

B.2.2 Dissatisfaction of Services/Grievance Process

Responsible Office: Office of Community Programs, Support Coordination, and Office of Waiver Appeals

Reference: 42 CFR 441.3029d0. Intellectual Disabilities and Living at Home HCBS Waivers

Effective: December 16, 2024

Revised: January 3, 2025

Purpose/Intent: The Dissatisfaction of Services/ Grievance Process is a disclosure required by Alabama Medicaid Agency and is handled through the Alabama Department of Mental Health's Office of Advocacy Services to ensure a person enrolling or already receiving HCBS waiver services and their legally authorized representative are aware that they have a right to due process should they become unsatisfied with Medicaid funded services and/or service providers.

HCBS Waivers: ID, LAH, CWP

Definitions: HCBS – Home and Community Based Services; People-HCBS Waiver participants; Support Coordinators – formerly referred to as Case Managers; Regional Community Services Office Staff – One of five regional offices located throughout the state; Due Process Medicaid review of the case/complaint and/or a Fair Hearing; ID – Intellectual Disabilities; LAH – Living at Home; Grievance: A grievance can be defined as an expression of dissatisfaction or complaint related to the State's or a provider's compliance with the person-center planning and service plan requirements at § 441.301(c)(1) through (3) and the HCBS settings requirements at § 441.301(c)(4) through (6), regardless of whether the beneficiary requests that remedial action be taken to address the area of dissatisfaction or complaint. This process is different from when an individual chooses to file a request for an appeal if services are denied, terminated, or reduced and it is not a pre-requisite or substitute for a request for a Fair Hearing. It is a waiver participant's right to have their satisfaction with supports and services reviewed at intake and least annually or upon request.

Procedures:

1. The Support Coordinator must review and complete the Dissatisfaction of Services/Grievance Process and Notification form with the participant at the time of new admission and annual redetermination. Prior to, and during the person-centered planning meeting, the participant is made aware that filing a grievance or making a complaint is not a pre-requisite or substitute for a Fair Hearing once they are selected from the wait list and services begin. A waiver participant should always be notified of their right to file a complaint/grievance when changing and/or adding waiver services. The waiver participant must sign and date the Notification form confirming the understanding of their rights. A copy of the signed Notification form must be filed securely and maintained in the waiver participant's file.
2. If a waiver participant becomes dissatisfied with a provider and/or the delivery of supports and services, he/she has the right to select a different provider and the Support Coordinator will assist with this process. This process may include an interdisciplinary team meeting to include a representative from the local Regional Community Services Office and/or an advocate to address any issues or concerns prior to a change in provider(s). However, if for any reason a participant believes that their rights have been violated in any way by ADMH/DDD support staff and/or a provider he/she can file a formal complaint/grievance in writing, or verbally directly to the Alabama Department Mental Health Office of Rights Protection & Advocacy. The Department maintains an independent Office of Rights Protection & Advocacy services, reporting directly to the Commissioner's office, which monitors programs, receives complaints through a toll-free advocacy access line during normal State of Alabama business hours (the number is required to be posted in

every certified site and given to each waiver participant), and investigates any rights issue complaints received. A voicemail response is left on the phone line, encouraging after-hour callers to leave a message, which will be retrieved and responded to on the next regular business day. The recorded message also offers options for the caller to follow if more immediate assistance is required.

3. The types of rights issue complaints that may be reported and will be investigated fall into the following rights categories: a) Due process; b) Education; c) Complaints; d) Safe and humane environment; e) Protection from harm; f) Privacy/confidentiality; g) Personal possessions; h) Communication and social contacts; i) Religion; j) Confidentiality of records; k) Labor; l) Disclosure of services available; m) Quality treatment; n) Individualized treatment or habilitation; o) Participation in treatment or habilitation; p) Least restrictive conditions; q) Research and experimentation; r) Informed consent.
4. Complaints of abuse, neglect, exploitation, or mistreatment are immediately referred to the responsible program and an investigation is also initiated by Advocacy staff or the program within 24 hours. Any other complaint that, in the opinion of the advocate, involves threat to health or safety is treated the same way. Other complaints are opened, responsible parties notified, and investigations are initiated as soon as possible but no later than seven (7) working days of the report, with the expectation that the investigation will be completed within thirty (30) working days.
5. The Office of Rights Protection & Advocacy will complete a thorough and adequate investigation of the complaint/grievance to provide a resolution. Resolution is required of the provider agency, which must submit a written report. If resolution requires ongoing monitoring, the responsible division's staff will provide this. If resolution requires court intervention, the federal protection and advocacy agency known as the Alabama Disabilities Advocacy Program, or the Alabama State Bar Referral Service may be contacted to arrange legal representation for the waiver participant. If the waiver participant is receiving services under the waiver and his/her complaint involves waiver related issues, and he/she cannot achieve satisfaction through the required resolution, the waiver participant and/or their representative will be referred to the Medicaid Waiver Program Manager for initiation of the Medicaid Fair Hearing Process. This rarely occurs, because the authority of the DMH Office of Advocacy Services should be able to resolve most problems.
6. After a resolution is determined, the waiver participant will receive a written notification of the resolution within seven (7) business days of the completed investigation process (note: the investigation process can take up to thirty (30) working days).
7. If a participant chooses to file a grievance/complaint, a written request of a review of their case can be mailed or emailed by the waiver participant, representative, relative, advocate, attorney or other involved spokesperson of their choice to the ADMH Office of Rights Protection & Advocacy. An individual can also contact the Office of Rights Protection & Advocacy toll free number as described in (2).

Office of Rights Protection & Advocacy
RSA Union Building
100 North Union Street
P.O. Box 301410
Montgomery, AL 36130-1410
Phone: 1-800-367-0955
Fax: 334-242-0747
Email: Alabama.DMH@mh.alabama.gov

8. All grievance/complaints must be filed, stored properly, and made available to AMA on a quarterly basis. The quarterly reports to AMA must comprehensively list the waiver participant's information inclusive of the specific waiver of enrollment, the nature of the complaint/grievance, the finding(s) of the investigation, and the resolution. There should be a clear timeline provided for each case to ensure the process was reviewed and completed within the expected time frame. The quarterly reports must be sent to Alabama Medicaid Agency's Quality Assurance Director and ID, LAH and CWP Program Manager(s) via email no later than fifteen (15) days after the end of each quarter.



STATE OF ALABAMA
DEPARTMENT OF MENTAL HEALTH

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100 NORTH UNION STREET
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Governor

Kimberly G. Boswell
Commissioner

**Dissatisfaction of Services/ Complaint/Grievance Process Notification Form
for persons enrolled in the ID, LAH or CWP Waiver programs**

This is a notification of your right to file a formal grievance/complaint to the Alabama Department of Mental Health Office of Rights Protection & Advocacy. A grievance can be defined as an expression of dissatisfaction or complaint related to the State's or a provider's compliance with the person-centered planning and service plan requirements at § 441.301(c)(1) through (3) and the HCBS settings requirements at § 441.301(c)(4) through (6), regardless of whether the beneficiary requests that remedial action be taken to address the area of dissatisfaction or complaint. The Office of Rights Protection & Advocacy monitors programs and receives complaints through a toll-free advocacy access line during normal business hours and investigates complaints that are received. All waiver participants should be aware that the complaint/grievance process is different from filing a request for an appeal when services are denied, terminated or reduced and it is not a pre-requisite or substitute to a request for a Fair Hearing. It is a waiver participant's right to have their satisfaction with supports and services reviewed at intake and least annually or upon request.

If a waiver participant becomes dissatisfied with a provider and the delivery of supports and services, he/she has the right to select a different provider and the Support Coordinator will assist with this process. This process may include an interdisciplinary team meeting to include a representative from the local Regional Community Services Office and/or an advocate to address any issues or concerns prior to a change in provider(s). However, if, for **any** reason, a participant believes that their rights have been violated in any way by ADMH/DDD support staff and/or a provider, the participant, representative, relative, advocate or attorney can file a formal complaint/grievance in writing, or verbally, directly to the Alabama Department of Mental Health Office of Rights Protection & Advocacy providing the reason of dissatisfaction. If a complaint/grievance is made after business hours via phone, the message will be retrieved and responded to on the next regular business day. Complaints of abuse, neglect, exploitation, and mistreatment and/or threats to health or safety are immediately referred to the responsible program and an investigation is also initiated by Advocacy staff or the program within 24 hours. Other complaints are opened, responsible parties are notified, and investigations are initiated as soon as possible but no later than seven (7) working days of the report, with the expectation that the investigation will be completed within thirty (30) business days.

The Office of Rights Protection & Advocacy will complete a thorough and adequate investigation of the complaint/grievance to provide a resolution. After a resolution is determined, the waiver participant will receive a written notification of the resolution within seven (7) business days of the completed investigation process. If resolution requires ongoing monitoring, the responsible division's staff will be notified. If resolution requires court intervention, the federal protection and advocacy agency known as the Alabama Disabilities Advocacy Program (ADAP) or the Alabama State Bar Referral Service may be contacted to arrange legal representation for the waiver participant. If the waiver participant is receiving services under the waiver and his/her complaint involves waiver related issues, and he/she cannot achieve satisfaction through the required investigative & resolution process, the waiver participant will be referred to the Medicaid Waiver Program Manager for initiation of the Medicaid Fair Hearing Process.

The completed written request form can be mailed or emailed to the Office of Rights Protection & Advocacy as listed below. To make a verbal complaint/grievance, please call the number listed below.

Alabama Department of Mental Health
Office of Rights Protection & Advocacy
RSA Union Building
100 North Union Street
P. O. Box 301410
Montgomery, AL 36130-1410
Phone: 1-800-367-0955
Fax: 334-242-0747

E-mail: Alabama.DMH@mh.alabama.gov

Please sign below acknowledging that you have reviewed and received a copy of your rights to file a grievance/complaint:

Signature of Recipient or Representative

Date

Print Recipient's Name

Witness Signature and Date (SC signature)





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Kimberly G. Boswell
Commissioner

**Dissatisfaction of Services/ Complaint/Grievance Process Request Form
for persons enrolled in the ID, LAH or CWP Waiver programs**

Date: _____

Waiver Participant Name: _____

Date of Birth: _____

Medicaid Number: _____

Address: _____

Phone Number: _____

E-mail Address (if applicable): _____

Waiver Type (i.e. ID, LAH, CWP): _____ **Region:** _____

If the person submitting this written request form is anyone other than the individual listed above (i.e. representative, relative, etc.,) please provide your information below:

Name of person filing grievance/complaint:

Relation to waiver participant: _____

Address: _____

Phone Number: _____

E-mail Address: _____

Note: A grievance can be defined as an expression of dissatisfaction or complaint related to the State's or a provider's compliance with the Person-center planning and service plan requirements at § 441.301©(1) through (3) and the HCBS settings requirements at § 441.301©(4) through (6), regardless of whether the beneficiary requests that remedial action be taken to address the area of dissatisfaction or complaint. Please be aware that this process is different from filing a request for an appeal if services are denied, terminated or reduced and it is not a pre-requisite or substitute to a request for a Fair Hearing. It is a waiver participant's right to have their satisfaction with supports and services reviewed at intake and least annually or upon request.



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Please provide a summary of Dissatisfaction/Complaint/Grievance:

Mail or e-mail this form to:
Alabama Department of Mental Health
Office of Rights Protection & Advocacy
RSA Union Building
100 North Union Street
P. O. Box 301410
Montgomery, AL 36130-1410
Phone: 1-800-367-0955
Fax: 334-242-0747
E-mail: Alabama.DMH@mh.alabama.gov