

The SMI appeal process is available to individuals determined to have a Serious Mental Illness (SMI) and to individuals disputing a SMI eligibility determination. This educational document covers who can file an appeal, what issues can be appealed and the steps involved in the process. The rules of the appeal process are found in the Arizona Administrative Code, Title 9, Chapter 21, Section 401, available at https://apps.azsos.gov/public_services/Title_09/9-21.pdf

The AHCCCS Contractors Operations Manual Chapter 400 Policy number 444 outlines the AHCCCS Contractor requirements for processing SMI Appeal matters and can be found at <https://www.azahcccs.gov/shared/Downloads/ACOM/PolicyFiles/400/444.pdf>

What is an appeal?

An appeal is when you tell us that you do not agree with a decision that was made about your services. Only persons with a serious mental illness (SMI) determination can use the SMI appeals process.

What Can be Appealed?

- SMI eligibility determination
- Content of individual service plan or discharge plan
- Denial of a service
- Reduction, suspension or termination of a service
- Fees assessed to the individual or the denial of a fee waiver
- Denial of payment for a service
- Special Assistance determination
- Others, per [A.A.C R9-21-401\(C\)](#)

Who Can File an Appeal?

The individual applying for or receiving services or the individual's guardian, designated representative, or service provider can file an appeal per [A.A.C. R9-21-401\(D\)](#).

How are Appeals Filed?

Appeals are filed by notifying the Regional Behavioral Health Authority (RBHA)* Office of Grievance and Appeals or Contractor, either orally or in writing, of the decision, report, plan or action being appealed with a brief statement of the reasons for the appeal, generally within 60 days* of the decision or event per A.A.C. R9-21-401(D).

*If a current service is being changed or terminated, file the appeal by the shorter deadline (usually 10 days or by the date of the action) to ensure continuation of services during the appeal.

- It is best to file an appeal in writing on the appeal/grievance form ACOM 446 Attachment A– AHCCCS Appeal or Serious Mental Illness Grievance Form available online at <https://www.azahcccs.gov/shared/ACOM/>
- If an appeal is submitted after the appeal deadline has passed it can be accepted for good cause; however, the RBHA or Contractor has the right to refuse to accept a late appeal per A.A.C. R9-21-401(D).
- If the RBHA or Contractor refuses the appeal, the individual may, within 10 days of receipt of the refusal, request an Administrative Review of the decision with the AHCCCS Office of Behavioral Health Grievance and Appeals (BHGA).
- **Remember:** The RBHA, Contractor and/or provider cannot retaliate (punish) an individual who decides to exercise the right to appeal.

What are the Steps of the Appeal Process?

1st Step: Informal Conference with the RBHA or Contractor (R9-21-401(E))

- After receiving and accepting an appeal, the RBHA or Contractor shall set up and hold an informal conference with the individual and provider to attempt to resolve the issues in dispute.
- If the issues in dispute are not resolved through the conference and the issues in dispute do not relate to the individual's eligibility for SMI services, the matter will be forwarded to AHCCCS BHGA for a second informal conference.
- An individual has the option to waive the AHCCCS BHGA informal conference, which results in the appeal going directly to an administrative hearing at the Office of Administrative Hearing (OAH).
- If the issue on appeal is regarding eligibility for SMI services (SMI Determination), there is no second informal conference. Instead, the individual can request an administrative hearing at the Office of Administrative Hearing (OAH).

2nd Step: Informal Conference with AHCCCS BHGA (R9-21-401(F))

- AHCCCS BHGA shall hold an informal conference upon notice that the appeal was unresolved in the RBHA or Contractor informal conference (unless the individual waives an informal conference with AHCCCS BHGA, or the issue on appeal is eligibility for SMI services).
- If the issues in dispute are not resolved through the AHCCCS BHGA informal conference, the individual may request an administrative hearing at the Office of Administrative Hearing (OAH).

3rd Step: Administrative Hearing (R9-21-401(G))

- At the administrative hearing, the individual and the opposing party have the right to present any evidence relevant to the issues under appeal and to call and question witnesses.
- At the conclusion of the hearing, the hearing officer shall prepare and distribute a written, proposed decision based on the evidence introduced at the administrative hearing.
- The AHCCCS Director or Designee shall then make a final written decision, based upon the findings, conclusions, and recommendations of the hearing officer.

Additional Actions Available After the Administrative Hearing

- If the individual does not agree with the decision that was issued by the AHCCCS Director or Designee, the individual can:
 - file for a rehearing or review of the decision per A.A.C. R9-21-401(J); or
 - appeal the decision to the Superior Court, which may affirm, reverse, modify, or vacate and remand the decision (A.R.S. §12-910).
- If the individual requests a rehearing or a review of the decision and is not satisfied with the decision on review or rehearing, the individual can appeal that decision to the Superior Court.

Additional Aspects of the Appeal Process

Do Services Continue During the Appeal Process for Individuals Determined to Have a Serious Mental Illness?

An individual's services continue during the appeal process when an appeal is timely filed, unless (R9-21-401(A)):

- A qualified clinician determines that the modification or termination is necessary to avoid a serious or immediate threat to the health or safety of the individual; or
- The individual or individual's guardian agrees in writing to the modification or termination.

Can an Appeal be Expedited?

An appeal can be expedited upon request if:

- It involves the denial or termination of crisis or emergency services;
- It involves 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 per A.A.C. R9-21-401(H).

Are There any Special Provisions for Title XIX Services?

Instead of the standard SMI appeal process, individuals who have Title XIX status (AHCCCS coverage) can use the TXIX appeal process for decisions relating to TXIX services per A.A.C. R9-21-401(I).

Are There any Special Provisions for Tribal RBHAs

While appeals are normally filed with the RBHA and Contractors, appeals related to a Tribal RBHA (TRBHA) must be filed with and processed by the AHCCCS Office of Behavioral Health Grievance and Appeals (BHGA).

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*If a current service is being changed or terminated, file the appeal by the shorter deadline (usually 10 days or by the date of the action) to ensure continuation of services during the appeal.

- It is best to file an appeal in writing on the appeal/grievance form ACOM 446 Attachment A– AHCCCS Appeal or Serious Mental Illness Grievance Form available online at <https://www.azahcccs.gov/shared/ACOM/>
- If an appeal is submitted after the appeal deadline has passed it can be accepted for good cause; however, the RBHA or Contractor has the right to refuse to accept a late appeal per [A.A.C. R9-21-401\(D\)](#).

AHCCCS CONTACTS AND RESOURCES

RESOURCE LINKS

AHCCCS Medical Policy Manual (AMPM) https://www.azahcccs.gov/shared/MedicalPolicyManual/
AHCCCS Contractors Operating Manual (ACOM) https://www.azahcccs.gov/shared/ACOM/
Arizona Administrative Code (R9-21) https://apps.azsos.gov/public_services/Title_09/9-21.pdf

AHCCCS/DCAIR OFFICE OF HUMAN RIGHTS

OHR Main Office Phone:
 602-364-4585 or 800-421-2124 (toll free)
 Email: OHRts@AZAHCCCS.GOV
 Mail: 801 E. Jefferson St.
 Phoenix, AZ 85034 MD 4200

The intent of this document is to provide general information to individuals determined to have a Serious Mental Illness receiving services in the Arizona's public behavioral health care system regarding their rights. It is not intended as a substitute for individual guidance or advice. Additionally, the AHCCCS/DCAIR Office of Human Rights is not a law firm.

AHCCCS CLINICAL RESOLUTION UNIT

602-364-4558 or 800-867-5808

LONG TERM CARE HEALTH PLANS (PROGRAM CONTRACTORS)

Banner – University Family Care LTC Customer Service 1-833-318-4146 www.bannerufc.com	Mercy Care LTC Customer Services 1-800-624-3879 www.mercycareaz.org
United Healthcare LTC Customer Service 1-800-293-3740 www.uhcommunityplan.com	Department of Economic Security/ Division of Developmental Disabilities (DES/DDD) Customer Service 1-800-770-9500 www.azdes.gov/ddd/

REGIONAL BEHAVIORAL HEALTH AUTHORITY (RBHA) HEALTH PLANS

Arizona Complete Health - Complete Care Plan RBHA Customer Service 1-888-788-4408 www.azcompletehealth.com/completecure	Mercy Care RBHA Customer Service 1-800-564-5465 www.mercycareaz.org	Health Choice Arizona RBHA Customer Services 1-800-322-8670 www.healthchoiceaz.com
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