trainings by clicking on the name of the course.



7/19 Covered Behavioral Health Services for Individuals Living with a Serious Mental Illness



Upcoming Forums and Events

Parents as Paid Caregivers 1115 Waiver Amendment Community Forums Tues., 7/18, 2:00 p.m. - 4:00 p.m. <u>Register in Advance</u> Wed., 8/2, 1:00 p.m. - 3:00 p.m. <u>Register in Advance</u>



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Please take the survey. Surveys help us better

tailor meetings to

your needs.





Feedback

Questions?



Thank you

