

GRIEVANCE PROCESS - MOOTNESS

[Note: The **concept of mootness** relates to **whether a decision needs to be made** when **circumstances have changed** by the time the matter comes before the decision-maker. In general, **there must be an existing “case in controversy”** in order for an investigation and decision to have **meaning**. When the circumstances or problems complained of have been remedied prior to the completion of the grievance investigation there is no reason for further investigation or a determination on the issue. For example, if a change in the patient's treatment plan or medication has resolved the issue originally complained of, there would be no further controversy and the complaint would be **moot**. The cases below illustrate this principle and those **special circumstances** where an **otherwise moot grievance may still be investigated and decided.**]

[Additional examples from Black's Law Dictionary:

- A case is "moot" when a determination is sought on a matter which, when rendered, cannot have any **practical effect** on the existing controversy.
- A question is "moot" when it presents **no actual controversy** or where the **issues** have **ceased to exist**.
- An action is considered "moot" when it not longer presents a justiciable controversy because **issues** involved have become **academic** or **dead**.
- A case is “moot” where the matter in dispute has **already been resolved** and hence, not entitled to judicial intervention **unless the issue is a recurring one** and **likely to be raised again** between the parties.
- A case becomes "moot" when the issues presented are **no longer "live"** or the **parties lack a legally cognizable interest in the outcome.**]

DECISIONS

1. A client complained about being on 1:1 supervision. During the Level III investigation, the client was **discharged** to her parents' home. It appeared that the facility had handled her grievance properly during her stay. **No further relief could be provided** and the allegations appeared unfounded. The matter was dismissed as being **moot**. (Level III decision in Case No. 04-SGE-03 on 9/25/04)
2. A patient **felt she was treated disrespectfully** by group leaders in a session. However, she was **no longer receiving services from that provider**. Since she was no longer dealing with the staff she complain about, **this issue was moot**.

Even if a rights violation had been found, there was no remedy available to her at this time. (Level III decision in Case No. 11-SGE-01 on 6/28/11)

3. The patient claimed that he was arbitrarily discharged from opioid use treatment services, that the facility failed to provide the patient with an Advocate and that the facility failed to advise family how to advocate for him. The patient was discharged when the patient arrived at the clinic with a .07 BAC level. **The State Grievance Examiner held that the case was moot because the patient was no longer receiving services so any decision could not have any practical effect on the controversy. Further, the matter did not fall within any of the exceptions to the mootness doctrine, which are: (1) the issue is recurring and likely to be raised again between the parties; (2) the issue is otherwise likely to evade review and is of significant importance to other clients; and/or (3) the issue is of general importance.** (Level III decision in Case No. 17-SGE-01 on 8/29/2017)

4. A patient who was no longer receiving services from a provider appealed several grievances to Level III. In the context of client rights **a case is moot where a determination is sought on a matter that cannot have any practical effect on the controversy.** There are three exceptions to the mootness doctrine: (i) the issue is recurring and likely to be raised again between the parties; (ii) the issue with otherwise likely evade review and is of significant importance to other clients; and/or (iii) the issue is of general importance. The State Grievance Examiner found that the grievant would likely raise the issue again in the future if resolution is not found and that current and future patients could experience rights violations if the issues raised were left unaddressed. Therefore, the first two exceptions were applied to **obviate the mootness doctrine.** (Level III decision in Case No. 16-SGE-08 on 5/26/2017)