

POLICY GA 3.5 NOTICE AND APPEAL REQUIREMENTS (SMI and NON-SMI/NON-TITLE XIX/XXI)

- A. PURPOSE: To ensure that persons seeking or receiving behavioral health services are provided notice and the opportunity to appeal as required by law.
- B. SCOPE: ADHS/DBHS, T/RBHAs, the Arizona State Hospital, persons applying to be determined to have a Serious Mental Illness, persons determined to have a Serious Mental Illness, recipients of behavioral health services who are not Title XIX/XXI and not determined to be eligible for SMI services.
- C. POLICY: Decisions made by ADHS/DBHS, a T/RBHA or a T/RBHA provider regarding: SMI eligibility; the need for, the timely provision of, or the continuation of behavioral health services; and charges or co-payments for services; may be appealed as described by this policy.

This policy does not apply to:

- Allegations of rights violations made by enrolled persons with a Serious Mental Illness (see [ADHS/DBHS Policy and Procedure GA 3.1, Conduct of Investigations Concerning Persons with Serious Mental Illness](#));
- Actions or decisions that deny, suspend, reduce, or terminate a person's or persons' services or benefits as a result of changes in state or federal law which require an automatic change, or in order to avoid exceeding the state funding legislatively appropriated for those services or benefits;
- Determinations of categorical eligibility/ineligibility for Title XIX or Title XXI services;
- Appeals of an action for individuals eligible for Title XIX/XXI covered services; (see [ADHS/DBHS Policy and Procedure GA 3.3, Title XIX/XXI Notice and Appeal Requirements](#));

- D. REFERENCES: [A.R.S. §1-254](#)
[A.R.S. §36-502.D](#)
[A.R.S. § 12-901 et seq.](#)
[A.R.S. § 36-111](#)
[A.R.S. § 36-3413](#)
[A.R.S. § 41, Chapter 6, Article 10](#)
[2 A.A.C. 19, Article 1](#)
[9 A.A.C. 1, Article 1](#)
[9 A.A.C. 21, Articles 2 and 4](#)
[ADHS/RBHA Contracts](#)
[ADHS/TRBHA IGAs](#)

POLICY GA 3.5 NOTICE AND APPEAL REQUIREMENTS (SMI and NON-SMI/NON-TITLE XIX/XXI)

[ADHS/DBHS Policy and Procedure GA 3.1, Conduct of Investigations Concerning Persons with Serious Mental Illness](#)
[ADHS/DBHS Policy and Procedure GA 3.3, Title XIX/XXI Notice and Appeal Requirements](#)
[ADHS/DBHS Policy and Procedure MI 5.3, Pre-Admission Screening and Resident Review](#)

E. DEFINITIONS:

[Action](#)

[Appeal](#)

[Denial](#)

[Limited Authorization](#)

[PASRR](#)

[Prior Authorization](#)

[Qualified Clinician](#)

[Reduction of Service](#)

[Suspension of Service](#)

[Termination of Service](#)

F. PROCEDURES

1. General Requirements for Notices and Appeals

a. Computation of Time

In computing any time prescribed or allowed by this policy, the period begins the day after the act, event or decision occurs. If the period is 11 days or more, the time period must be calculated using calendar days, which means that weekends and legal holidays are counted. If however, the time period is less than 11 days, the time period is calculated using working days, in which case, weekends and legal holidays

POLICY GA 3.5 NOTICE AND APPEAL REQUIREMENTS (SMI and NON-SMI/NON-TITLE XIX/XXI)

must not be included in the computation. In either case, if the final day of the period is a weekend or legal holiday, the period is extended until the end of the next day that is not a weekend or a legal holiday.

b. Language and Format Requirements

- (1) Notice and written documents generated through the appeals process shall be available in each prevalent, non-English language spoken within the geographic service area.
- (2) ADHS/DBHS, the T/RBHA and T/RBHA subcontracted providers must provide oral interpretation services at no charge to the behavioral health recipient to explain information contained in the notice or as part of the appeal process for all non-English languages.
- (3) Notice and written documents generated through the appeals process shall be available in alternative formats, such as Braille, large font, or enhanced audio, and take into consideration the special communication needs of the person applying for or receiving behavioral health services.
- (4) Notice and written documents must be written using an easily understood language and format.

c. Delivery of Notices

All notices and appeal decisions identified herein shall be personally delivered or mailed by certified mail to the required party at their last known residence or place of work. In the event that it may be unsafe to contact the person at his or her home address, or the person has indicated that he or she does not want to receive mail at home, the alternate methods identified by the person for communicating notices shall be used.

d. Prohibition of Punitive Action

ADHS/DBHS, T/RBHA's and their providers are prohibited from taking punitive action against persons exercising their right to appeal.

2. Notice Requirements

- a. Notices pursuant to this section shall be delivered to:

POLICY GA 3.5 NOTICE AND APPEAL REQUIREMENTS (SMI and NON-SMI/NON-TITLE XIX/XXI)

- (1) The eligible person; or
 - (2) The eligible person's legal or authorized representative.
- b. Provision of notice shall be evidenced by retaining a copy of the notice in the comprehensive clinical record of the person receiving or requesting services.
3. Notices for persons being evaluated for or who have been determined to have a Serious Mental Illness
- a. The T/RBHA shall provide ADHS/DBHS form, "Notice of SMI Grievance and Appeal Procedure" (Attachment A) to each person at the time of evaluation for an SMI eligibility determination.
 - b. T/RBHAs, T/RBHA subcontracted providers and the Arizona State Hospital shall provide a copy of ADHS Form MH-211, "Notice of Legal Rights for Persons with Serious Mental Illness" (Attachment E) at the time of admission to the agency for evaluation or treatment. The person receiving this notice must acknowledge in writing the receipt of the notice and this written acknowledgement must be retained in the person's comprehensive clinical record. T/RBHAs, T/RBHA subcontracted providers and the Arizona State Hospital shall post ADHS Form MH-211, in both English and Spanish, so that it is readily visible to persons visiting the agency.
 - c. The T/RBHA, the Arizona State Hospital, or ADHS/DBHS when making a decision on behalf of the Tribal RBHA, shall provide a "Notice of Decision and Right to Appeal" (Attachment B) when:
 1. Initial eligibility for SMI services is determined. The notice must be sent within three days of the eligibility determination;
 2. A decision is made regarding fees or waivers thereof;
 3. An assessment report, Service Plan or Inpatient Treatment and Discharge Plan is developed, provided or reviewed;
 4. A decision is made to modify the service plan or to deny, reduce, suspend or terminate a service¹ that is a non-Title XIX/XXI covered service². Notice shall be

¹ No notice is required when the requested service requires a physician's order, and the denial, reduction, suspension or termination is due to the physician's refusal to order the service.

POLICY GA 3.5 NOTICE AND APPEAL REQUIREMENTS (SMI and NON-SMI/NON-TITLE XIX/XXI)

provided at least 30 days prior to the effective date of the change unless the person agrees to the change or a qualified clinician determines that the action is necessary to avoid a serious or immediate threat to the health or safety of the person receiving services or others;

5. A decision is made that the person is no longer eligible for SMI services; or
 6. A PASRR determination, in the context of either a preadmission screening or an annual resident review, which adversely affects the person.
- d. Every T/RBHA, T/RBHA subcontracted provider and the Arizona State Hospital shall post ADHS Form MH-209, "Discrimination Prohibited" ([Attachment F](#)), in both English and Spanish, so that it is readily visible to persons visiting the agency and shall provide a copy of this form to the person at the time of discharge from the agency.
4. Notices for Non-SMI/Non-Title XIX/XXI populations
- Notice is not required to persons who are not eligible for Title XIX/XXI or SMI services for service decisions under this policy.
5. Appeal Requirements
- a. Agency Responsible for Processing Appeals
 - (1) Each RBHA is responsible for processing appeals pursuant to the requirements described within this policy. The processing of appeals shall not be delegated by the RBHA.
 - (2) Appeals that are related to a Tribal RBHA or one of their contracted behavioral health providers' decisions and appeals that relate to PASRR determinations are filed with and processed by ADHS/DBHS' Office of Grievance and Appeals. Throughout this policy, where the RBHA is identified as responsible for acting under this policy, ADHS/DBHS retains responsibility for the Tribal RBHAs and PASRR appeals.
 - (3) Appeals of decision by the Arizona State Hospital to deny a request for

² Decisions to modify the service plan to deny, reduce, suspend or terminate a service that is Title XIX/XXI covered requires notification pursuant to the requirements identified in ADHS/DBHS Policy GA 3.3 *Title XIX/XXI Notice and Appeal Requirements*.

POLICY GA 3.5 NOTICE AND APPEAL REQUIREMENTS (SMI and NON-SMI/NON-TITLE XIX/XXI)

admission to the Arizona State Hospital shall be filed with and processed by ADHS/DBHS' Office of Grievance and Appeals.

- (4) Throughout this policy, whenever there is a reference to the RBHA, the Arizona State Hospital shall have the same responsibility when the appeal is filed with the Arizona State Hospital and concerns service decisions made by the Arizona State Hospital.
- (5) Upon request, the RBHA shall provide assistance in explaining the appeal process or in reducing the appeal in writing to the appropriate appeal form.

b. Timeframes for Filing an Appeal

Appeals must be filed orally or in writing with the responsible RBHA within 60 days from the date of the decision being appealed. Late appeals shall be accepted upon a showing of good cause.

c. Extension of Appeal Timeframes

An extension of the appeal timeframes required in this policy may be secured either at the request of the appellant or with the permission of the RBHA Director or ADHS/DBHS Director or designee. An extension of time may only be approved upon a showing of necessity and upon a showing that the delay will not pose a threat to the safety or security of the behavioral health recipient. Documentation of the reason for and approval of the extension of time must be maintained in the appeal case record.

d. Who May File an Appeal

- (1) An adult applying for or receiving services, their legal guardian, guardian ad litem, designated representative or attorney;
- (2) A legal guardian or parent who is the legal custodian of a person under the age of 18 years or a designated representative;
- (3) A court appointed guardian ad litem or an attorney of a person under the age of 18 years;
- (4) A state or governmental agency that has executed an IGA/ISA with ADHS for the provision of behavioral health services to persons served by the governmental

POLICY GA 3.5 NOTICE AND APPEAL REQUIREMENTS (SMI and NON-SMI/NON-TITLE XIX/XXI)

agency, but which does not have legal custody or control of the person shall have appeal rights to the extent specified in the ISA/IGA between the agency and the ADHS; or

- (5) A provider, acting on the behavioral health recipient's behalf and with the written authorization of the person.

6. Case Docketing Requirements

The RBHA shall use the unique ADHS/DBHS Docket Number auto-generated by the OGA database for each appeal filed. The file and all correspondence generated shall reference the ADHS/DBHS Docket Number.

7. Examination of Appeal Case Record

Upon request, the appellant shall be given an opportunity to examine the contents of the appeal case record. In addition, ADHS/DBHS or the RBHA must give the appellant an opportunity to examine all documents and records to be used at an informal conference and administrative hearing. ADHS/DBHS or the RBHA may deny access to clinical records contained in the appeal case record if permitted by State and Federal law.

8. Appeal Case Records

The RBHA will maintain appeal case records in the following manner:

- a. All documentation received for entry into the appeal case record will be date stamped on the day received.
- b. An appeal case record shall be maintained for each request to file an appeal. The case record shall include:
 - (1) An ADHS/DBHS docket number;
 - (2) The original request for appeal, if the appeal was filed orally or the appeal is not on the ADHS/DBHS Appeal or SMI Grievance Form (Attachment C), the form shall be completed by the RBHA for each appeal filed;
 - (3) Copies of all documents generated or acquired through the appeal process; and
 - (4) The RBHA and ADHS/DBHS shall maintain all records pertaining to an appeal in

POLICY GA 3.5 NOTICE AND APPEAL REQUIREMENTS (SMI and NON-SMI/NON-TITLE XIX/XXI)

a secure and locked place until the appellant's administrative and legal remedies are exhausted or time allowed for an appeal has expired. Thereafter, ADHS/DBHS and the RBHA must maintain all appeal files in a secure designated area and retain for at least five years.

9. Standard and Burden of Proof

- a. The standard of proof on all issues on appeal shall be the preponderance of the evidence.
- b. The burden of proof for all issues on appeal is on the individual or agency appealing.

10. Appeal Process for Persons with a Serious Mental Illness

- a. The appeal process for persons with a Serious Mental Illness applies to all persons who have been determined SMI eligible and to persons disputing an SMI eligibility determination.
- b. Title XIX/XX eligible persons with a Serious Mental Illness who are appealing an action (see definition) affecting Title XIX/Title XXI covered services may elect to use either the Title XIX/XXI appeal process (see [ADHS/DBHS Policy and Procedure GA 3.3 Title XIX/XXI Notice and Appeal Requirements](#)) or the appeal process for persons with a Serious Mental Illness as described in Section F.10. of this policy.
- c. An appeal may be filed for one or more of the following³:
 - (1) Decisions regarding the person's SMI eligibility determination;
 - (2) Sufficiency or appropriateness of the assessment;
 - (3) Long-term view, service goals, objectives or timelines stated in the Service Plan (SP) or Inpatient Treatment and Discharge Plan (ITDP);
 - (4) Recommended services identified in the assessment report, SP or ITDP;
 - (5) Actual services to be provided, as described in the SP, plan for interim services

³ An appeal may not be filed when the contested decision involved a request for a service that requires a physician's order, and the physician refuses to order the service.

POLICY GA 3.5 NOTICE AND APPEAL REQUIREMENTS (SMI and NON-SMI/NON-TITLE XIX/XXI)

or ITDP;

- (6) Access to or prompt provision of services;
- (7) Findings of the clinical team with regard to the person's competency, capacity to make decisions, need for guardianship or other protective services or need for special assistance;
- (8) Denial of a request for a review of, the outcome of, a modification to or failure to modify, or termination of an SP, ITDP or portion of an SP or ITDP;
- (9) Application of the procedures and timeframes for developing the SP or ITDP;
- (10) Implementation of the SP or ITDP;
- (11) Decision to provide service planning, including the provision of assessment or case management services to a person who is refusing such services, or a decision not to provide such services to the person;
- (12) Decisions regarding a person's fee assessment or the denial of a request for a waiver of fees;
- (13) Denial of payment of a claim;
- (14) Failure of the RBHA or ADHS/DBHS to act within the timeframes regarding an appeal; or
- (15) A PASRR determination, in the context of either a preadmission screening or an annual resident review, which adversely affects the person.

11. Continuation of SMI services

- a. If the appeal relates to the modification or termination of a behavioral health service, the service under appeal shall continue pending the resolution of the appeal through the final agency decision, unless:
 - (1) 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 person or another individual; or

POLICY GA 3.5 NOTICE AND APPEAL REQUIREMENTS (SMI and NON-SMI/NON-TITLE XIX/XXI)

(2) The person or guardian agrees in writing to the modification or termination.

12. Standard Appeal Process

- a. Within 5 working days of receipt of an appeal, the RBHA must inform the appellant in writing that the appeal has been received and of the procedures that will be followed during the appeal.
- b. In the event the RBHA refuses to accept a late appeal or determines that the issue may not be appealed⁴, the RBHA must inform the appellant in writing that they may, within 10 days of their receipt of the RBHA decision, request an Administrative Review of the decision with the ADHS/DBHS Office of Grievance and Appeals.
- c. If a timely request for Administrative Review is filed with ADHS/DBHS of the RBHA's decision in 12.b. above, ADHS/DBHS shall issue a final decision of within 15 days of the request.

13. Informal Conference with the RBHA

- a. Within 7 days of receipt of an appeal, the RBHA shall hold an informal conference with the person, guardian, any designated representative, case manager or other representative of the service provider, if appropriate.
- b. The RBHA must schedule the conference at a convenient time and place and inform all participants in writing, two days prior to the conference, of the time, date and location, the ability to participate in the conference by telephone or teleconference, and the appellant's right to be represented by a designated representative of the appellant's choice.
- c. The informal conference shall be chaired by a representative of the RBHA with authority to resolve the issues under appeal, who shall seek to mediate and resolve the issues in dispute.
- d. The RBHA representative shall record a statement of the nature of the appeal, the issues involved, any resolution(s) achieved, the date by which the resolution(s) will be implemented, and identify any unresolved issues for further appeal.
- e. If the issues in dispute are resolved to the satisfaction of the person or guardian, the

⁴This does not include those circumstances described in paragraph C – Policy set forth above that describes those actions or decisions to which this policy does not apply.

POLICY GA 3.5 NOTICE AND APPEAL REQUIREMENTS (SMI and NON-SMI/NON-TITLE XIX/XXI)

RBHA shall issue a dated written notice to all parties, which shall include a statement of the nature of the appeal, the issues involved, the resolution achieved and the date by which the resolution will be implemented.

- f. If the issues in dispute are not resolved to the satisfaction of the person or guardian and the issues in dispute do not relate to the person's eligibility for behavioral health services, the person or guardian shall be informed that the matter will be forwarded for further appeal to ADHS/DBHS for informal conference, and of the procedure for requesting a waiver of the ADHS/DBHS informal conference.
- g. If the issues in dispute are not resolved to the satisfaction of the person or guardian and the issues in dispute relate to the person's eligibility for SMI services or the person or guardian has requested a waiver of the ADHS/DBHS informal conference in writing, the RBHA shall:
 - (1) Provide written notice to the person or guardian of the process to request an administrative hearing.
 - (2) Determine at the informal conference whether the person or guardian is requesting the RBHA to request an administrative hearing on behalf of the person or guardian and, if so, file the request with ADHS/DBHS within 3 days of the informal conference.
 - (3) For a person who is in need of special assistance, send a copy of the notice referenced in section F.13.g.(1) to the appropriate human rights committee.
 - (4) In the event the person appealing fails to attend the informal conference and fails to notify the RBHA of their inability to attend prior to the scheduled conference, the RBHA may issue a written notice, within 3 working days of the scheduled conference, which:
 - (a) Describes the RBHA's position on the issue under appeal; and
 - (i) Advises the appellant that the appeal will be forwarded for an ADHS/DBHS Informal Conference and their right to waive the informal conference to request an ADHS/DBHS Administrative Hearing; or
 - (ii) For issues relating to the person's eligibility, of the appellant's right to request an Administrative Hearing.

POLICY GA 3.5 NOTICE AND APPEAL REQUIREMENTS (SMI and NON-SMI/NON-TITLE XIX/XXI)

- (5) For all unresolved appeals, the RBHA must forward the appeal case record to the ADHS/DBHS Office of Grievance and Appeals within three days from the conclusion of the informal conference.

14. ADHS/DBHS Informal Conference

- a. Unless the person or guardian waives an informal conference with ADHS/DBHS, or the issue on appeal relates to eligibility for SMI services, ADHS/DBHS shall hold a second informal conference within 15 days of the notification from the RBHA that the appeal was unresolved.
 - (1) At least 5 days prior to the date of the second informal conference, ADHS/DBHS shall notify the participants in writing of the date, time and location of the conference.
 - (2) The informal conference shall be chaired by a representative of ADHS/DBHS with authority to resolve the issues under appeal who shall seek to mediate and resolve the issues in dispute.
 - (3) The ADHS/DBHS representative shall record a statement of the nature of the appeal, the issues involved, any resolution(s) achieved, the date by which the resolution(s) will be implemented, and identify any unresolved issues for further appeal.
 - (4) If the issues in dispute are resolved to the satisfaction of the person or guardian, ADHS/DBHS shall issue a dated written notice to all parties, which shall include a statement of the nature of the appeal, the issues involved, the resolution achieved and the date by which the resolution will be implemented.
 - (5) If the issues in dispute are not resolved to the satisfaction of the person or guardian, ADHS/DBHS shall:
 - (a) Provide written notice to the person or guardian of the process to request an administrative hearing.
 - (b) Determine at the informal conference whether the person or guardian is requesting ADHS/DBHS to request an administrative hearing on behalf of the person or guardian and, if so, file the request within 3 days of the informal conference.

POLICY GA 3.5 NOTICE AND APPEAL REQUIREMENTS (SMI and NON-SMI/NON-TITLE XIX/XXI)

- (c) For a person who is in need of special assistance, send a copy of the notice in F.14.a.(5)(a) to the appropriate human rights committee.
- (d) In the event the person appealing fails to attend the informal conference and fails to notify ADHS/DBHS of their inability to attend prior to the scheduled conference, ADHS/DBHS may issue a written notice, within 3 working days of the scheduled conference, which contains a description of the decision on the issue under appeal and which advises the appellant of their right to request an Administrative Hearing.

15. Requests for Administrative Hearing

- a. A written request for hearing filed with ADHS must contain the following information:
 - (1) Case name (name of the applicant or person receiving services, name of the appellant and the ADHS/DBHS docket number);
 - (2) The decision being appealed;
 - (3) The date of the decision being appealed; and
 - (4) The reason for the appeal.
- b. In the event a request for administrative hearing is filed with the RBHA, the RBHA shall ensure that the written request for hearing, appeal case record and all supporting documentation is received by the ADHS/DBHS Office of Grievance and Appeals within 3 days from such date.
- c. Administrative hearings shall be conducted and decided pursuant to [A.R.S. § 41-1092 et seq.](#)

16. Expedited Appeals

- a. At the time an appeal is initiated, the applicant, person or provider on a person's behalf may request an expedited appeal in writing. The RBHA shall accept requests to expedite an appeal for good cause, and for the following:
 - (1) The denial of admission to or the termination of a continuation of inpatient services; or

POLICY GA 3.5 NOTICE AND APPEAL REQUIREMENTS (SMI and NON-SMI/NON-TITLE XIX/XXI)

- (2) A denial or termination of crisis or emergency services.
- b. Within 1 day of receipt of a request for an expedited appeal, the RBHA must inform the appellant in writing that the appeal has been received and of the time, date and location of the informal conference; or
 - c. Issue a written decision stating that the appeal does not meet criteria as an expedited appeal and that the appellant may request an Administrative Review from ADHS/DBHS of this decision within 3 days of the decision. The appeal shall then proceed according to the standard process as described in Section F.12. of this policy.
 - d. If the person or their guardian requests an Administrative Review on a timely basis the RBHA's decision in 16.c., ADHS/DBHS shall complete the review and issue a written decision within 1 day from the date of receipt. The decision of ADHS/DBHS shall be final.

17. RBHA Expedited Informal Conference

Within 2 days of receipt of a written request for an expedited appeal, the RBHA shall hold an informal conference in accordance with applicable provisions of section F.13 of this policy to mediate and resolve the issues in dispute.

18. ADHS/DBHS Expedited Informal Conference

- a. Within two days of notification from the RBHA, ADHS/DBHS shall hold an informal conference in accordance with applicable provisions of section F.14. of this policy to mediate and resolve the issue in dispute, unless the appellant waives the conference at this level, in which case the appeal shall be forwarded within one day to the ADHS Director to schedule an administrative hearing.
- b. Within one day of the informal conference with ADHS/DBHS, if the conference failed to resolve the appeal, the appeal shall be forwarded to the ADHS Director to schedule an administrative hearing.

19. Requests for Administrative Hearing

- a. A written request for hearing filed with ADHS must contain the following information:
 - (1) Case name (name of the applicant or person receiving services, name of the

POLICY GA 3.5 NOTICE AND APPEAL REQUIREMENTS (SMI and NON-SMI/NON-TITLE XIX/XXI)

appellant and the ADHS/DBHS docket number);

- (2) The decision being appealed;
 - (3) The date of the decision being appealed; and
 - (4) The reason for the appeal.
- b. In the event a request for administrative hearing is filed with the RBHA, the RBHA shall ensure that the written request for hearing, appeal case record and all supporting documentation is received by the ADHS/DBHS Office of Grievance and Appeals within 3 days.
- c. Administrative hearings shall be conducted and decided pursuant to A.R.S. §41-1092 et seq.

20. Non-SMI/Non-Title XIX/XXI Member Appeals

- a. This process applies to actions or decisions related to determination of need for Non-SMI, Non-Title XIX/XXI funded, covered behavioral health services.
- b. The RBHA in processing the appeal, must:
 - (1) Inform the appellant in writing within 5 working days of receipt that the appeal has been received and of the procedures that will be followed during the appeal;
 - (2) Provide the appellant a reasonable opportunity to present evidence and allegations of fact or law in person and in writing; and
 - (3) Provide a written decision no later than 30 days from the day the appeal is received. The decision shall include a summary of the issues involved, the outcome of the appeal, and the basis of the decision. For appeals not resolved wholly in favor of the appellant, the RBHA shall advise the appellant in writing of their right to request an administrative hearing with ADHS no later than 30 days from the date of the RBHA's decision, and how to do so.
- c. Requests for Administrative Hearing

ATTACHMENT A

ADHS/DBHS NOTICE OF SMI GRIEVANCE AND APPEAL PROCEDURE

[\(Click Here for Spanish Version\)](#)

It is the philosophy of the Arizona Department of Health Services, Division of Behavioral Health Services (ADHS/DBHS) to provide state residents with timely access to appropriate and effective behavioral health care. Services are provided through the Regional Behavioral Health Authority (RBHA) or Tribal Regional Behavioral Health Authority (TRBHA). Should you need to request an investigation, file an SMI grievance, or file an appeal, the following process is followed:

SMI GRIEVANCE/REQUEST FOR INVESTIGATION/

Any person may file an SMI grievance or request an investigation regarding any act or omission of ADHS/DBHS, the Arizona State Hospital, the T/RBHA, or one of its providers, alleging that a rights violation or a condition requiring investigation has occurred or currently exists. (Please note: allegations about the need for, or appropriateness of behavioral health services should not be considered an SMI grievance, but should be addressed through the appeal process described below.) The request may be verbal or written and must be initiated no later than one year after the date of the alleged rights violation or condition requiring investigation. Forms for filing are available at ADHS/DBHS, the Arizona State Hospital, the T/RBHAs, case management sites and at all provider sites.

All SMI grievances/requests for investigation must be filed with the appropriate RBHA. Allegation of rights violation by a TRBHA or their providers or SMI grievances/requests for investigation related to physical or sexual abuse will be addressed by ADHS/DBHS. SMI grievances/requests for investigations on such issues may be filed with the RBHA to be forwarded to ADHS/DBHS or may be filed directly in writing with ADHS/DBHS at 150 North 18th Avenue, Suite 210, Phoenix, Arizona 85007, or orally, by calling (602) 364-4575. Within 7 days of the date received, you will be sent an acknowledgment letter and, if appropriate, an investigator will be assigned to research the matter. When a decision is reached, you will receive a written response.

APPEAL

Any person, age 18, his or her guardian, or designated representative, may file an appeal related to services applied for, or services the person is receiving. Matters of appeal are generally related to: a denial of services; disagreement with the findings of an evaluation or assessment; any part of the Service Plan; the Individual Treatment and Discharge Plan; recommended services or actual services provided; barriers or unreasonable delay in accessing services under Title XIX; and fee assessments. Appeals must be filed with the RBHA or ADHS/DBHS for the TRBHA and must be initiated no later than 60 days of the decision or action being appealed. Appeal forms are available at ADHS/DBHS, the T/RBHAs, case management sites and at all provider sites.

The RBHA or ADHS/DBHS (for TRBHA appeals) will attempt to resolve all appeals within seven days through an informal process. If the problem cannot be resolved, the matter will be forwarded to ADHS/DBHS for further appeal. If the RBHA will not accept your appeal or dismisses your appeal without consideration, you may request an Administrative Review by ADHS/DBHS of that decision.

For SMI grievances/requests for investigation and appeals, to the greatest extent possible, please include:

1. Name of person filing the SMI grievance/request for investigation or appeal
2. Name of the person receiving services, if different.
3. Mailing address and phone number.
4. Date of issue being appealed or incident requiring investigation.
5. Brief description of issue or incident.
6. Resolution or solution desired.

For either process above, you may represent yourself, designate a representative or use legal counsel. You may contact the State Protection and Advocacy System, the Arizona Center for Disability Law 1-800-922-1447 in Tucson and 1-800-927-2260 in Phoenix. You may also contact the Office of Human Rights at (602) 364-4574, or 1-800-421-2124 for assistance. If your complaint relates to a licensed behavioral health agency, you may contact the Office of Behavioral Health Licensure, 150 N. 18th Avenue, Phoenix, Arizona 85007, (602)364-2595.

Client Signature

Date

Staff Signature

Date

RBHA NAME
RBHA address and phone number
In English and Spanish
Last Revised: 02/29/2008

ATTACHMENT B

NOTICE OF DECISION AND RIGHT TO APPEAL (FOR INDIVIDUALS WITH A SERIOUS MENTAL ILLNESS)

[\(Click Here for Spanish Version\)](#)

TO: [APPLICANT/CLIENT'S NAME/ADDRESS]

[REPRESENTATIVE NAME/ADDRESS]

FROM: (Name of agency)

(Address)

CONTACT PERSON/NUMBER

OUR DECISION:

This decision concerns:

- your eligibility for SMI services
- fees
- your clinical assessment
- your outpatient or inpatient service plan
- a change in your services
- other

Our decision is: _____

The effective date of this decision is: _____

The reason for our decision is: _____

DATE OF DECISION: _____ (AN APPEAL MUST BE FILED WITHIN 60 DAYS OF THIS DATE)

YOUR RIGHT TO APPEAL:

How to Appeal

Within 60 days of this decision, you may appeal orally by calling [local number] or [toll free number], or in writing by completing [PM Form 5.3.1, ADHS/DBHS Appeal or SMI Grievance Form](#), and sending it to [address]. Your appeal will begin at the RBHA or ADHS/DBHS for TRBHA-related issues. If your appeal is not resolved by the RBHA, you have a right to request an administrative hearing pursuant to A.R.S. §36-111-112, A.R.S. §41-1061 et seq of the Administrative Procedure Act.

Continued Benefits

If this decision concerns services you are currently receiving and if you appeal, your services will continue throughout the appeal process, unless a qualified clinician determines that the change is required to avoid a serious or immediate threat to your health or safety, or that of another person.

HOW TO GET HELP WITH YOUR APPEAL:

Any adult client or client's legal guardian may represent himself, use a designated representative or legal counsel. To get help with this appeal you may contact the State Protection and Advocacy System, The Arizona Center for Disability Law at 1-800-922-1447 in Tucson and 1-800-927-2260 in Phoenix. You may also contact the Office of Human Rights at 1-602-364-4574 or 1-800-421-2124. You may also refer to your member handbook for more information about the appeals process.

Name and Signature of Individual Completing this Form

For translation or alternative format requests, call [insert 1-800 and local number]

Para recibir esta forma en español, llame a: [insert 1-800 and local number]

ATTACHMENT C

ADHS/DBHS APPEAL OR SMI GRIEVANCE FORM

[\(Click Here for Spanish Version\)](#)

For translation or alternative format requests, call [insert 1-800 and local number]

Para recibir esta forma en español, llame a: [insert 1-800 and local number]

Client/Applicant Information:

Name: _____
(Last, First, M.I.)

Address: _____
Street City State Zip Code

Phone: (____) _____ Date of Birth: _____

Information about the person filing (if different than above):

Name: _____
(Last, First, M.I.)

Address: _____
Street City State Zip Code

Phone: (____) _____

Relationship to the Client/Applicant (i.e. Provider, Parent or Guardian): _____

Description of Appeal or Grievance: [Please include dates, names, locations, also any other attempts to resolve the problem, attaching additional pages as necessary.]

What solution do you want? _____

Continuation of Services:

For clients with a serious mental illness, your services under appeal will be continued during the appeal process, unless doing so poses a serious threat of harm to you or others.

For appeals relating to Title XIX or XXI services, please check *one* of the following:

- I am requesting that the services I am appealing be continued during the appeal process. I understand that if I lose my appeal, I may be required to pay for the cost of the services that were continued during the appeal process.
- I do not want the services I am appealing to be continued during the appeal process.

Client Signature: _____ Date: _____

ATTACHMENT E

ADHS FORM MH-211

[\(Click Here for Spanish Version\)](#)

Notice of Legal Rights for Persons with Serious Mental Illness

If you have a serious or chronic mental illness, you have legal rights under federal and state law. Some of these rights include:

- The right to appropriate mental health services based on your individual needs;
- The right to participate in all phases of your mental health treatment, including service plan (SP) meetings;
- The right to a discharge plan upon discharge from a hospital;
- The right to consent to or refuse treatment (except in an emergency or by court order);
- The right to treatment in the least restrictive setting;
- The right to freedom from unnecessary seclusion or restraint;
- The right not to be physically, sexually, or verbally abused;
- The right to privacy (mail, visits, telephone conversations);
- The right to file an appeal or grievance when you disagree with the services you receive or your rights are violated;
- The right to choose a designated representative(s) to assist you in SP meetings and in filing grievances;
- The right to a case manager to work with you in obtaining the services you need;
- The right to a written SP that sets forth the services you will receive;
- The right to associate with others;
- The right to confidentiality of your psychiatric records;
- The right to obtain copies of your own psychiatric records (unless it would not be in your best interests to have them);
- The right to appeal a court-ordered involuntary commitment and to consult with an attorney and to request judicial review of court-ordered commitment every 60 days;
- The right not to be discriminated against in employment or housing.

If you would like information about your rights, you may request a copy of the "Your Rights in Arizona as an Individual with Serious Mental Illness" brochure or you may also call the Arizona Department of Health Services, Office of Human Rights at 1-800-421-2124 or at (602) 364-4574.

ADHS/BHS Form MH-211 (02/08)

ATTACHMENT F

ADHS FORM MH-209

Notice of Discrimination Prohibited

Pursuant to A.R.S. § 36-506 and R9-21-101(B)

- A. Persons undergoing evaluation or treatment pursuant to this Chapter shall not be denied any civil right, including, but not limited to, the right to dispose of property, sue and be sued, enter into contractual relationships and vote. Court-ordered treatment or evaluation pursuant to this Chapter is not a determination of legal incompetency, except to the extent provided in A.R.S. § 36-512.
- B. A person who is or has been evaluated or treated in an agency for a mental disorder shall not be discriminated against in any manner, including but not limited to:
 - 1. Seeking employment.
 - 2. Resuming or continuing professional practice or previous occupation.
 - 3. Obtaining or retaining housing.
 - 4. Obtaining or retaining licenses or permits, including but not limited to, motor vehicle licenses, motor vehicle operator's and chauffeur's licenses and professional or occupational licenses.
- C. "Discrimination" for purposes of this Section means any denial of civil rights on the grounds of hospitalization or outpatient care and treatment unrelated to a person's present capacity to meet the standards applicable to all persons. Applications for positions, licenses and housing shall contain no requests for information which encourage such discrimination.
- D. Upon discharge from any treatment or evaluation agency, the patient shall be given written notice of the provisions of this Section.

AVISO

Discriminacion Prohibida

Conforme a A.R.S. § 36-506 y R9-21-101(B)

- A. A las personas que estan bajo evaluacion o tratamiento conforme a este capitulo, no se les negara ningun derecho civil, incluyendo pero no limitado a, el derecho a disponer de propiedad, a demandar y ser demandado, a tomar parte en relaciones contractuales y a votar. El tratamiento o evaluacion ordenado por la corte conforme a este capitulo no es una determinacion de incompetencia légal, excepto hasta el punto proveido en la seccion 36-512.
- B. No se haran discriminaciones de ninguna clase, en contra de una persona que ha sido o esta siendo evaluada o tratada en una agencia debido a un desorden mental, incluyendo pero no limitado a:
 - 1. Buscar trabajo.
 - 2. Reasumir o continuar una practica profesional u ocupacion previa.
 - 3. Obtener o retener vivienda.
 - 4. Obtener o retener licencias o permisos, incluyendo pero no limitado a, licencias para vehiculo de motor, licencias de operador de vehiculo de motor y de chofer, y licencias ocupacionales o profesionales.
- C. "Discriminacion" para propositos de esta seccion quiere decir cualquier denegacion de derechos civiles por motivos de hospitalizacion o tratamiento externo no relacionado a la capacidad actual de la persona para cumplir con las normas aplicables a toda persona. Las solicitudes para posiciones, licencias y vivienda no contendran peticion de informacion que pueda fomentar tal discriminacion.
- D. Al ser dado de alta de cualquier agencia de tratamiento o evaluacion, se dara al paciente notificacion por escrito sobre las provisiones de esta seccion.