

**SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH**  
Columbia, South Carolina

OFFICE OF THE STATE DIRECTOR OF MENTAL HEALTH

DIRECTIVE NO. 868-06  
(5-100)

**TO: ALL ORGANIZATIONAL COMPONENTS**

**SUBJECT: CLIENT GRIEVANCE REVIEW PROCEDURE**

**I. PURPOSE:**

The purpose of this Directive is to establish a grievance review procedure which shall ensure a prompt review of client rights and advocacy issues as well as an effective resolution. This includes issues of discrimination to consumers under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 and any other state or federal law or regulation pertaining to discrimination against persons with a disability.

**II. POLICY:**

Each person who receives services will be treated with respect and dignity. The Department of Mental Health is committed to services that honor the rights, wishes and needs of each individual. In furtherance of this policy, there shall be a comprehensive department-wide rights and advocacy program administered through the Department of Mental Health Advocacy Office.

**III. DEFINITIONS:**

- A. *Client Grievance:* A written or verbal complaint (a verbal complaint that is resolved by *staff present* at the time of the complaint does not become a formal client grievance), by a client, or person acting on behalf of the client, regarding client care, client rights and, if applicable, to a hospital's compliance with the Centers for Medicare and Medicaid Services (CMS) Hospital Condition of Participation or a Medicare beneficiary bill complaint related to rights and limitations provided by 42 CFR Section 489.
- B. *Staff Present:* Any staff present at the time of the complaint or who can quickly be at the client's location (i.e. nursing, administration, nursing supervisors, advocates, etc.) to resolve the client's complaint.
- C. *Party Acting on Behalf of a Client:* A person who has the proper legal authority to act on behalf of a client or has client authorization to act on behalf of a client.

**IV. PROCEDURES** (These procedures apply to all programs of the Department of Mental Health unless otherwise stated in the Directive):

- A. Review by Mental Health Center or In-Patient Facility

1. Staff Present

Verbal complaints may be resolved by staff present at the time the complaint is made. If not resolved or if the client requests, it is the responsibility of staff present to assist the client in contacting the Local Advocate or facilitate the communication of grievances to the Local Advocate.

2. Local Advocate

Any client or party acting on behalf of a client may initiate a client grievance review by contacting the Local Advocate.

A written request for a client grievance review shall be completed by the client or the party acting on behalf of a client. To the extent necessary, the Local Advocate shall assist the client or party acting on behalf of the client in the completion of the written request for a client grievance review.

A review of the issues and a remedial action report should be completed by the Local Advocate within 7 business days (see Section IV. F.3.) after the written request for a client grievance review has been received by the Local Advocate. An expedited response shall take place when a client's safety is at risk.

3. Mental Health Center or In-Patient Facility Director

If the remedial action taken by the Local Advocate does not resolve the issues or if there is dissatisfaction with the remedial action, the client or party acting on behalf of the client may request a review by the Center or Facility Director. As part of this request the client or party acting on behalf of the client may request a conference with the Director to review the issues. Other relevant parties may be requested to attend any conference held, providing the client or party acting on behalf of a client is informed in advance.

A review and a remedial action report shall be completed by the Director within 7 business days (see Section IV.F.3.) after the client or party action on behalf of the client has requested the review. An expedited response shall take place when a client's safety is at risk.

- B. Review by the Department of Mental Health

1. Department of Mental Health Advocacy Office

If the remedial action taken by the Center or Facility Director does not resolve the issues or there is dissatisfaction with the remedial action, the client or party acting on behalf of the client may request a review by the Department of Mental Health Advocacy Office.

A review and a remedial action report should be completed by the Department of Mental Health Advocacy Office within 7 business days (see Section IV. 4. F.) after the client or person acting on behalf of the client has requested the review. An expedited response shall take place when a client's safety is at risk.

2. State Director of Mental Health

If the remedial action taken by the Department of Mental Health Advocacy Office does not resolve the issues or there is dissatisfaction with the remedial action, the client or party acting on behalf of the client may request a review by the State Director of Mental Health. As part of the request, a client or party acting on behalf of the client may request a conference with the State Director of Mental Health to review the issues. Other relevant parties may be asked to attend any conference held, providing the client or party acting on behalf of a client is informed in advance.

The State Director of Mental Health shall make the final decision on all issues not resolved at other levels of the review process. The review should be completed within 7 business days (see Section IV.F.3.) after receiving the request for review. An expedited response shall take place when a client's safety is at risk.

C. Appointment and Qualifications of Local Advocates

1. Facility/Center Directors in locations that do not have full time DMH Local Advocates shall submit the names of proposed Local Advocates to the Department of Mental Health Advocacy Office for approval and training prior to assuming responsibilities contained in this Directive.
2. Each Facility/Center Director shall designate adequate numbers of staff to serve as Local Advocates.
3. Local Advocates shall have the following qualifications/requirements:
  - a. knowledge of facility/center organization;
  - b. ability to communicate orally and in writing;
  - c. ability to resolve conflicts, conduct impartial reviews, draw conclusions and recommend actions;
  - d. ability to initiate effective relationships with consumer, consumers families, staff and advocacy organizations; and
  - e. Local Advocates shall not perform advocacy activity in areas in which the Local Advocate has treatment or management responsibility that would conflict with conducting an impartial review.

D. Additional Responsibilities of the Department of Mental Health Advocacy Office

1. This office shall provide training and consultation to Local Advocates. Periodic workshops and liaison meetings with Local Advocates will be conducted.
2. This office shall establish guidelines for completion of written requests for client grievance reviews and remedial action reports. These guidelines must include procedures to provide the client with written notice of the review decision that contains the name of the Local Advocate who completed the review, the review steps taken, the results of the review, and the date of completion. This must be communicated appropriately to the client or the person acting on behalf of a client in a language and manner the client or the person acting on behalf of the client understands.
3. This office shall establish guidelines for the collection of data regarding client grievances and the preparation of periodic reports to the Mental Health Commission and facility and center directors.
4. This office shall provide liaison to external advocacy entities.
5. In accordance with South Carolina law this office shall forward copies of all requests for review and their disposition to the Protection and Advocacy for Persons with Disabilities, Inc. when and as requested.

E. Any Retaliation Against any Party Utilizing the Review Process Described Herein is Strictly Prohibited. A client or person acting on behalf of a client will notify the Advocate of any suspected retaliation. The Advocate will report any suspected retaliation to the appropriate supervisor and administrator for necessary action and correction.

F. Other Provisions

1. Any client or party acting on behalf of the client may directly contact the Department of Mental Health Advocacy Office and initiate a client grievance review.
2. Levels of review may be waived by the Director of the Department of Mental Health Advocacy Office when it is determined that a situation may be resolved more effectively at another level.

3. A timeframe of 7 days for a response to a grievance is considered appropriate. If a grievance review is not completed within 7 days, the client or the person acting on behalf of a client should be informed that the review is incomplete and that a written response will be provided within a stated number of days.
4. The review may proceed to the next level when a review has not been completed within the time period.
5. In order to accomplish the requirements of this directive, Department of Mental Health Advocates shall have access to clients, client records and department programs without prior notice.
6. Procedures for notification to clients of their rights and the grievance review process are contained in South Carolina statutes and the "SCDMH Patient Rights Manual."
7. The Behavior Disorders Treatment Program shall ensure that a procedure for the review of resident grievances is in place for residents of that program. Such procedure will conform to the basic requirements of this directive and be approved by the State Director of Mental Health.
8. Requests for review that contain allegations of abuse, neglect or exploitation shall immediately be referred to the department or agency responsible for investigation of abuse, neglect or exploitation.
9. Advocates may conduct informal reviews of concerns by providing information and referral when complete client grievance reviews are considered to be unnecessary, providing the client agrees.
10. Governing Council delegates the responsibility for the grievance review process to the South Carolina Department of Mental Health Advocacy Office. The client grievance committee will consist of the Advocates in the South Carolina Department of Mental Health Advocacy Office.

This Directive rescinds and supersedes Directive No. 833-02 entitled, "Consumer Rights Review Procedure."



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