

Appeal Process for Individuals Determined to Have a Serious Mental Illness

The appeal process is available to individuals determined to have a Serious Mental Illness (SMI) and to individuals disputing a SMI eligibility determination. This brochure 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 in the Arizona Administrative Code, Title 9, Chapter 21, Section 401, available at www.azsos.gov/public_services/Title_09/9-21.htm. Also, sections GA 3.3 & 3.5 of the ADHS/DBHS Policy & Procedures at www.azdhs.gov/bhs/policy.htm have additional details.

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 (R9-21-401(D)).

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
- Others, per R9-21-401(C)

How are Appeals Filed?

Appeals are filed by notifying the Regional Behavioral Health Authority (RBHA)* Office of Grievance and Appeals—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. (R9-21-401(D)).

*For persons determined to have a SMI enrolled with a Tribal RBHA (TRBHA), please refer to OHR's educational guide "The Appeal Process for Individuals Determined to Have a SMI."

- It is best to file an appeal in writing on the appeal/grievance form (available from the provider or RBHA or on the OHR website).
- If an appeal is submitted after the appeal deadline has passed it can be accepted for good cause; however, the RBHA has the right to refuse to accept a late appeal (R9-21-401(D)).
- If the RBHA refuses the appeal, the individual may, within 10 days of receipt of the RBHA's refusal, request an Administrative Review of the decision with the ADHS/DBHS Office of Grievance and Appeals.
- **Remember:** The RBHA 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 (R9-21-401(E))

- After receiving and accepting an appeal, the RBHA 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 ADHS/DBHS for a second informal conference.
- An individual has the option to waive the ADHS/DBHS informal conference, which results in the appeal going to an administrative hearing at the Office of Administrative Hearing (OAH).
- If the issue on appeal is eligibility for SMI services, there is no second informal conference. Instead, the individual can request an administrative hearing.

2nd Step: Informal Conference with ADHS/DBHS (R9-21-401(F))

- ADHS/DBHS shall hold an informal conference upon notice that the appeal was unresolved in the RBHA informal conference (unless the individual waives an informal conference with ADHS/DBHS, or the issue on appeal is eligibility for SMI services).
- If the issues in dispute are not resolved through the ADHS/DBHS informal conference, the individual may request an administrative hearing.

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 hearing to ADHS/DBHS.
- ADHS/DBHS 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 ADHS/DBHS decision that was issued after the administrative hearing, the individual can:
 - ◊ file for a rehearing or review of the decision (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 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 (R9-21-401(H)).

Are There any Special Provisions for Title XIX Services?

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

Are There any Special Provisions for Tribal RBHAs?

While appeals are normally filed with the RBHA, appeals related to a Tribal RBHA must be filed with and processed by the ADHS/DBHS Office of Grievance and Appeals.*

*For persons determined to have a SMI enrolled with a TRBHA, please refer to OHR's educational guide "The Appeal Process for Individuals Determined to Have a Serious Mental Illness."

How to Contact Us

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The Office of Human Rights (OHR) is part of the Arizona Department of Health Services, Division of Behavioral Health Services. OHR provides advocacy to individuals determined to have a Serious Mental Illness (SMI) to help them understand, protect and exercise their rights, facilitate self-advocacy through education and obtain access to behavioral health services in the publicly funded behavioral health system in Arizona.



Division of Behavioral Health Services Office of Human Rights

Overview of the Appeal Process for Individuals Determined to Have a Serious Mental Illness

The Office of Human Rights publishes other self-advocacy documents on various topics including a guide on the appeal process entitled "The Appeal Process for Individuals Determined to Have A Serious Mental Illness." You can download them from our website or call our office to request a copy.

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