

RESOLUTION OF COMPLAINTS

Purpose:

This policy sets forth: 1) the process for the resolution of complaints involving the programs, services, policies or administrative practices of the Board or entities acting under contract with the Board; 2) the process for individuals to appeal adverse actions proposed or initiated by the Board; and 3) the requirements to give notice of the process to be followed for resolution of complaints and appeals of adverse actions.

Policy:

A. Scope

Any individual or person, other than a Board employee, may file a complaint using the process established under this policy. An individual may appeal an adverse action using the process established under this policy. This process must be followed prior to commencing a civil action. Exercise of this right to file a complaint will not result in retaliation or barriers to service.

This policy does not apply to:

1. Situations when the Board is a vendor or subcontractor for service delivery.
2. Education services arranged by the local education agency. Complaints or appeals concerning such services shall follow rules adopted by the Ohio Department of Education.
3. Services provided under Part C of the Individuals with Disabilities Education Act, 34 C.F.R. 303. Complaints or appeals concerning such services shall follow rules in Chapter 5123:10 of the Administrative Code.
4. Medicaid services including home and community-based services, waiver services and targeted case management services. Complaints or appeals concerning such services shall follow rules adopted by the Ohio Department of Medicaid.
5. Performance of health-related activities and administration of medication by developmental disabilities personnel pursuant to O.R.C. 5123.42 or O.A.C. 5123:2-6 of the Administrative Code. Appeals concerning such matters shall be made to the Department using the process established in O.A.C. 5123:2-17-01.
6. Services provided to a resident of an intermediate care facility for individuals with intellectual disabilities by that facility, or provided on behalf of or through a contract with an intermediate care facility for individuals with intellectual disabilities. Complaints or appeals concerning such services shall follow regulations governing

intermediate care facilities for individuals with intellectual disabilities.

B. Definitions

1. "Adverse action" means any of the following:
 - a. Denial of a request for a non-medicaid service.
 - b. Reduction in frequency and/or duration of a non-medicaid service.
 - c. Suspension of a non-medicaid service.
 - d. Termination of a non-medicaid service (except when the recipient of that service is deceased).
 - e. The outcome of an eligibility determination.
2. "Advocate" means any person selected by an individual to act and/or communicate as authorized by the individual.
3. "Department" means the Ohio Department of Developmental Disabilities.
4. "Individual" means a person with a developmental disability who is eligible, or purports to be eligible, for services pursuant to O.R.C. 5123 and 5126 and includes a parent of a minor child, an individual's guardian, or an adult authorized in writing by the individual pursuant to O.R.C. 5126.043 to make a decision regarding receipt of a service or participation in a program.
5. "Person" includes an individual, corporation, business trust, estate, trust, partnership, and association.

C. General Provisions

1. Complaints and appeals of adverse action shall be filed in writing. When an individual or person expresses dissatisfaction with an outcome subject to complaint or appeal in accordance with this policy, the Board shall, to the extent necessary, assist the individual or person in filing a complaint or appeal.
2. At all times throughout the resolution of complaints and appeals of adverse action process, the Board shall maintain the confidentiality of the identities of individuals unless an individual gives written permission to share information.
3. An advocate may assist an individual at any time during the resolution of complaints and appeals of adverse action process.
4. The Board shall make all reasonable efforts to ensure that information regarding

resolution of complaints and appeals of adverse action, including all notices and responses made pursuant to this policy, is presented using language and in a format understandable to affected individuals and persons. All notices and responses made pursuant to this policy shall include an explanation of the individual's or person's opportunity to file a complaint with or appeal to a higher authority, as applicable.

5. The time lines set forth in this policy may be extended if mutually agreed upon in writing by all parties involved.
6. Initiation of the formal process set forth in this policy does not preclude the resolution of a complaint or an appeal of adverse action at any point, as long as the outcome is mutually agreed upon in writing by all parties involved.

D. Provision of information about the process for resolution of complaints and appeals of adverse action and to give notice of adverse action

1. General information.

- a. The Board shall give the "Complaint or Appeal of Adverse Action Explanation Form" contained in Attachment 1 to this policy to an individual:
1) at the time of the individual's initial request for services; 2) at least annually to each individual receiving or on a waiting list for non-medicaid services; and 3) at the time a complaint within the scope of this policy is received or the Board proposes an adverse action.
- b. Upon request, a county board or contracting entity shall provide a copy of this policy.
- c. The Board shall publicly post the "Complaint or Appeal of Adverse Action Explanation Form".

2. Specific notice of adverse action.

- a. Except when it is necessary to suspend an individual's services without delay to ensure the health and safety of the individual or other individuals, the Board shall provide written notice to the affected individual of the Board's decision to deny, reduce, suspend, or terminate services at least fifteen (15) calendar days prior to the effective date of such action. The notice shall include:
 - 1) An explanation of the Board's policy and/or authority for taking the adverse action;
 - 2) A description of the specific adverse action being proposed or initiated by the Board;
 - 3) The effective date for the adverse action;

- 4) A clear statement of the reasons for the adverse action including a description of the specific assessments and/or documents that are the basis for the adverse action;
 - 5) An explanation of the individual's right to appeal the adverse action;
 - 6) An explanation of the steps the individual must take to appeal the adverse action;
 - 7) A statement that the individual has ninety (90) calendar days to appeal the adverse action;
 - 8) A statement that the individual must file his or her appeal prior to the effective date for the adverse action to keep his or her services in place during the appeal process;
 - 9) The name and contact information for the staff member of the Board who can assist the individual with his or her appeal; and
 - 10) The "Complaint or Appeal of Adverse Action Explanation Form".
- b. The Board shall retain written evidence of the date the notice is personally delivered or sent by certified mail to the individual or for an individual who has selected email as his or her preferred method of communication, the date of electronic confirmation that the individual has read the email.
3. Specific notice of adverse action when it is necessary to suspend an individual's services without delay to ensure the health and safety of the individual or other individuals.
- a. The Board shall:
- 1) Determine what immediate steps are necessary to ensure the health and safety of the individual and other individuals; and
 - 2) Provide written notice to the affected individual immediately. The notice shall include:
 - a) An explanation of the Board's policy and/or authority for suspending the individual's services;
 - b) A description of the specific services being suspended;
 - c) The effective date for the suspension of services;
 - d) A clear statement of the reasons for the suspension of services including a description of the specific circumstances that jeopardize the health and safety of the individual or other individuals;

- e) An explanation that the Board shall arrange for appropriate alternative services and a description of the specific alternative services available to the individual;
 - f) An explanation of the steps the Board shall take in accordance with paragraphs 3.c. and 3.d. of this policy;
 - g) The name and contact information for the staff member of the Board who can answer questions about the suspension of services; and
 - h) The "Complaint or Appeal of Adverse Action Explanation Form".
- b. The Board shall retain written evidence of the date the notice is personally delivered or sent by certified mail to the individual or for an individual who has selected email as his or her preferred method of communication, the date of electronic confirmation that the individual has read the email.
- c. Within five (5) calendar days of the notice of suspension of services, the Board shall convene a team meeting to identify measures that may be implemented to eliminate the circumstances that jeopardize the health and safety of the individual or other individuals.
- d. Within five (5) calendar days of the team meeting, the Board shall:
- 1) With the consent of the individual, implement measures to eliminate the circumstances that jeopardize the health and safety of the individual or other individuals as necessary and restore the suspended services; or
 - 2) With the consent of the individual, continue to arrange for appropriate alternative services; or
 - 3) Provide written notice that includes the components described in paragraph 2.a. of this policy to the individual of the Board's decision to terminate the individual's services at least fifteen (15) calendar days prior to the effective date of such action. If the individual files an appeal prior to the effective date of the termination of services, the Board shall keep the individual's alternative services in place until the appeal process is completed.

Legal Reference: O.A.C. 5123-4-04

Attachments: 1. Complaint or Appeal of Adverse Action Explanation Form
2. Informal Procedure for Resolution of Complaints and Appeals of Adverse Action

3. Formal Procedure for Resolution of Complaints and Appeals of Adverse Action
4. Medicaid Appeal Procedures

Board Adopted: April 24, 2003
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