

Chapter 7A

CHAPTER 7A DISPUTE RESOLUTION

330.1772 Definitions.

Sec. 772. As used in this chapter:

- (a) “Allegation” means an assertion of fact made by an individual that has not yet been proved or supported with evidence.
- (b) “Appeals committee” means a committee appointed by the director or by the board of a community mental health services program or licensed hospital under section 774.
- (c) “Appellant” means the recipient, complainant, parent, or guardian who appeals a recipient rights finding or a respondent's action to an appeals committee.
- (d) “Complainant” means an individual who files a rights complaint.
- (e) “Investigation” means a detailed inquiry into and systematic examination of an allegation raised in a rights complaint.
- (f) “Office” means all of the following:
 - (i) With respect to a rights complaint involving services provided directly by or under contract with the department, unless the provider is a community mental health services program, the state office of recipient rights created under section 754.
 - (ii) With respect to a rights complaint involving services provided directly by or under contract with a community mental health services program, the office of recipient rights created by a community mental health services program under section 755.
 - (iii) With respect to a rights complaint involving services provided by a licensed hospital, the office of recipient rights created by a licensed hospital under section 755.
- (g) “Rights complaint” means a written or oral statement that meets the requirements of section 776.
- (h) “Respondent” means the service provider that had responsibility at the time of an alleged rights violation for the services with respect to which a rights complaint has been filed.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996;-- Am. 2020, Act 55, Imd. Eff. Mar. 3, 2020

330.1774 Appeals committee.

Sec. 774. (1) The director shall appoint an appeals committee consisting of 7 individuals, none of whom shall be employed by the department or a community mental health services program, to hear appeals of recipient rights matters. The committee shall include at least 3 members of the state recipient rights advisory committee and 2 primary consumers.

(2) The board of a community mental health services program shall do 1 of the following:

(a) Appoint an appeals committee consisting of 7 individuals, none of whom shall be employed by the department or a community mental health services program, to hear appeals of recipients' rights matters. The appeals committee shall include at least 3 members of the recipient rights advisory committee, 2 board members, and 2 primary consumers. A member of the appeals committee may represent more than 1 of these categories.

(b) Designate the recipient rights advisory committee as the appeals committee.

(3) The governing body of a licensed hospital shall designate the appeals committee of the local community mental health services program to hear an appeal of a decision on a recipient rights matter brought by or on behalf of a recipient of that community mental health services program.

(4) The governing body of a licensed hospital shall do 1 of the following with respect to an appeal of a decision on a recipient rights matter brought by or on behalf of an individual who is not a recipient of a community mental health services program:

(a) Appoint an appeals committee consisting of 7 members, none of whom shall be employed by the department or a community mental health services program, 2 of whom shall be primary consumers and 2 of whom shall be community members.

(b) By agreement with the department, designate the appeals committee appointed by the department to hear appeals of rights complaints brought against the licensed hospital.

(5) An appeals committee appointed under this section may request consultation and technical assistance from the department.

(6) A member of an appeals committee who has a personal or professional relationship with an individual involved in an appeal shall abstain from participating in that appeal as a member of the committee.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996

330.1776 Rights complaint; filing; contents; recording; acknowledgment; notice; assistance; conduct of investigation.

Sec. 776. (1) A recipient, or another individual on behalf of a recipient, may file a rights complaint with the office alleging a violation of this act or rules promulgated under this act.

(2) A rights complaint shall contain all of the following information:

(a) A statement of the allegations that give rise to the dispute.

(b) A statement of the right or rights that may have been violated.

(c) The outcome that the complainant is seeking as a resolution to the complaint.

(3) Each rights complaint shall be recorded upon receipt by the office, and acknowledgment of the recording shall be sent along with a copy of the complaint to the complainant within 5 business days.

(4) Within 5 business days after the office receives a complaint, it shall notify the complainant if it determines that no investigation of the rights complaint is warranted.

(5) The office shall assist the recipient or other individual with the complaint process. The office shall advise the recipient or other individual that there are advocacy organizations available to assist in preparation of a written rights complaint and shall offer to refer the recipient or other individual to those organizations. In the absence of assistance from an advocacy organization, the office shall assist in preparing a written rights complaint. The office shall inform the recipient or other individual of the option of mediation under section 786.

(6) If a rights complaint has been filed regarding the conduct of the executive director, the rights investigation shall be conducted by the office of another community mental health services program or by the state office of recipient rights as decided by the board.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996

330.1778 Investigation; initiation; recording; standard of proof; written status report; written investigative report; new evidence. (see also administrative rule 330.7035 [2] [b])

Sec. 778. (1) The office shall initiate investigation of apparent or suspected rights violations in a timely and efficient manner. Subject to delays involving pending action by external agencies as described in subsection (5), the office shall complete the investigation not later than 90 days after it receives the rights complaint. Investigation shall be initiated immediately in cases involving alleged abuse, neglect, serious injury, or death of a recipient involving an apparent or suspected rights violation.

(2) Investigation activities for each rights complaint shall be accurately recorded by the office.

(3) The office shall determine whether a right was violated by using the preponderance of the evidence as its standard of proof.

(4) The office shall issue a written status report every 30 calendar days during the course of the investigation. The report shall be submitted to the complainant, the respondent, and the responsible mental health agency. A status report shall include all of the following:

(a) Statement of the allegations.

(b) Statement of the issues involved.

(c) Citations to relevant provisions of this act, rules, policies, and guidelines.

(d) Investigative progress to date.

(e) Expected date for completion of the investigation.

(5) Upon completion of the investigation, the office shall submit a written investigative report to the respondent and to the responsible mental health agency. Issuance of the written investigative report may be delayed pending completion of investigations that involve external agencies, including law enforcement agencies and the department of social services. The report shall include all of the following:

(a) Statement of the allegations.

(b) Statement of the issues involved.

(c) Citations to relevant provisions of this act, rules, policies, and guidelines.

(d) Investigative findings.

(e) Conclusions.

(f) Recommendations, if any.

(6) A rights investigation may be reopened or reinvestigated by the office if there is new evidence that was not presented at the time of the investigation.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996

330.1780 Remedial action.

Sec. 780. (1) If it has been determined through investigation that a right has been violated, the respondent shall take appropriate remedial action that meets all of the following requirements:

(a) Corrects or provides a remedy for the rights violations.

(b) Is implemented in a timely manner.

(c) Attempts to prevent a recurrence of the rights violation.

(2) The action shall be documented and made part of the record maintained by the office.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996

330.1782 Summary report.

Sec. 782. (1) The executive director, hospital director, or director of a state facility shall submit a written summary report to the complainant and recipient, if different than the complainant, within 10 business days after the executive director, hospital director, or director of the state facility receives a copy of the investigative report under section 778(5). The summary report shall include all of the following:

- (a) Statement of the allegations.
- (b) Statement of issues involved.
- (c) Citations to relevant provisions of this act, rules, policies, and guidelines.
- (d) Summary of investigative findings.
- (e) Conclusions.
- (f) Recommendations made by the office.
- (g) Action taken, or plan of action proposed, by the respondent.
- (h) A statement describing the complainant's right to appeal and the grounds for an appeal.

(2) Information in the summary report shall be provided within the constraints of sections 748 and 750 and shall not violate the rights of any employee.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996

330.1784 Summary report; appeal.

Sec. 784 (1) Not later than 45 days after receipt of the summary report under section 782, the complainant may file a written appeal with the appeals committee with jurisdiction over the office of recipient rights that issued the summary report.

(2) An appeal under subsection (1) shall be based on 1 of the following grounds:

(a) The investigative findings of the office are not consistent with the facts or with law, rules, policies, or guidelines.

(b) The action taken or plan of action proposed by the respondent does not provide an adequate remedy.

(c) An investigation was not initiated or completed on a timely basis.

(3) The office shall advise the complainant that there are advocacy organizations available to assist the complainant in preparing the written appeal and shall offer to refer the complainant to

those organizations. In the absence of assistance from an advocacy organization, the office shall assist the complainant in meeting the procedural requirements of a written appeal. The office shall also inform the complainant of the option of mediation under section 786.

(4) Within 5 business days after receipt of the written appeal, members of the appeals committee shall review the appeal to determine whether it meets the criteria set forth in subsection (2). If the appeal is denied because the criteria in subsection (2) were not met, the complainant shall be notified in writing. If the appeal is accepted, written notice shall be provided to the complainant and a copy of the appeal shall be provided to the respondent and the responsible mental health agency.

(5) Within 30 days after receipt of a written appeal, the appeals committee shall meet and review the facts as stated in all complaint investigation documents and shall do 1 of the following:

(a) Uphold the investigative findings of the office and the action taken or plan of action proposed by the respondent.

(b) Return the investigation to the office and request that it be reopened or reinvestigated.

(c) Uphold the investigative findings of the office but recommend that the respondent take additional or different action to remedy the violation.

(d) If the responsible mental health agency is a community mental health services program or a licensed hospital, recommend that the board of the community mental health services program or the governing board of the licensed hospital request an external investigation by the state office of recipient rights.

(6) The appeals committee shall document its decision in writing. Within 10 working days after reaching its decision, it shall provide copies of the decision to the respondent, appellant, recipient if different than the appellant, the recipient's guardian if a guardian has been appointed, the responsible mental health agency, and the office.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996

330.1786 Notice of decision; appeal.

Sec. 786. (1) Within 45 days after receiving written notice of the decision of an appeals committee under section 784(5), the appellant may file a written appeal with the department. The appeal shall be based on the record established in the previous appeal, and on the allegation that the investigative findings of the local office of recipient rights are not consistent with the facts or with law, rules, policies, or guidelines.

(2) Upon receipt of an appeal under subsection (1), the department shall give written notice of receipt of the appeal to the appellant, respondent, local office of recipient rights holding the record of the complaint, and the responsible mental health agency. The respondent, local office of recipient rights holding the record of the complaint, and the responsible mental health agency

shall ensure that the department has access to all necessary documentation and other evidence cited in the complaint.

(3) The department shall review the record based on the allegation described in subsection (1). The department shall not consider additional evidence or information that was not available during the appeal under section 784, although the department may return the matter to the board or the governing body of the licensed hospital requesting an additional investigation.

(4) Within 30 days after receiving the appeal, the department shall review the appeal and do 1 of the following:

(a) Affirm the decision of the appeals committee.

(b) Return the matter to the board or the governing body of the licensed hospital with instruction for additional investigation and consideration.

(5) The department shall provide copies of its action to the respondent, appellant, recipient if different than the appellant, the recipient's guardian if a guardian has been appointed, the board of the community mental health services program or the governing body of the licensed hospital, and the local office of recipient rights holding the record.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996

330.1788 Repealed March 3, 2020