

## [MODEL] CLIENT RIGHTS GRIEVANCE RESOLUTION PROCEDURE

### I. PURPOSE, APPLICABILITY AND DEFINITIONS

**A. INTRODUCTION.** Anyone who is receiving services for mental health issues, substance abuse or a developmental disability in Wisconsin has the “patient rights” set forth in § 51.61(1), Wis. Stats. Included in those rights is access to a grievance resolution system which is in compliance with subchapter rules developed by the Department of Health Services. The rules for the state grievance resolution process are set forth in Subchapter III of DHS 94, Wisconsin Administrative Code.

**B. PURPOSE.** This procedure constitutes program guidelines and requirements for compliance with the established state grievance resolution system.

**C. APPLICABILITY.** These procedures apply to [this service provider or coalition of providers].

#### D. DEFINITIONS.

1. **"Administrator"** means the administrator of the Division of Mental Health and Substance Abuse Services (DMHSAS) in the Department of Health Services.
2. **"Client"** or **"patient"** means any individual receiving services for mental illness, developmental disabilities, alcoholism or drug dependency, including anyone admitted to a treatment facility in accordance with Chs. 51 or 55, or who is detained, committed or placed pursuant to Chs. 51, 55, 971, 975, or 980, or who is receiving care or treatment for those conditions through the department or a county department under § 51.42 or § 51.437, or in a private treatment facility. In **private or public general hospitals**, a client or patient includes any individual admitted for the **primary purpose** of treatment of mental illness, developmental disability, alcoholism or drug abuse, but does **not include** people who receive treatment in a hospital **emergency room** or who receive treatment at those hospitals on an **outpatient basis**, unless the person is receiving services specified above. [Sec. 51.61(1), Stats.]
3. **"Client Rights Office"** is the office within the Division of Mental Health and Substance Abuse Services that includes the State Grievance Examiner (SGE). [DHS 94.53(2)]
4. **"Client Rights Specialist" (CRS)** means a person designated by a program or a coalition of programs to facilitate informal resolution of concerns where requested and to conduct program level reviews of grievances and make proposed factual findings, determinations of merit, and recommendations for

- resolution which are provided to the program manager and the client. [DHS 94.02(4)]
5. **“Complainant”** or **“Grievant”** refers to the person bringing a grievance on their own behalf, or on behalf of a client. [DHS 94.02(20)]
  6. **“Concern”** means a complaint, disagreement, or dispute which a client, or person on behalf of a client, may have with a program or its staff which the client chooses to resolve through the **informal resolution process**. [DHS 94.02(7)]
  7. **“Department”** means the Wisconsin Department of Health Services (DHS). [DHS 94.02(10)]
  8. **“Director”** means the administrator of a treatment facility or the person directing the activities of any other service provider. [DHS 94.02(11)]
  9. **“Emergency situation”** means a situation in which, based on the information available at the time, there is reasonable cause to believe that a client or a group of clients is at significant risk of physical or emotional harm due to the circumstances identified in a grievance or concern. [DHS 94.02(14)]
  10. **“Founded”** means there has been a determination by the person conducting the review at any level of the grievance process that a violation of a right guaranteed to the client under DHS 92 or 94, or Ch. 51, Stats. [DHS 94.41(3)(a)1]
  11. **“Grievance”** means a statement by a complainant that an action or an inaction by a program or its staff has abridged the client’s rights guaranteed under § 51.61, Stats., or DHS 92 or DHS 94, Wis. Admin. Code, **combined with a request** that the matter be dealt with through the program’s **formal grievance resolution procedure**. [DHS 94.02(17)]
  12. **“Informal resolution process”** means the process which offers clients and persons acting on behalf of clients the option of seeking informal resolution of their concerns, during which time the applicable time limits for completing the steps in the formal procedure are suspended. The formal resolution process may be resumed at any time. [Note: Attempting informal resolution is not appropriate in all situations.] [DHS 94.40(4)]
  13. **“Program Director”** or **“County Director”** is the person appointed to administer the county department’s programs. [DHS 94.02(36)]
  15. **“Program Manager”** refers to the individual in charge of the operation of this program, responsible for the program level review, who has the specific

authority to approve and implement decisions made through the grievance resolution process. [DHS 94.02(37)]

16. **“QMRP”** means a Qualified Mental Retardation Professional who is assigned to a client residing in a county or community based Intermediate Care Facility for the Mentally Retarded (ICFMR). This includes ICF/MR wings (per distinct part licensure) of other facilities such as nursing homes. [42 CFR sec. 483.430(a), Code of Federal Regulations.]
17. **“State Grievance Examiner”** (SGE) means a staff person of the department who is designated by the department Secretary to conduct Level III reviews of grievances appealed from the program or county level review. [DHS 94.02(18)]
18. **“Unfounded”** means there has been a determination by the person conducting the review at any level of the grievance process that the complainant’s rights have not been violated or that the grievance is without merit or is not a matter within the jurisdiction of DHS 92 or 94, or Ch. 51, Stats. [DHS 94.41(3)(a)2]

## II. INFORMING CLIENTS OF THEIR RIGHTS

- A. **Upon admission** to [this program] each client, parent of a minor, or guardian of an adult or minor (if applicable) shall be given a copy of a **pamphlet or other document** explaining the rights of the client and summarizing the grievance resolution process. Clients, parents or guardians may request additional copies and any reasonable request shall be granted. The pamphlet or document shall contain the **name, address and phone number** of the program’s CRS. [Sec. 51.61(1)(a), Stats. and DHS 94.04]
- B. **Posters** describing client rights and the grievance resolution process shall be placed in locations in each program area where anyone can easily read them. Posters shall contain the **name, address and phone number** of the program's CRS. [DHS 94.04(5) Note]
- C. Clients or persons acting on their behalf must have **access to complete copies** of § **51.30** and § **51.61**, Wis. Statutes, and **DHS 92**, and **DHS 94**, Wis. Administrative Code. [§ 51.61(1)(a), Stats., and DHS 94.04]
- D. Staff shall **assist** clients and guardians, parents and advocates (whoever is involved) in **understanding** and using the grievance system. Such assistance shall take the form of oral, written or video instructions. [DHS 94.40(7) & 94.04]
- E. If, on admission, a client is **unable to understand the notification of rights**, written and oral notification shall be made to the parent (of a minor) or guardian (of an adult or minor), if available or, in the case of an outpatient, before

treatment is begun, and **to the patient when they are able to understand.** [DHS 94.04(4)]

- F. Clients who receive services for an extended period of time shall be **orally re-notified of their rights at least annually**, and be given another written copy of their rights if they request such, or if there has been a statutory or administrative rule change in any of their rights since the time of their admission. [DHS 94.04(3)]
- G. Each Program Manager and County Director shall ensure all of their **employees who have any patient contact** are aware of the **requirements of DHS 94**, and of the **criminal and civil liabilities for rights violations**, and of the protection for reporting violations of rights to licensing agencies. [DHS 94.30(1)]
- H. In the event that a **contracted treatment facility does not comply** with an applicable requirement of DHS 94, the county department **shall notify the DHS** of the specific non-compliance within 7 calendar days of its discovery. [DHS 94.30(2)]

### III. THE CLIENT RIGHTS SPECIALIST (CRS)

- A. [This program or coalition of programs] shall designate one or more persons as **CRS to investigate** grievances, attempt to **resolve problems** involving client rights, and **make recommendations** as to the disposition of grievances. [DHS 94.02(4) and DHS 94.40(3)]
- B. In order to effectively perform their tasks, a **CRS should possess** the following **traits and talents**:
  - 1. **Credibility** with both clients and staff;
  - 2. Ability to **solve problems** and **mediate disputes**;
  - 3. Ability to **adequately investigate grievances**; and
  - 4. Ability to **write complete** and **accurate verbal** and **written reports** of factual situations.
- C. [The program or coalition of programs] shall designate at least one **alternate CRS**, or specify how they will arrange for an alternate CRS to act when the CRS is not available or has a conflict of interest regarding a specific grievance. [DHS 94.40(3)]
- D. The Client Rights Specialists shall be offered the following **training**: [DHS 94.40(2)(d) and 94.40(5)(b)]

1. **Conducting** program level reviews and inquiries;
  2. **Preparing reports** to include **factual findings, determinations of merit, and recommendations for resolution** (whether or not client rights violations were found to have occurred);
  3. **Completing** the review process within required **time limits**;
  4. **Maintaining impartiality** in conducting the review;
  5. Permitting both clients and staff an **equal opportunity** to be **heard** during the investigation process;
  6. Following the **procedures** used in this grievance process;
  7. Employing **techniques for informal resolution** of concerns and grievances,
  8. **Interpreting** and **applying** the provisions of **client rights laws** in Ch. 51, Stats., and DHS 94 and DHS 92, Wisconsin Administrative Code.
- E. The **CRS may be an employee** of the program or of one of the programs in the coalition, or **may be a person under contract** to a program or a coalition of programs. However, the CRS assigned to conduct a program level review shall not have any involvement in the conditions or activities forming the basis of the client's grievance, or have any other substantial interest in those matters arising from his or her relationship to the program or the client, other than employment. [DHS 94.40(3)(c)]
- F. Program managers and program directors **shall take steps to ensure and protect the neutrality of CRSs** conducting grievance reviews by establishing conditions which allow them to be objective in their actions, and not allow retribution against them for unpopular decisions. [DHS 94.40(5)(a)]

[NOTE: Clients also have rights enumerated in **other administrative rules** that pertain to certain programs and services. The CRS is encouraged to be familiar with any administrative rules applicable to this program. These may at times be relevant in responding to or resolving client rights grievances. In applying the client rights specified in DHS 94, if two or more rules or federal regulations apply to the right(s) at issue, whichever **rule** or **federal regulation** does more to promote patient rights shall be **controlling**. [DHS 94.31]]

### III. ACCESS TO THE GRIEVANCE RESOLUTION PROCESS

#### A. Who can file a grievance?

1. The grievance resolution process may be used **by and on behalf of all clients**. [DHS 94.40(1)]
2. **No person shall be subject to discipline or retribution** for filing or assisting in filing a grievance, for pursuing a remedy through the grievance resolution process, or for participating in any manner in this process. **No sanctions** will be threatened or imposed against any person, including an employee of DHS, a county department, or a service provider, who **assists** a client in filing a grievance. [DHS 94.40(6)]
3. **Complaints** of clients or persons acting on their behalf relating to the **failure** of a program **to have a grievance resolution system**, or alleging that a grievance resolution system **does not meet state standards**, may be submitted directly to the **State Grievance Examiner** at the Client Rights Office. The State Grievance Examiner shall then conduct an investigation and proceed in accordance with the steps outlined in DHS 94.51.

#### B. How may clients or others file grievances?

1. Grievances may be presented to the program manager, CRS, or any staff person **in writing, orally or by any alternative method of communication** ordinarily used by the client. [DHS 94.41(1)(b)]
2. If the grievance was presented **orally** or through an alternative form of communication, the CRS shall **assist the client in putting it into writing** for use in the ongoing process. A copy of the written grievance shall then be given to the client and complainant. [DHS 94.41(2)(b)]
3. **Forms** for filing a grievance shall be made conveniently available in many locations to all clients and persons acting on their behalf. However, it is **not required** that a **form be used**.

#### C. What if the complainant is not the client?

1. Grievances brought by a client's guardian or parent of a minor are considered to have been brought by the client.
2. If a grievance is brought **on behalf of a client by another person**, who is **not the parent** of a minor or **guardian** the **CRS shall inform** the client, and parent or guardian as may be relevant, of the complaint and shall determine if the client, or parent or guardian, wishes to have the grievance investigated and resolved through the formal resolution process. [DHS 94.49 (2)]

3. If the client, parent of a minor client, or guardian, is **opposed** to using the formal resolution process, the **CRS may proceed** with the investigation **only** if there are **reasonable grounds** to believe that failure to proceed may place the client or other clients **at risk of physical or emotional harm**. If there is no parent or guardian, or s/he is not available, and the client is unable to express an opinion, the CRS shall proceed with the investigation. [DHS 94.49(3)]
4. If a complaint is filed on behalf of a client, and the client expresses a wish that it **not be investigated**, and no compelling circumstance appears to exist, and if the CRS decides not to do an investigation in this circumstance, a copy of the grievance and a statement should be written noting why there was no investigation. This documentation should be retained in the CRS's files.

**D. Does the complainant have any appeal rights if the CRS does not proceed?**

1. If the CRS exercises his or her discretion not to proceed with the investigation of a complaint because the client, parent or guardian opposes it, the person bringing the complaint on behalf of the client must be informed of the right to appeal that exercise of the CRS's discretion to the next level of the formal grievance process.
2. If the CRS's exercise of discretion is appealed, the only issue on appeal will be whether or not the CRS abused his or her discretion. The substantive issues will not be addressed on appeal, only whether or not the investigation should have been proceeded with.
3. If, on appeal, it is found that the CRS abused his or her discretion not to proceed with the investigation, the complaint shall be remanded back to the CRS for the investigation.
4. If, on appeal, it is found that the CRS did not abuse his or her discretion not to proceed with the investigation, the complainant shall be informed of the right to appeal that decision to the next level of the formal grievance process.

**E. Are there limits to the number of complaints that can be filed?**

1. There is **no limit** to the number of grievances that any person may submit.
2. Where a complainant has **multiple pending grievances** at the program level, the CRS may establish an **expanded timetable** with specific priorities for investigating and / or resolving the grievances in a manner which appears most likely to deal with the issues in an efficient manner while addressing the most serious allegations first. This timetable may exceed the time limits referred to herein, but shall include reasonable time limits for completing the

inquiry in each grievance. The CRS shall **notify** the client or person acting on his/her behalf, and the program manager of the **timetable and priorities** for resolution of multiple grievances **within 10 days** after beginning the inquiry. [DHS 94.46(1)]

3. **If there is an objection** to the **proposed timetable** or priorities for processing multiple pending complaints, the CRS shall attempt to reach an informal resolution. If the client or person acting on his/her behalf, or the program manager continues to object, that person may request a review of the issue by the [county] program director or State Grievance Examiner, whichever would normally hear an appeal of the program level review. In the absence of a request for such review, the timetable and priorities established by the CRS shall be controlling. [DHS 94.46(2)]
4. If a client has presented the **same grievance against several** programs, each of which would ordinarily use a different CRS, the CRSs from all the programs named in the grievance may either: [DHS 94.48(1)]
  - a. Jointly conduct the investigation;
  - b. Delegate the task to one or more of the CRSs involved; or,
  - c. Refer the matter to the county department or the State Grievance Examiner for a county review or Level III.
5. If a client has presented the **same grievance against several** programs, each of which would ordinarily use a different CRS, the CRS or CRSs designated to handle the matter may opt to **extend the time limit** for investigating the matter as if it were a situation where a client has multiple pending complaints. [See Secs. III.D. 2 and 3, above and DHS 94.48(2) & (3)]

#### F. **How are group complaints handled?**

1. Complainants **may file a grievance as a group**, or two or more clients may have presented **individual grievances involving the same circumstance, or related circumstances** involving a single program. In this instance, the CRS may conduct the investigation as if it were one grievance [a “**class action**”] and prepare one report. However, the CRS may, if he or she deems that there are significantly different issues among the grievances, render separate reports on those issues. [DHS 94.47(1)]
2. If the CRS believes that investigating a “**class action**” **grievance** will require more time than allowed by the time limits referred to herein, the CRS shall establish a **reasonable time frame** for completing the inquiry.

- a. The CRS shall notify the clients, anyone acting on their behalf, and the program manager of the time limit within 10 days after beginning the inquiry. [DHS 94.47(2)]
  - b. **If there is an objection** to the proposed time limit, the CRS shall attempt to reach an informal resolution of the objection. If any client(s), or persons acting on their behalf, or the program manager continues to object, that person may request a review of the issue by the [county] program director or State Grievance Examiner, whichever would normally hear an appeal of the program level review. In the absence of a request, the timetable established by the CRS shall be controlling. [DHS 94.47(3)]
3. When grievances are investigated as a "**class action**", and one CRS report and/or program level decision is rendered on all of the grievances, each complainant shall receive a copy of that report or decision, and any complainant may request review at the next highest level of the grievance resolution process. [DHS 94.41(3)(e)]

#### G. Are complaints confidential?

1. All grievances are **confidential** and the **name or other identifying information** of the complainant or client shall not be released to any person whose knowledge of that information is **not necessary** for the resolution of the grievance.
2. **Copies** of grievance **decisions** can be provided to anyone who is interested, after the name (or any other identifying information) of the client involved in the grievance has been purged (blocked out). [DHS 94.41(3)(f), DHS 94.42(9), DHS 94.43(5), and DHS 94.44(8)]
3. A person **filing a grievance on behalf of a client**, who is not a parent of a minor or a guardian, **does not have a right to get confidential information** about the client, and may receive such information as part of the investigation or resolution of the grievance **only** with the informed **written consent** of the client, guardian, or parent of a minor if the parent's consent is required for release of information. If there is no consent, the CRS can inform the complainant **regarding the merit of the grievance** but cannot share the text of the report if it contains confidential information. [DHS 94.49(4) & (5)]

#### H. What happens if a court action is filed about a pending complaint?

1. In accordance with § 51.61(7)(d), Wis. Stats., clients, or persons acting on their behalf, **are not required to use the grievance resolution process** prior to bringing an action in court to enforce client rights or seek damages for rights violations. [DHS 94.51(6)]

2. **Upon filing** of a court action on the same issues raised in a pending grievance, the person handling the grievance at the time of such filing has the **discretion to terminate processing** of the grievance.

## IV. TIME FRAMES FOR FILING AND PROCESSING OF GRIEVANCES

### A. EMERGENCY SITUATIONS

1. When an **emergency situation is alleged** to exist at the **program level** the staff person receiving the grievance or request for an [emergency] investigation shall immediately present the matter to the program manager or designee, who shall then **assign a CRS as soon as possible but no later than 24 hours** after the request was received.
2. If the CRS determines that it **is an emergency situation**, the CRS shall complete the inquiry and submit a **report** to the program manager **within 5 days** from the date the grievance was presented.
3. If **preliminary investigation** indicates that **no emergency** exists, the CRS may **then treat** the situation as a **non-emergency** for the remainder of the process. The CRS shall document the reasons for determining that no emergency exists and shall provide such documentation to the complainant **within 5 days** of receipt of the grievance. The complainant shall be given the **option of appealing** the determination that there is no emergency situation to the next level of the grievance process.
4. In an **emergency situation**, the **written decision** by the **program manager** shall then be issued **within 5 days** of receipt of the CRS report unless there is an agreement to extend this period of time while further attempts are made to resolve the matters still in dispute.
5. In any **request for review** of the program manager's decision in an **emergency situation**, the program manager or designee shall, **within 3 business days** of receiving the request, transmit the grievance and any related materials to the next level of the grievance process.
6. In an emergency situation, the **written decision** by the person responsible for conducting the next level of review shall be issued **within 10 days** after the request was presented to the program manager.

### B. NON-EMERGENCY SITUATIONS – FORMAL PROCESS

1. A grievance **must be filed**, orally or in writing, **within 45 days** of the occurrence of the event or circumstance complained of, or of the time when the event or circumstance was actually, or should reasonably have been discovered. [DHS 94.41(5)(a)]
2. The **45 day limit** for filing a grievance **may be extended for good cause** by the program director. If an extension is not granted, the complainant may appeal that decision to the higher levels of the grievance resolution process

on the issue of whether good cause exists for an extension. “**Good cause**” includes, but is not limited to, circumstances in which there is a reasonable likelihood that despite the delay: [DHS 94.41(5)(a)2]

- a. Investigating the grievance will result in an improvement of care or prevention of harm to the client in question, or other clients in the program; or
  - b. Failing to investigate the grievance would result in substantial injustice.
3. Any grievances received by program staff shall be presented **to the program manager or designee** as soon as possible but not later than the end of the staff person’s shift. If the grievance is delivered to the program manager or designee, s/he shall **assign a CRS** to the grievance within **3 business days**. [DHS 94.41(5)(b)1 and 2]
  4. The CRS shall complete the investigation and submit the CRS’s report **within 30 days** from the date the grievance was presented, **unless applicable time limits were suspended** while informal resolution was attempted. [DHS 94.41(5)(b)3]
  5. The program manager’s decision shall be issued **within 10 days** of receipt of the CRS’s report, unless the relevant parties agree to an extension of the 10 day time period while further attempts are made to resolve the matters still in dispute. [DHS 94.41(5)(b)4]

### C. INFORMAL RESOLUTION PROCESS

1. Clients and persons acting on their behalf shall have the option of **seeking informal resolution** of their concerns. [DHS 94.40(4)]
2. Any person who feels that a client's rights have been violated is encouraged to **informally discuss** the situation with the people or staff involved in order to try to resolve the problem. The CRS shall help **facilitate** such a discussion, upon request. [DHS 94.41(4)(d)]
3. This informal resolution process is **optional** and **not a prerequisite** for pursuing a formal grievance. [DHS 94.40(4)(b)]
4. The informal resolution process is **not appropriate** in **all situations**. All parties, including the CRS, staff and the client and their advocate, must be willing to participate in the process with respect for each other, an open mind, and a willingness to reach resolution. If the CRS determines that informal resolution is not appropriate, the CRS has discretion not to attempt to facilitate that process, even if the client or another party requests it, or to terminate the process once it has begun.

5. The informal resolution process may be used **pending initiation of the formal resolution process** or at any time during the formal resolution process, and a **complainant can request to switch** from the formal to the informal resolution process. [DHS 94.40(4)(c)]
6. Applicable **time limits shall be suspended** during use of the informal resolution process until a complainant or any party requests that the formal process begin, or resume. [DHS 94.40(4)(e) and DHS 94.40(5)(e)]
7. If the informal resolution process is used and the matter **resolved** with the CRS's involvement, the CRS shall prepare a **brief report** summarizing the resolution and file it with the program manager, with copies to the client, and anyone acting on their behalf, and the client's parent(s) or guardian (as applicable). [DHS 94.40(3)(e)]
8. While program staff should attempt to resolve a grievance when it is presented, or via use of the informal resolution process when possible, if the **formal resolution process is requested** program staff shall **refer the grievance to a CRS**. [DHS 94.41(1)(c) and (f)]

## V. CONDUCTING PROGRAM LEVEL REVIEWS

### A. CRS's INVESTIGATION

1. The CRS shall **meet** with the complainant and or client and any staff member named in the grievance, **identify** the matters in issue, and **explain** the formal grievance resolution process. [DHS 94.41(2)(a)]
2. At this point the CRS **may need to assist** in putting the grievance in writing. A copy of the written grievance shall be given to the complainant / client and included in the report. [DHS 94.41(2)(b)]
3. If there are facts in dispute, the CRS shall **conduct an inquiry into the incidents or conditions** which are at issue in the grievance. [DHS 94.41(2)(c)]
4. The CRS shall have **full and unimpeded access** to **all information** necessary to investigate the grievance, as well as **all relevant program areas** and **all records** pertaining to the issues that were raised in the grievance. [DHS 94.41(2)(c)2]
5. If an inquiry requires **access to confidential information** protected by Sec. 51.30, Stats. and the CRS does not otherwise have access to that information [per an exception found in Sec. 51.30(4)(B), Stats.], the client, guardian or parent (as applicable) **shall be asked to consent in writing** to the release of

- the information needed by the CRS. **If written consent** for access is **not provided**, attempts may be made by the program and / or the CRS to resolve the matter through the informal resolution process, but the **CRS will no longer proceed** with the inquiry in the context of the formal resolution process. [DHS 94.41(2)(d)]
6. The CRS shall investigate the grievance by the **investigatory method** felt most suitable for determining the facts. This may include **questioning anyone** (including staff, clinicians, physicians, clients, and family members) who may have relevant information, **reviewing records and charts** as applicable, **examining equipment or materials**, and **any other activity** necessary to form an accurate factual basis for resolution of the grievance. [DHS 94.41(2)(c)3]
  7. The CRS has **broad discretion** in **investigating** complaints, not only to seek solutions but also to raise relevant client rights issues and address those as well. The CRS is encouraged to use **proactive measures** to remedy any situations that come to their attention that may lead to client rights violations if some type of action was not taken.
  8. Where **adequacy or appropriateness of clinical services** is in issue, the **CRS** conducting the review **may request consultation** on matters in issue from other clinicians with appropriate experience and training.
  9. If the CRS determines that a client or group of clients is **at risk of harm**, and the **program has not yet acted** to reduce or eliminate the risk, the CRS shall **immediately inform** the program manager, the county department operating or contracting for the operation of the program, if any, and the Client Rights Office of the situation. If the situation continues to place the client(s) at risk, the State Grievance Examiner shall take immediate action to protect the client(s), pending further investigation. [DHS 94.41(6)]

## **B. THE CRS's REPORT**

1. When the inquiry is completed, the CRS shall prepare a **written report** describing the **relevant facts** (agreed upon by the parties or gathered during the inquiry), applying **relevant laws and rules** to the facts, determining if the grievance is **founded** or **unfounded**, and specifying the **basis** for that determination. [DHS 94.41(3)(b)]
2. If the grievance is determined to be **founded**, the report shall **contain recommendations** by the CRS for resolving the issue(s) presented. Timelines for action may be included when appropriate. [DHS 94.41(3)(c)]
3. If the grievance is determined to be **unfounded**, but the CRS has identified issues which appear to affect the quality of the program services or to result

in significant interpersonal conflicts, the **report** by the CRS **may include informal suggestions** for improvements. [DHS 94.41(3)(d)]

4. **Copies** of the report **shall be given** to the program manager, client and complainant, parent or guardian, if applicable, and all relevant staff.
5. The report shall contain **information** for the complainant on **how, when and to whom** they can express any disagreement they have and how they can **request** review by the **Program Manager**. [DHS 94.41(3)(e)]
6. The CRS shall **purge client names or other identifying information** from the reports provided to persons other than the client or staff directly involved, the program manager, or other staff who have a need to know that information. [DHS 94.41(3)(f)]

### **C. PROGRAM MANAGER'S REVIEW**

1. If the program manager, the complainant, and the guardian or parent (where applicable) **agree** with the report of the CRS, and any recommendations for resolution, the recommendations shall be **put into effect** within an agreed upon **timeframe**. [DHS 94.41(4)(a)]
2. If there is **disagreement** over the report, the CRS may confer with the involved people, and the program manager or designee, to try to establish a mutually acceptable **plan** for **resolving** the grievance. [DHS 94.41(4)(b)]
3. If the disagreement **cannot be resolved**, the program manager or designee shall prepare a written decision describing the **matters remaining in dispute**, and stating the **findings, determinations or recommendations** which form the official position of the program. [DHS 94.41(4)(c)]
4. The program manager's decision may **affirm, modify, or reverse** the CRS's findings and recommendations, but must state the **basis** for any reversal or modifications that are made. [DHS 94.41(4)(d)]
5. The program manager's decision shall be **given personally** or sent by first class **mail** to the **client or complainant**, and the client's guardian or parent (where applicable), and provided to staff who received a copy of the report of the CRS. The decision shall include a **notice which explains** how to request further review in the grievance process. [DHS 94.41(4)(e)]
6. A complainant shall have **14 days** from the date of receipt of a program manager's written decision **to request** further **administrative review**. [DHS 94.42(7)(a)]

## VI. COUNTY LEVEL REVIEW

[NOTE: For a program which is operated by a **county department** or is **under contract with a county department** to provide services to clients to whom this procedure applies, any appeal of the Program Manager's decision goes to the county. [DHS 94.42(1)(a)] For a program **operating independently** of a **county department**, including a program operated by a state agency, any appeal of the Program Manager's decision goes to the **State Grievance Examiner**. [DHS 94.42(1)(b)] In the latter case, this section of the model policy should be omitted.]

- A. An **appeal** of a Program Manager's decision shall **state the basis** for the complainant's objection, and may include a proposed alternative resolution. [DHS 94.42(2)(a)]
- B. The appeal may be made in **writing, orally** or through a person's **alternative means of communication**, to the program manager by the complainant, client (or client's parent or guardian, if applicable). [DHS 94.42(2)(b)1]
- C. If the request is made orally or through alternative means of communication, the Program Manager shall prepare a **written summary of the request**. [DHS 94.42(2)(b)2]
- D. When an administrative review is requested, the Program Manager shall transmit a copy of the **original grievance**, the **report of the CRS**, the **written decision** of the program manager, and the **request for review** to the director of the **County Department**. [DHS 94.42(2)(c)]
- E. The review of the program manager's decision shall be conducted by the **Director of the County Department** or that director's **designee**. [DHS 94.42(1)(a)]
- F. The County Director or designee shall consider the report of the CRS and decision of the program manager, but shall **independently render an opinion by applying** the relevant provisions of Ch. 51, Stats., DHS 92, and DHS 94, Wis. Admin. Code, to the **specific facts and circumstances of the grievance**. [DHS 94.42(4)(a)]
- G. If the County Director or designee determines that additional information is necessary to complete the review, or if the complainant has made a reasonable allegation that the findings of fact by the CRS or Program Manager are inaccurate, **further inquiry** into the circumstances underlying the grievance may be made by means including, but not limited to, **personal interviews, telephone calls**, and **inspection of equipment, facilities, records, documents**, and other materials as may be relevant. [DHS 94.42(4)(b)1]

- H. At any time, if all parties agree, the formal resolution process, (and any applicable time limits) may be suspended to allow the parties to **attempt an informal resolution** of the matter, to be facilitated by the County Director or designee. If time limits are suspended, they shall begin running again upon request of any party that the formal resolution process be resumed. [DHS 94.42(3)]
- I. The County Director or designee **shall have access** to all relevant **areas** of a facility or program, and to all **records** pertinent to the grievance. The County Director or designee **shall inform** the complainant if such **request is made**. [DHS 94.42(4)(b)2 and 3]
- J. If the circumstances underlying the grievance require **examination of clinical services**, including but not limited to psychotherapeutic treatment, behavioral interventions, and medication administration, the County Director or designee may request that **consultation** be provided by an **independent clinician** with experience and training appropriate for the inquiry. [DHS 94.42(4)(b)4]
- K. The written decision on the grievance review by the County Director or designee shall be issued **within 30 days** of receiving the request for review (unless applicable time was suspended while informal resolution was attempted). The State Grievance Examiner (in non-emergency situations) **may extend** the time limit for completion **for up to 30 additional days** with the consent of the program manager and complainant, or upon a showing that additional time is necessary to complete the inquiry. [DHS 94.42(7)(b)1 and 2]
- L. Unless the issue is resolved, the decision of the County Director shall contain **findings of fact, conclusions** based upon those findings, and a **determination** of whether the grievance is **founded** or **unfounded**. [DHS 94.42(4)(c)]
1. If the grievance is determined to be **founded**, the decision shall identify the **specific actions or adjustments to be carried out** to resolve the grievance. [DHS 94.42(4)(c)4]
  2. If the grievance is determined to be **unfounded**, the decision shall **dismiss the grievance, pending** any **further request** for review. [DHS 94.42(4)(c)5]
  3. The decision **shall include a notice** to the client and the program manager explaining how and where to request the next level of review of the decision, and the time limits for requesting such review. [DHS 94.42(5)(d) and (6)(d), and 94.43(4)]
  4. **Copies** of the decision by the County Director **shall be distributed** in the same manner as provided for in Section V.C.5, above, and a copy shall also be sent to the Program Manager. [DHS 94.42(5)(a)]

5. If the parties **agree** with the decision, any **recommendations shall be put into effect** as soon as possible. [DHS 94.42(5)(b)]
  6. If there is **disagreement** over the County Director's decision, the **parties may confer** in a meeting facilitated by the County Director **in an attempt to establish a mutually acceptable plan** for resolving the grievance. Applicable **time limits** (for further appeals) **shall be suspended while the parties confer**. [DHS 94.42(5)(c)]
- M. If at any time in their review of an **alleged emergency situation** the County Director determines that a client or group of clients is **at risk** of harm, and the program has not acted to eliminate this risk, s/he shall take immediate action to protect the client(s) pending further investigation. [DHS 94.42(8) and 94.44(7)]

## VII. LEVEL III - STATE GRIEVANCE EXAMINER'S REVIEW

- A. An **appeal** of a Program Manager's decision shall **state the basis** for the complainant's objection, and may include an alternative request for resolution. [DHS 94.42(2)(a)]
- B. The appeal may be made in **writing, orally** or through a person's **alternative means of communication**, to the program manager by the complainant, client (or client's parent or guardian, if applicable). [DHS 94.42(2)(b)1]
- C. If the request is made orally or through alternative means of communication, the Program Manager shall prepare a **written summary of the request**. [DHS 94.42(2)(b)2]
- D. When an appeal is requested, the program manager shall transmit a copy of the **original grievance**, the **report of the CRS**, the **written decision** of the program manager, and the **request for review** to the **State Grievance Examiner**. [DHS 94.42(2)(c)]

[NOTE: If your program is **operated by a county department** or **contracted by a county** to provide the services, the above paragraph should include the **decision of the County Director** as **part of the documentation** that should be sent to the SGE.]

- E. The review of the program manager's decision shall be conducted by the **State Grievance Examiner**. [DHS 94.42(1)(a)]
- F. The State Grievance Examiner shall consider the report of the CRS and decision of the program manager [and the decision of the County Director if applicable], but shall **independently render an opinion** by applying the relevant provisions of Ch. 51, Stats., DHS 92, and DHS 94, Wis. Admin. Code, to the **specific facts and circumstances** of the grievance. [DHS 94.42(4)(a)]

- G. If the State Grievance Examiner determines that **additional information** is necessary to complete the review, or if the complainant has made a reasonable allegation that the findings of fact by the CRS or program manager are inaccurate, **further inquiry into the circumstances** underlying the grievance may be made by means including, but not limited to, **personal interviews, telephone interviews, and inspection of equipment, facilities, records, documents**, and other materials as may be relevant. [DHS 94.42(4)(b)1]
- H. At any time, if all parties agree, the formal resolution process, (and any applicable time limits) may be **suspended** to allow the parties to **attempt an informal resolution** of the matter, to be facilitated by the State Grievance Examiner. If time limits are suspended, they shall begin running again upon request of any party that the formal resolution process be resumed. [DHS 94.42(3)]
- I. The State Grievance Examiner **shall have access** to all relevant **areas** of a facility or program, and to all **records** pertinent to the grievance. The SGE **shall inform the complainant** if such a **request is made**. [DHS 94.42(4)(b)2 and 3]
- J. If the circumstances underlying the grievance require **examination of clinical services**, including but not limited to psychotherapeutic treatment, behavioral interventions, and medication administration, the SGE may request that **consultation** on matters in question be provided by an **independent clinician** with experience and training appropriate for the inquiry. [DHS 94.42(4)(b)4]
- K. The written decision on the grievance review by the **State Grievance Examiner** shall be issued **within 30 days** of receiving the request for review (unless applicable time was suspended while informal resolution was attempted). The State Grievance Examiner (in non-emergency situations) **may extend** the time limit for completion **for up to 30 additional days** with the consent of the program manager and complainant, or upon a showing that additional time is necessary to complete the inquiry. [DHS 94.42(7)(b)1 and 2]
- L. The decision of the State Grievance Examiner shall contain **findings of fact, conclusions** based upon those findings, and a **determination** of whether the grievance is founded or unfounded. [DHS 94.42(4)(c)]
1. If the grievance is determined to be **founded**, the decision shall identify the **specific actions or adjustments to be carried out** to resolve the grievance. [DHS 94.42(4)(c)4]
  2. If the grievance is determined to be **unfounded**, the decision shall **dismiss the grievance, pending any further request** for review. [DHS 94.42(4)(c)5]

3. The decision **shall include a notice** to the client and the program manager explaining how and where to request the next level of review of the decision, and the time limits for requesting such review. [DHS 94.42(5)(d) and (6)(d), and 94.43(4)]
  4. **Copies** of the decision of the State Grievance Examiner **shall be distributed** in the same manner as provided for in Section V.C.5, above, and a copy shall also be sent to the County Director. [DHS 94.42(5)(a)]
  5. If the parties **agree** with the decision, any **recommendations shall be put into effect** as soon as possible. [DHS 94.42(5)(b)]
  6. If there is **disagreement** over the State Grievance Examiner's decision, the **parties may confer** in a meeting facilitated by the State Grievance Examiner **in an attempt to establish a mutually acceptable plan** for resolving the grievance. Applicable **time limits** (for further appeals) **shall be suspended while the parties confer**. [DHS 94.42(5)(c)]
- M. If at any time in their review of an **alleged emergency situation** the State Grievance Examiner determines that a client or group of clients is **at risk of harm**, and the program has not acted to eliminate this risk, the SGE shall take **immediate action** to protect the client(s) pending further investigation. [DHS 94.42(8) and 94.44(7)]

#### VIII. LEVEL IV - FINAL STATE REVIEW BY THE DMHSAS ADMINISTRATOR

- A. Any party has **14 days** from date of receipt of the written decision of the State Grievance Examiner to request a final state review. [DHS 94.44(6)(a)]
- B. Anyone seeking such review shall **present the request** to the Client Rights Office who shall **transmit the request** to the DMHSAS administrator, **along with copies** of the original grievance and all prior decisions and reports and associated documentation. Copies of the request for review shall be forwarded to all other parties. [DHS 94.44(2)(a) and (b)]
- C. A request shall describe the portion(s) of the prior decision with which the party **disagrees**, the basis for the disagreement, and any arguments or additional information the party wishes the DMHSAS Administrator to consider. [DHS 94.44(2)(c)]
- D. If the **complainant is unable to prepare** a written request for final state review, the Program Manager or designee shall assist in completing the necessary forms. [DHS 94.44(2)(d)]

- E. The Administrator **may request that additional information be submitted** by any party or may conduct the final review based solely on the information already received and in the file / record. [DHS 94.44(3)]
- F. The administrator shall, within 30 days of receiving the request, prepare a final administrative determination for resolution of the grievance which **upholds, modifies, or overturns** the prior decision. The prior decision shall be affirmed unless it is contrary to state statutes or administrative rules. If the prior decision is modified or reversed, the **basis for the modification or reversal shall be specified**. Instructions for carrying out any acts or adjustments warranted for resolving the grievance shall also be included. [DHS 94.44(4)(a), (b) and (c)]
- G. **Copies of the decision shall be sent** to the State Grievance Examiner, the County Director (if involved), the program manager, the client and all other parties and staff that received a copy of the State Grievance Examiner's decision. [DHS 94.44(5)(a)]
- H. The DMHSAS Administrator's decision shall contain a **notice to the parties** that there is **no further administrative appeal** beyond this level of the grievance resolution process. The complainant shall be **notified of the right to take the matter to court** under the provisions of § 51.61(7), Wis. Stats. [DHS 94.44(5)(b)]