

446 GRIEVANCES AND INVESTIGATIONS CONCERNING PERSONS WITH SERIOUS MENTAL ILLNESS

REVISION DATE: 12/04/2019

EFFECTIVE DATE: October 1, 2019

REFERENCES: AHCCCS Contractor Operations Manual (ACOM), Policy 446

This Policy applies to the Division of Developmental Disabilities and their subcontractors and outlines procedures related to grievances and investigations conducted by AHCCCS and the subcontractors under A.A.C. R9-21-402 et seq. concerning persons with a Serious Mental Illness (SMI).

- A. This Policy applies to grievances or requests for investigation asserted by, or on behalf of, persons designated with a SMI to the extent the allegation asserts a violation relating to the right to receive services, supports and/or treatment that are state-funded and are no longer funded by the state.
1. For persons designated as SMI, AHCCCS, the Division, and its subcontractor conduct investigations into allegations of physical abuse, sexual abuse, violations of SMI rights, and conditions that are dangerous, illegal, or inhumane. Investigations may also be conducted in the event of a member's death that occurs in a mental health agency or as a result of an action of a person employed by a mental health agency.
 - a. Refer to *AHCCCS Contractor Operations Manual, Chapter 400-Operations, 446 – Grievances and Investigations Concerning Persons with Serious Mental Illness* for full details and requirements of such grievance investigations.
 2. AHCCCS, or the Contractor before whom a grievance or request for investigation is pending, must immediately take whatever action may be reasonable to protect the health, safety, and security of any member, complainant, or witness.
- B. Grievances involving an alleged rights violation, or a request for investigation involving an allegation where a condition requiring investigation exists, which occurred in an agency operated by a Division Subcontractor or one of its subcontracted providers and which does not involve a member's death or an allegation of physical or sexual abuse, must be filed with and investigated by the subcontractor.
- C. The DDD Customer Service Center must refer any grievances or requests for investigation related to physical or sexual abuse or death to AHCCCS to begin the investigative process.
- D. Support Coordinators must complete *DDD-2044A FORENG (11-19) Serious Mental Illness Grievance and Appeal Form* and send the form to DDD Customer Service Center (CSC) for the Division's internal use when a member with an SMI designation wants to file a grievance or appeal. This serves as the Division's notice of the grievance and appeal. The notice will allow the Division to effectively monitor the grievance or appeal and ensure it is resolved by the proper entity and within the

- required timeframe.
- E. Once notified, CSC will open a grievance in the Resolution System (RS) for violations related to member's rights.
1. The grievance procedure must follow the same procedure as other CSC grievances.
 2. The purpose of this grievance policy is to ensure the subcontractor is investigating the matter properly and in a timely fashion, pursuant to the clauses outlined in the *AHCCCS Operations Manual, Chapter 400, 446 – Grievances and Investigations Concerning Persons with Serious Mental Illness*.
- F. A grievant or the DDD member who is the subject of the grievance, who disagrees with the final decision of the subcontractor may file a request for an administrative appeal with AHCCCS within 30 days from the date of their receipt of the subcontractor's decision. The request for administrative appeal must specify the basis for disagreement. Failure to specify the basis for the disagreement may result in a summary determination in favor of the subcontractor decision.
- G. When an administrative appeal is filed, the subcontractor must forward the full investigation case record, which includes all elements described in A.A.C. R9-21-409(D)(1), to AHCCCS. The failure of the subcontractor to forward a full investigation case record that supports the subcontractor's decision may result in a summary determination against the subcontractor. The subcontractor must prepare and send with the investigation case record, a memo which states:
1. Any objections the subcontractor has to the timeliness of the administrative appeal,
 2. The subcontractor's response to any information provided in the administrative appeal that was not addressed in the investigation report, and
 3. The subcontractor's understanding of the basis for the administrative appeal.
- H. If an extension of any time frame related to the grievance process is needed, it must be requested and approved in compliance with A.A.C. R9-21-410(B). Specifically:
1. The subcontractor investigator or any other subcontractor official responsible for responding to grievances must address the extension request to the subcontractor Director or designee.
 2. The AHCCCS investigator or any other AHCCCS official responsible for responding to grievances must address the extension request to the AHCCCS Deputy Director or designee.
 3. A subcontractor request for an extension to complete an investigation for grievances remanded pursuant to A.A.C. R9-21-407(B)(2) or any other time period established by AHCCCS decisions relating to a grievance must be addressed to the AHCCCS Deputy Director or designee.
 4. Requests for extension must be in writing, with copies to all parties.

5. An extension of time may only be granted upon a showing of necessity and a showing that the delay will not pose a threat to the safety or security of the member.
 6. The request must explain why an extension is needed and propose a new time limit which does not unreasonably postpone a final resolution of the matter.
 7. Such request must be submitted to and acted upon prior to the expiration of the original time limit. Failure of the relevant official to act within the time allowed constitutes a denial of the request for an extension.
- I. Within 15 days of receipt of a timely filed administrative appeal, AHCCCS must 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 must prepare a written, dated decision.
1. A grievant or person who is the subject of the grievance who is dissatisfied with a decision of AHCCCS may request an administrative hearing before an administrative law judge within 30 days of the date of receipt of the decision.
- J. American Indian Health Program (AIHP) who serve members that are diagnosed with an SMI diagnosis will follow the same grievance process as outlined above.
- K. In addition to a grievance or request for investigation which may be filed pursuant to this Policy and A.A.C. Title 9, Chapter 21, Article 4, a separate investigation into the death of a person receiving services must be conducted as described in AMPM Policy 960.
- L. Grievance Investigation Records: AHCCCS and the subcontractor will maintain records in the following manner:
1. All documentation received related to the grievance and investigation process will be date stamped on the day received.
 2. A complete grievance investigation case record must be maintained for each case.
 3. Copies of all information generated or obtained during the investigation.
 4. All grievance and investigation files in a secure designated area and retain for at least five years.
 5. A public log of all grievances or requests for investigation in accordance with A.A.C. R9-21-409(E).
 6. Confidentiality and privacy of grievance and investigations records.
 7. The complete grievance investigation case must include:
 - a. The original grievance/investigation request letter and the AHCCCS Appeal or SMI Grievance Form, and
 - b. Copies of all information generated or obtained during the

investigation.

8. The investigator's report that includes:
 - a. A description of the grievance issue,
 - b. Documentation of the investigative process,
 - c. Names of all persons interviewed,
 - d. Written documentation of the interviews,
 - e. Summary of all documents reviewed,
 - f. The investigator's findings.
 - g. Conclusions and recommendations.
 - h. A copy of:
 - i. The acknowledgment letter,
 - ii. Final decision letter,
 - iii. Corrective action documentation, and
 - iv. Any information/documentation generated by an appeal of the grievance decision.