

GRIEVANCE PROCESS - RESOLUTIONS & REMEDIES

[These cases reflect various remedies and resolutions that were implemented or suggested in order to resolve patient rights complaints or where requested remedies were not available.]

DECISIONS

1. A hospital had a **release of information** allowing them to share information about the patient's care with her family. However, **they released records** to the family that **the patient did not want released**. The hospital **acknowledged they had exceeded the scope of the release** of information they had and **implemented a procedure to ensure that this error did not occur again**. **Nothing can undo the error**, but the **hospital's actions were the proper remedy** under the circumstances. That is all the grievance process can do. The patient could still take the hospital to court if she wished. This matter was **considered resolved**. (Level III decision in Case No. 97-SGE-01 on 5/27/97)
2. A patient complained that the facility **did not properly inform her of the increase** in the **charges** for her cost of care. The Level II grievance decision found that she was not properly informed of the increased costs and **her billing was adjusted to reduce the fees to the original costs**. This was a **fair resolution** of the grievance. (Level III decision in Case No. 00-SGE-02 on 4/6/00.)
3. The **grievance procedure** under DHS 94 has **no authority to award damages**. **Monetary damages** can be pursued in and awarded **only by a court of law**. (Level III decision in Case No. 00-SGE-02 on 4/6/00.)
4. Where a hospital patient complained about an **error in medication administration**, the State Grievance Examiner **referred** the matter to the **Bureau of Quality Assurance** for investigation. [BQA subsequently issued the hospital a citation for violation of state and federal regulations.] (Level III referral in Case No. 00-SGE-07 on 4/17/00.)
5. The meaning and applicability of the section of DHS 94.24(3) regarding "redress through the **grievance procedure**" is to assure that no one is deprived of using the grievance procedure to seek redress for an alleged violation of his or her rights. It **does not allow for the award of punitive monetary damages** in the grievance process. Only a court can award damages. The individual whose rights were allegedly violated must initiate any court action. (Level IV decision in Case No. 00-SGE-02 on 6/17/00.)
6. A **favorable grievance decision cannot be appealed** by the **prevailing party**. (Level IV decision in Case No. 00-SGE-02 on 6/17/00.)

7. A patient at a county psychiatric hospital complained about a **seclusion incident**. He raised issue about whether there was justification for the initial use of seclusion and whether he was released in a prompt and timely manner. There was a discrepancy between a verbal report of one staff and the documentation form that was completed while he was in seclusion. In the Level I grievance decision, the Client Rights Specialist (CRS) **made a suggestion** that staff **more carefully document** anything of concern that may be displayed while a patient is in seclusion. The improvements in documentation made by the hospital in response to his complaint were noted. The **patient withdrew his complaint** at Level III. (Level III decision in Case No. 00-SGE-13 on 8/2/00.)
8. Where a **developmentally disabled young woman** ended up in an acute inpatient mental health setting, it **was appropriate** for the Level I Client Rights Specialist to recommend a potential “**crisis intervention plan**” for her in case the situation arose again. Such an approach is an element of ongoing quality assurance on the part of the county program, too. (Level III decision in Case No. 99-SGE-07 on 1/3/01.)
9. A client who was **about to be discharged** from an inpatient facility felt she was not **being given enough input or choices** in terms of to where she would be discharged. She **wanted** to be placed in an **apartment** in the community. Facility staff were considering placement at other inpatient settings or a CBRF (group home) setting. Ultimately, she was **transferred to a community supported living arrangement in an apartment**. Since this was what she wanted, the grievance was dismissed at Level III as being “**resolved**”. (Level III decision in Case No. 00-SGE-05 on 2/16/01.)
10. Where **violations** of client rights are found, the **matter may be referred** to the **Bureau of Quality Assurance Certification Unit** to determine if any violations of certification requirements occurred. (Level IV decision in Case No. 00-SGE-08 on 2/21/01.)
11. A patient received **services from an agency contracted by the county**. He felt he was **not adequately informed of his patient rights** because his rights were provided in a perfunctory way, without dialog or the ability on his part to ask questions or seek further clarification. He **wanted clarification** of the notification requirements and expectations. Given his requested relief, there was no conclusion made that the provider was out of compliance, but **recommendations** were made for **further review** of the service provider’s rights notification process. (Level III decision in Case No. 00-SGE-01 on 6/29/01.)
12. A woman **complained about her therapist** because of **cancelled appointments**. The Level I decision found that **her right** to receive prompt treatment **was violated** by the high number of cancellations. The service **provider implemented a formal plan and consistently followed up on it to reduce the number of cancellations**. It was found at Level III that the frequency of cancellations did rise to the level of a

patient rights violation and the Level I finding was upheld. The **actions taken** by the service provider **remedied** the rights violation. (Level III decision in Case No. 00-SGE-03 on 9/12/01.)

13. A patient wanted to **bring a friend to her therapy sessions**. The service provider agreed that there are times that it may be appropriate, especially if the person is a primary support person for the client. Bringing another person to a therapy session requires a signed release from the patient. Since the **requested remedy** was **provided**, this issue was **considered resolved**. (Level III decision in Case No. 00-SGE-03 on 9/12/01.)
14. A complainant **wanted to appeal** the county's Level II grievance decision made under DHS 94. He was **incorrectly referred** to the **Division of Hearings and Appeals** instead of the **State Grievance Examiner**. The **county agreed that a mistake had occurred** in this process. They **revised the county manual** and added the correct standard appeal language to the end of the grievance decisions that the county issues. Thus, the **violation of rights was remedied** and the issue was **considered resolved**. (Level III Decision in Case No. 03-SGE-05 on 1/23/04.)
15. An ex-patient complained about a **lack of individualized treatment** at a psychiatric hospital. These concerns were **meaningfully addressed** when the hospital responded to his observations and concerns about the manner in which patients are assessed and treated. The hospital was planning a **specific training session** for staff to address indicators, features, and treatment approaches for Post Traumatic Stress Disorder and Parkinson's Disease. The training would also address the variables that could arise with men's issues during treatment. This staff training should lead to an improved awareness and create a better standard of care, greater dignity and respect for patients, and more individualized treatment decision-making. Given **the training initiatives** planned, this issue was **considered resolved**. (Level III Decision in Case No. 03-SGE-07 on 4/22/04.)
16. A psychiatric **hospital erred** by **not also informing the patient's wife** when his **cost of care exceeded his insurance coverage**, as she requested. The hospital needed to revise its admissions policies and procedures to cover release of billing information to those who may be responsible for it. The couple **requested** that the **remainder of their outstanding bill for psychiatric care be waived**. While it is concluded that his rights were violated, **the remedial action requested exceeds the scope of the grievance process**. If the couple wants to pursue that resolution independently, they would need to contact the facility to request a settlement or a private attorney for civil litigation. (Level III Decision in Case No. 03-SGE-07 on 4/22/04.)
17. The sister/guardian of a woman filed a **grievance about the care** the woman had received while she was living in her **own apartment**. She had been receiving supportive home care services from an independent service provider under a general contract with the county. The guardian **alleged abuse and neglect** because

of failure to report **theft of monies** and possessions and fraud and/or misrepresentation of funds. These issues were **properly referred** to other authorities. (Level III Decision in Case No. 03-SGE-04 on 6/15/04.)

18. The sister/guardian of a woman filed a grievance about the care the woman had received while she was living in her own apartment. She **asked for \$500 per year replacement of the ward's homestead money**, which she previously received because she was in an apartment instead of an Adult Family Home, where she now resides, and **\$300 for moving expenses** because the county did not move her. The **grievance procedure does not have authority to award monetary damages**. (Level III Decision in Case No. 03-SGE-04 on 6/15/04.)
19. A service provider where the individual picks up his medications has **inadequate parking**, making it inconvenient for him at times. The service provider **attempted to resolve** this by **offering him alternative times** in which he could pick up his medication when the parking lot would be less crowded. These **accommodations** included: a) suggesting he pick up his medication on a Friday when the parking lot is less busy; b) picking up his medication in the afternoon when the staff parking lot is less full; or c) speaking with his case manager to arrange picking up his medication at a different time than the set times. They were also willing to arrange for him to pick up his medication when he meets with his psychiatrist every three months for his psychiatric medication check up, thus saving him four trips a year. These **accommodations were reasonable and sufficient**. (Level III Decision in Case No. 03-SGE-08 on 7/14/04.)
20. The service recipient **wanted to receive his medications in the exact form** the **pharmaceutical company** sends it and as soon as they send it. However, the service provider has the need to double-check all medications being given to patients through the Patient Assistance Program (PAP). They do so through a local pharmacy. When they receive medications from any drug company they immediately send it to the pharmacy where it is checked, repackaged and dispensed. The pharmacy does not mix lot numbers or expiration dates, therefore each patient receives the same medication (with regards to freshness and lot number) as was sent from the drug company. The **individual's desire** to receive his medication just as it was sent from the drug company is **understandable**; however, **so is the service provider's liability** to make sure that he is getting exactly what medication he was prescribed from the drug company. The service provider **agreed to have their professional staff open the medication**, check its content, and dispense the medication as prescribed by his psychiatrist in order to avoid his medications having to go through the pharmacy, as requested. (Level III Decision in Case No. 03-SGE-08 on 7/14/04.)
21. The **confidentiality rights** of a client at a methadone clinic were **violated** when she was **called by her first and last name in the waiting room**. The appropriate and professional way to address her would be to only use her first name when other clients are present. The clinic **remedied** this confidentiality breach by conducting a

staff **In-service on confidentiality**. (Level III decision in Case No. 04-SGE-02 on 12/20/04)

22. The information contained in response to a client's grievance **included personal and subjective observations** that were **not appropriate**. Here, the provider was **informed of the appropriate information** to include in the program level review of a grievance and this concern was considered **resolved**. (Level III Decision in Case No. 05-SGE-003 on 6/8/06)
23. A patient's mother felt that the outpatient drug treatment program "failed" her son by **not promptly diagnosing his depression**. The son ended up requiring inpatient treatment. The mother wanted the outpatient program to **pay for her son's inpatient stay**. This was **not within the purview** of the grievance procedure. (Level III decision in Case No. 07-SGE-07 on 4/2/08)
24. A client in the community complained about her **telephone conversation with a crisis worker** on a suicide hotline. She felt that the crisis worker was disrespectful and offensive, especially when it came to the topic of spiritual support since the client was not a spiritual or religious person. At a reconciliation meeting the crisis worker apologized to the client for anything that disturbed or offended her. The conversation was not recorded, so it was difficult to establish exactly what the crisis worker said to her. But it was obvious that the client was in despair and that the crisis worker was trying every approach she knew to try to reach out to her. The crisis worker asked her about family, friends, religious, spiritual or other supports she could turn to. It is not, *per se*, inappropriate to ask a caller on a crisis line if they have any spiritual or religious beliefs that might help them through a very trying time. For some, such support can be a comfort. The **crisis worker had already apologized**. Even if a rights violation had been established here, there was **nothing more that the grievance procedure could offer her** by way of an outcome. The grievance process **cannot award monetary or other damages or impose disciplinary actions** on staff who violate patients' rights. Any such action could only be taken by the courts or by the staff member's employer. (Level IV decision in Case No. 07-SGE-04 on 6/26/08)
25. A client **wanted partial reimbursement** for the costs of her inpatient AODA care due to the lack of treatment during her stay. It is **beyond the authority and jurisdiction** of the grievance procedure to recommend reimbursement. **That is up to the court system**. (Level III decision in Case No. 09-SGE-03 on 8/05/09)
26. The **intent of the grievance process is remedial rather than punitive**. The **recommendations** made in the Level III decision were **intended to ensure provider compliance** with the applicable patient rights confidentiality laws and rules in order **to prevent future violations**. Those recommendations were approved of at Level IV to ensure that similar incidents did not occur in the future. (Level IV decision in Case No. 08-SGE-07 on 6/23/10)

27. After it was found that an inpatient psych unit did not adequately address a patient's needs **after a restraint episode**, it was **recommended** that the provider amend their policy to **include a "trauma informed" debriefing with patients** after the use of restraints, seclusion or the use of involuntary medication. This should include: 1) an immediate 'post-event' debriefing that is done onsite and is led by the senior on-site supervisor (the goal being to assure that everyone is safe, that documentation is sufficient to be helpful for later analysis, and to check with all involved to gather information and return the milieu to pre-event status); and, 2) an analysis that occurs one to several days following the event and includes attendance by the involved staff, the treatment team, and perhaps a representative from administration (it is essential that the patient is involved in all debriefing activities by person or by proxy). It was also recommended that **a proactive intervention plan, or 'de-escalation preference survey' or 'individual crisis prevention plan' be developed**, with input from the patient and staff. It should be personalized to capture the patient's unique history, strengths, vulnerabilities, needs, and preferences. This plan should minimally include triggers or 'threat cues' that could cause the patient to get upset, angry, aggressive, etc., and warning signs or physical precursors to escalation (i.e., bodily changes that indicate increased agitation). (Level III Decision in Case No. 08-SGE-11 on 2/23/10)
28. **Money damages and financial reimbursement** are issues for the court and **beyond the scope of the DHS 94 grievance procedure**. (Level III decision in Case No. 10-SGE-08 on 12/21/10)
29. All of a client's grievances originated from treatment that she received in a hospital's Emergency Room. According to Wisconsin Statute 51.61(1), **"patient rights" do not apply to individuals that receive treatment in a hospital ERs**. Therefore, the State Grievance Examiner could not evaluate her claims in the context of patient rights. However, **she might have other avenues of relief available**. Depending on her insurance carrier, she might be able to complain to the Division of Hearings and Appeals. Additional options for relief might include the Centers for Medicaid and Medicare Systems (CMS), the Family Care Appeal Process, Constituent Relations or the DHS Division of Quality Assurance. She could also pursue court action. (Level III decision in Case No. 10-SGE-12 on 3/22/11)
30. It is **not a rights violation** for one party to decide, in the midst of negotiation, that **they no longer want to negotiate**. (Level III decision in Case No. 11-SGE-06 on 12/02/11)
31. A patient complained about **termination of his services** by his provider. However, he was **no longer receiving services** from the program and had no desire to continue with them. Thus, **even if his rights had been violated** by the termination from that program, there was **no remedy that could have been granted to him** that would have rectified the situation. (Level IV decision in Case No. 10-SGE-15 on 03/27/13)

32. The State Grievance Examiner's responsibilities include assessing whether a provider's grievance resolution system is in substantial compliance with statutory provisions. If not, State Grievance Examiner is to identify the steps necessary to bring the program into compliance. In the case at hand, **requests for access to the community grievance process should have been referred by unit staff, by the end of their shift, to the program manager of a facility or to a CRS. A CRS should have been assigned to a case within 3 days of the patient's submission of a complaint. Since this did not happen, the patient's right to access the grievance process was violated.** The State Grievance Examiner referred the provider to the appropriate online training module. (Level III decision in Case No. 16-SGE-08 on 5/26/2017)

[Document last updated: 07/17/2018. Digesting in progress for cases decided after 2013]