

# **Do It Yourself Guide to Filing a Patient/Client Grievance**

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## **I think my provider violated my rights. What can I do?**

Sometimes you do not feel right about the treatment or services you receive. What can you do to voice your concerns and try to make your situation better? Do you have any rights? Yes, you do. This booklet is designed to help you file a complaint or grievance about your patient rights under Wisconsin Statute 51.61 and DHS 94. **You have the right to file a patient rights grievance about any service you receive for mental illness, intellectual disability, or alcohol and substance use.**

In this booklet, "grievance" refers specifically to the Patient Rights Grievance Procedure established under Chapter 51 of Wisconsin State Statutes. You first file this type of grievance with your provider agency. A formal grievance triggers an initial investigation and results in a report summarizing the agency's determination and recommendation, often called "findings." You can appeal to county and state agencies if you do not agree with the agency findings or recommendations.

Any person receiving inpatient or community services who believes their patient rights under section 51.61 of the Wisconsin have been violated can use the system. The Department of Health Services has a webpage devoted to Client Rights which can be found at:

<https://www.dhs.wisconsin.gov/clientrights/index.htm> If you have questions that aren't answered in this booklet or want more information about Client Rights, go to the DHS webpage.

# **What Are My Patient/Client Rights?**

When you receive any service for mental illness, alcoholism, drug abuse, or a developmental disability,<sup>1</sup> you have rights listed Wisconsin Statute section 51.61(1) and Wisconsin Administrative Code section DHS 94. You have a lot of rights under the law. These are the most common rights patients and clients ask about:

## **Your Personal Rights**

- You must be treated with dignity and respect.
- You must be free from verbal, physical, emotional, or sexual abuse.
- Staff must make fair and reasonable decisions about your treatment and care.
- You may not be treated unfairly because of your race, national origin, sex, age, religion, disability, sexual orientation, source of funding, or marital status.
- You may not be filmed, taped, or photographed unless you agree to it.
- You have a right to a telephone to make and receive telephone calls within reasonable limits.
- You have a right to reasonable privacy when toileting or bathing.
- You have a right to see visitors every day.
- You have the right to spend your money how you choose, except when someone else holds that right, including the parent of a minor, a court-appointed guardian of your estate, or a representative payee.

## **Rights About Your Treatment**

- You must receive prompt and adequate treatment.
- You must be treated in the least restrictive manner and setting.
- You must be free from restraint or seclusion used as a means of force, control, or punishment.
- You must be allowed to participate in planning your treatment and care.

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<sup>1</sup> A patient receiving care or services for a physical condition or physical disability generally cannot use this grievance process. In other words, you have to be getting treatment related to a mental illness or a developmental disability to use this particular grievance process. Patients being treated for physical ailments should ask the provider about their rights as a medical patient and how to file a complaint.

- You must be informed about your treatment, care, and medications. This includes alternatives and possible side effects.
- You must consent, in writing, to treatment and medication, unless it is (1) needed in an emergency to prevent serious physical harm (2) court-ordered, or (3) your guardian consents for you.
- You must not be given unnecessary or excessive medication.

### **Rights About Your Records**

(Wis. Stat. § 51.30 and Wis. Admin. Code § DHS 92 Wis. Admin. Code):

- Your provider must keep information about your treatment and records confidential unless you or the law allow release.
- You may ask to see your records. Your provider must show you records about your physical health or medications.
- ***While you are receiving services***, staff may limit which other treatment records you see, but they must tell you why. ***After discharge***, you may see your entire treatment record.
- If you believe something in your records is wrong, you may challenge it.
- If staff will not change the record you challenge, they must allow you to put a written statement explaining why you disagree.

### **Rights About Grievances**

- Before starting treatment or services, your provider agency must tell you about your patient rights and give you a copy of their grievance procedure.
- All staff should know about your patient rights and how to help if you want to file a grievance.
- No staff should threaten or punish you for asking about your rights or for filing a grievance.
- You may choose to sue in court during, after, or instead of filing a grievance.

**Remember:** The Department of Health Services has a webpage devoted to Client Rights which can be found at:  
<https://www.dhs.wisconsin.gov/clientrights/index.htm>

## **Summary: The Patient Rights Grievance Procedure**

All community and inpatient mental health, intellectual disability, and drug/alcohol provider agencies must have a written **Patient Rights Grievance Procedure**.

All provider agencies must also have a trained **Client Rights Specialist** (CRS). The CRS will speak with you about your concern(s) and will help you file a grievance. The CRS will also investigate your grievance and write the initial "findings."

**Timeline:** You should file your grievance as soon as you can. Usually, a grievance must be filed within ***45 days*** from when you learned about the rights violation or concern. If you miss the 45-day deadline, you can still file the grievance, but you should explain your delay and say why it is "good cause" for a later deadline.

Within 30 days of filing a grievance, you should receive the CRS's report. The report will include a summary of your concern, the CRS's determination about whether a patient rights violation occurred. The report will also include recommendations describing what should happen next.

If you agree with the CRS's report and recommendations, you are done!

If you do not agree, you may decide to appeal to the next level. The Patient Rights Grievance Procedure may involve three, four or even five levels of appeal. Which levels will apply to your situation depends on the facts. See the next section for information and tips about each level.

# **Patient Rights Grievance Procedure Stages**

**The process might seem complicated, but don't get discouraged! This section is designed to coach you through it.**

## **Informal Process (Totally optional)**

Before filing a formal grievance, you may want to talk with staff, a CRS, or a manager about your complaint(s) and why you think this is a violation of your patient rights. This may clear things up and resolve your concern(s). However, you do not have to do this before filing a formal grievance with your service provider. The informal discussion is totally optional. If you do have an informal discussion, make sure you keep track of the 45-day deadline to file a formal grievance. You don't want to accidentally lose your right to file a grievance because you tried the informal route, it took longer than you thought, and it didn't work.

### **Step 1: Complaint/Grievance Investigation**

- File your formal grievance with the CRS as soon as possible, when the facts and details are easiest to remember.
- You must file within 45 days of when you become aware of the rights violation.
- If you know it has been more than 45 days (or even if you think it might have been more than 45 days), explain your delay and why you think it is good cause for a later deadline (Examples of asking for good cause in the "Bumps in the Road" section). You may raise more than one issue in your grievance.
- Your grievance should be written. If you file a verbal grievance or use another communication method, the CRS should assist you to write or type it.

### **Step 2: Grievance Investigation – Informal Inquiry by Program Manager**

- The program's Client Rights Specialist (CRS) will investigate your grievance and attempt to resolve it.

- The CRS will write a report within 30 days from the date you filed the formal grievance. You will get a copy of the report. It will also go to the “program manager.” The program manager may be a supervisor or even the CEO/owner of the program. It does have to be someone other than the CRS and someone who has authority to make a decision on your grievance.
- If you and the program manager agree with the CRS’s report and recommendations, the recommendations should be put into effect in a time frame you have agreed to.

### **Step 3: Program Manager's Decision**

- If your grievance isn’t resolved by the CRS's report, the program manager must prepare a written decision. This must be done within 10 days of receipt of the CRS's report. You should be given a copy of the decision.
- If you don’t agree with the program manager’s decision you can appeal. Your appeal should say why you don’t agree with the decision.

### **Step 4: County Level Review Level II (Only for Certain Cases)**

**NOTE: If you are receiving services directly from a clinic or program and the county is not paying for your services, you skip this level and go directly to the State Grievance Examiner Level. For example, if you are in Family Care or IRIS and your complaint is about one of your Family Care or IRIS funded providers you would skip this step proceed to Step 5. Many mental health services are provided or paid for by the county, so appeals about those services would go to the county.**

- If a county agency is providing or paying for your services, you appeal the program manager's decision to the County Agency Director-this is usually the County Human Services’ Department director. You must make this appeal within 14 days of the day you receive the program manager's decision. You can ask the program manager to forward your grievance, or you may send it yourself.
- Your request for review should say why you disagree with the program manager’s decision. You can also describe your suggested resolution if you want.



- The County Agency Director must issue his or her written decision within 30 days after you request this appeal.

**Step 5: State Grievance Examiner Level III**

- If your grievance went through the county level of review and you don't agree with the decision or if you skipped Step 4, you may appeal to the State Grievance Examiner.
- You must appeal to the State Grievance Examiner within 14 days of receiving the decision from the previous appeal level. You may ask the program manager to forward your grievance to the State Grievance Examiner or you may send it yourself. The address is: State Grievance Examiner, Division of Care and Treatment Services (DCTS), PO Box 7851, Madison, WI 53707-7851.
- Your appeal should say why you think the earlier decision was wrong.

**Step 6: Final State Review Level IV**

If you don't agree with the decision of the State Grievance Examiner you have one last appeal. You may request a final state review by the Administrator of the Division of Care and Treatment Services. You have 14 days after receiving the written decision of the State Grievance Examiner to appeal. Send your request to the DCTS Administrator, PO Box 7851, Madison, WI 53707-7851. Again, your appeal should say why you think the earlier decision was wrong.

<b>IMPORTANT ADDRESSES</b>
<p><i>When appealing to the State Grievance Examiner:</i></p> <p>State Grievance Examiner            Division of Care and Treatment Services (DCTS),            P.O. Box 7851            Madison, WI 53707-7851</p>
<p><i>When appealing a State Grievance Examiner Decision:</i></p> <p>DCTS Administrator            P.O. Box 7851            Madison, WI 53707-7851</p>

## **Components of a Well-Written Grievance**

First, remember you do not have to write your grievance because you can file it verbally. However, writing it up gives you evidence that you did ask the provider to address your concern. Writing a grievance doesn't have to be difficult or challenging. A written grievance should be simple and clear. It needs to have the information necessary for the Client Rights Specialist to know the basic facts of your grievance. Your written grievance should include what happened, when it happened, why it violated one of your rights, and what you want done to fix it.

In this section, we will discuss how to write an effective grievance as well as provides some sample grievances.

1. Break down the problem and explain what happened.
  - a. *First this happened, then that happened.*
  - b. *As a result, Jon Doe told me \_\_\_\_\_.*
  - c. *Then I was denied\_\_\_\_\_.*
2. Explain why you believe what happened should not have and state what right you believe was violated. Be clear about what you want to accomplish.
  - a. *I believe this violated my right to:\_\_\_\_\_ (ex. access to treatment)*
3. State what you want in order to resolve your dispute with the provider.
  - a. *I should be given access to treatment x.*
  - b. *I want it in writing that [provider] will not show my treatment records to anyone without my permission.*
4. Do you have any allies who may have witnessed what happened?
  - a. *My friend Linda was with me when the staff yelled at me.*
5. State you are writing a formal grievance and that you want a response in writing.<sup>2</sup>
6. Make sure you keep a copy of the letter yourself and document when you mailed it.

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<sup>2</sup> You do not have to start your grievance with a formal grievance. You can try to resolve your concerns informally.

7. Mark on your calendar when you called or sent your grievance. The Client Rights Specialist has 30 days to investigate and respond to you in writing.
8. If you appeal to the next level, mark on your calendar when you appealed so that you know when the deadlines are. In this case, if you want to appeal the Client Rights Specialists findings, you have 14 days to do so. Do this for every appeal level.

You should keep a copy of the grievance you write, and each letter or appeal. You should also keep track of any conversations you have about the grievance, including the date, who you spoke with, and what they told you. In the appendix we have a form you can use to keep track of the dates you send or receive things and conversations you have about your grievance.

## **Bumps in the Road: What to do if...?**

Below are some very common questions and answers regarding filing and appealing a grievance under DHS 94.

### **Q1: Why should I use this process? The person I am complaining to works for the agency I am complaining about. How will filing a grievance possibly help?**

Basically, you have to give the provider a chance to fix its own problem. Even though the Client Rights Specialists work for the agency you are complaining about, they are supposed to be fair. They must follow the procedures outlined above and they must help you prepare your grievance and understand the process. Of course, you also have the right to appeal up to the state examiner if you don't agree with their findings and recommendations to resolve your grievance.

### **Q2: The Client Rights Specialist wants to just "talk it out". I have tried that, and it isn't enough, this never goes anywhere — so now what?**

Explain that you want this to be a formal grievance. Submit your request in writing and ask for the written response. If you don't receive a response in 30 days, you can move on to the next stage (see above) of the

grievance procedure. If the county is not paying or contracting for your service, you can contact the State Grievance Examiner.

**Q3: How do I decide what is important to include in my grievance?**

The most important thing is to link your grievance with one of the Patient Rights listed above. Once you decide which right you think was violated it will be easier for you to tell the story in a way that supports your view of the violation.

You do not have to quote the administrative law or State Statutes. It is helpful, though to say "this violates my patient rights".

At the end of this packet we provide you with a template for how to write a simple and clear grievance. Then we have a sample letter that was written using the template. You will also notice that the letter is short and to the point. It is generally better to be brief. If the written grievance is too long, you may provide more information than is needed and that is not always helpful.

**Q4: I am confused about whether my first appeal should go to the County or directly to the State Grievance Examiner. How do I know which place to appeal to?**

Who you appeal to depends on who is paying for the service. If the county is paying (or directly providing) the service, then you appeal to the County Agency Director. If anyone else is paying you go directly to the State Grievance Examiner. Until Family Care and IRIS came along almost all service providers subject to this process were paid by counties, so almost all appeals went to County Agency Directors. But since Family Care and IRIS providers are paid by the state, appeals involving those providers go directly to the State Grievance Examiner. Many Mental Health services, and Alcohol or Substance Use treatment programs are still provided by or paid by counties, so appeals involving those types of providers often go to the County Agency Director.

**Q5: What if I file my appeal with the wrong place?**

Nothing terrible should happen. For example, if you file it with the county and it should have gone to the state the county should either forward it to the State Grievance Examiner or return it to you with an explanation. Same thing should happen if you send it to the State and it should have gone to the County. If refileing it in the right place causes your appeal to be a little late you should request that the Examiner or County Agency Director find that you had "good cause" to file it late.

In **Question 11** (below) we talk about "good cause" for missing the initial 45-day deadline for filing a grievance. The same discussion should apply if you are late with other deadlines in this process.

**Q6: I submitted a written grievance to the Client Rights Specialist, and I have not received a response in over 2 months. When I contact the Client Rights Specialist, I was told my grievance is still being investigated. At this point, may I submit my grievance directly to the County Agency Director or to the State Grievance Examiner?**

Yes. The lack of response from the Client Rights Specialist within the required time frame is actually another violation. Even if your next level of appeal is to the County Agency Director, you could contact the State Grievance Examiner about this violation.

**Q7: I filed a written grievance just as you advised. But after that, nothing happened the way you said it would. The CRS never contacted me and when I called, they didn't seem to know who their CRS was. Then out of the blue I got a "thank you for contacting us-we have decided your grievance is unfounded" letter from somebody I had never heard of from the provider's home office in Chicago. What's up with that?**

Unfortunately, many providers and agencies often know less about this process than you would expect. Some do not have client's rights specialists and are unaware that they are supposed to have them. As a general rule, if the provider doesn't follow the procedure and you are still dissatisfied, just go on to the next level of appeal. Just make sure you explain that you

are appealing because the provider didn't follow the procedure it was supposed to.

Same goes if they don't do what they're supposed to do within the time they have to do it. NO response is the same as a negative one. You can wait to see if they do eventually send you something, but you don't have to. Again, just make sure you explain why you are doing this without having received anything from the provider.

**Q8: I asked to see my treatment record, and the staff said that I could not review it until I am discharged from the hospital. Is this legal?**

Sometimes. Under state statute 92.05, you can be denied access to your treatment record if the facility director or designee believes that the advantages of a review are outweighed by the disadvantages. The reasons for the denial must be documented in the treatment records. Otherwise, you should be able to look at your treatment record. Also, you can ask for a review of all your records upon discharge, and access must be provided after one working day of your request.

**Q9: I have questions and think I want to talk with someone about my rights, but I don't think my guardian will let me. What can I do?**

Even if you have a guardian, you always have these rights:

- Have access to and communicate privately with the court / government.
- Have access to, communicate privately with, and retain legal counsel.
- Have access to and communicate privately with the protection & advocacy agency (Disability Rights Wisconsin) and the ombudsman (Board on Aging and Long Term Care).
- Protest a placement and review the need for guardianship and/or protective services.
- File a DHS 94 grievance with assistance from a friend, advocate, or a Client Rights Specialist.

**Q10: The client's rights specialist told me they won't accept a complaint unless it is in writing or on a certain form. Is this true?**

This is false. No specific form is needed to file a grievance. Complaints in writing are not required. We do recommend putting your complaint in

writing. It makes advocating easier when you have written proof and it often prompts the agency to take your concerns seriously. Oral grievances are often mistaken by agencies to be informal complaints that don't require a formal investigation or decision.

**Q11: I know my rights were violated, but it happened more than 45 days ago. What can I do?**

You might have "good cause" for not having filed your grievance within 45 days. One definition of good cause is if failing to investigate the grievance would cause substantial injustice.

**EXAMPLE 1:** You live in a group home because of your mental health symptoms. On April 1<sup>st</sup>, staff would not let you use the phone to call your brother. You would only have until May 15<sup>th</sup> to file a grievance. You felt this was wrong when it happened and asked about a grievance, but staff would not help or give you contact information for a Client Rights Specialist. It was not until you read this pamphlet that you became aware of the grievance process. The interference by staff would likely be "good cause" for not filing until after 45 days had passed. When you file your grievance, you should explain what happened and why you think it would be unjust to dismiss your grievance when staff didn't help you file within 45 days even though you asked for help.

And don't forget, the 45 days don't start running until you become aware of the violation.

**EXAMPLE 2:** On February 1<sup>st</sup>, your therapist shared your treatment records with your step-mother without getting your permission. You don't find out about it until June 1<sup>st</sup> when you are having a conversation with your stepmother, and she tells you about it. You would have until July 15<sup>th</sup> (45 days after you became aware of the violation) to file your grievance against your therapist.

Another definition of good cause is if investigating the grievance will result in improved care for the client or others in the program.

**EXAMPLE 3:** Several months ago, you argued with another participant in your day program. You weren't physically fighting, but two staff people grabbed you, physically pulled you to a "time out" room and said you couldn't come out until you calmed down. You think they left you in there alone for a long time. You had scrapes on your arm and a bruise on your knee. The next day, the staff people and a supervisor talked to you about what happened. They said they were sorry, and you were okay, so you told them it was ok. Those staff people haven't grabbed you again, but they get in your face, yell a lot, and you are afraid of them. You think others are afraid of them too and your friend says one of the same staff people threatened to punch him.

When you file a grievance, you can say you have good cause for filing late because investigating the restraint, seclusion, and abuse will make things better for you and for other participants.

## **Examples: Simple Ways to Write a Grievance**

Below are some examples to help you simply and clearly state what happened, when it happened, what right was violated and what you want done to fix the violation.

### **Prompt and Adequate Treatment Example:**

My psychiatrist has recommended that I see a therapist twice a week. I have talked to my case manager, but they did not schedule therapy or tell me how to schedule it. It has now been 6 months. I feel that my right to prompt and adequate treatment has been violated. I want the county to do its job and arrange for me to get therapy.

### **Violation of Right to Confidentiality Example:**

My counselor talked to my mother about concerns I had raised in my counseling sessions. I never signed a release for this, and I did not want my mother to know about these concerns. I feel my counselor violated my right to confidential treatment. I want the counselor to know that they violated my rights and to be told never to do it again.



### **Right to Privacy and to Not Have Your Picture Taken Example:**

Staff at the group home take pictures during outings and I think they are putting them on social media. I asked them not to take my picture and they just laughed. The last time they took my picture was last Thursday. I believe my privacy right and my right not to have my picture taken are being violated. I want the staff to stop taking my picture and be ordered to remove from social media any picture of me they have posted.

### **Right to Use Your Own Money Example:**

I never get to have my own spending money when I go on outings. The staff hold it for me and then want to see what I buy before I buy it. My right to use my money how I choose is being violated. The last time this happened was a month ago, when we went to Walmart and staff would not let me buy a video game and a candy bar I wanted. They would only let me buy a "word-find" book and a banana. The video game I wanted wasn't dirty or violent and I don't have any diet restrictions. They were just being mean. I want them to be told that I can spend my money on things I want.

## **Conclusion**

Having your voice heard when filing a grievance can be a rewarding process. Navigating the system, however, can be frustrating and sometimes your efforts can be thwarted. Remember to keep focused on your goal and desired outcome. Key points to remember:

- If you are not pleased with the outcome of your grievance, you can appeal the decision up to the Final State Review Level IV.
- Some grievances are settled quickly, but others take longer and go through all levels of appeal.
- Do your best to keep copies of your written grievance, responses, and appeals. Keep track of who you talk to about your grievance and what they told you would happen next.

**In the Appendices that follow we supply samples and worksheets that will help you draft your grievance and keep track of things that happen while you pursue the grievance process. Good Luck!**

## **Appendix 1: Grievance Letter Template**

**You can use this template to help you organize and draft your grievance.**

Date \_\_\_/\_\_\_/20\_\_

Dear Client Rights Specialist,

My name is \_\_\_\_\_.

I receive services for mental illness/developmental disability/alcohol or substance use from name of agency.

My client/patient rights were violated (*describe what happened*):

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This violated my right to (*describe which rights were violated*):

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To resolve this issue, I request (*describe what outcome you want*):

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[*If applicable*] I have good cause to file late because (*describe what kept you from filing on time, why investigating the grievance would improve care or prevent harm or why failing to investigate would result in substantial injustice*):

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This letter is my formal grievance. I look forward to your timely, written response.

\_\_\_\_\_ (*your name*)

\_\_\_\_\_ (*your phone number, email, or other way to contact you*)

## **Appendix 2: Sample Grievance Letter After Using the Template**

March 1, 2022

Dear Client Rights Specialist,

My name is Jane Doe. I am writing to you because staff won't let me use my cell phone while living in Not My Home Group Home.

My right to communicate privately with other people has been violated.

Specifically, Nancy Smith, employee at Not My Home Group Home, told me that I cannot use my cell phone while I live at this home. She says it is their policy. She took my cell phone and locked it in a file cabinet. This happened on February 22, 2022. I can only use the telephone in the kitchen in full view of others and the staff. Anyone can hear my conversations. I believe this violates my right to use my own phone and have private telephone conversations.

To resolve this issue, I would like to be able to keep and use my cell phone.

This letter is my formal grievance. I look forward to your timely response.

Thank you.

Jane Doe

(608) 555-1234

## **Appendix 3: Grievance Worksheet**

- 1. What is the problem or issue? If there is more than one, focus on one at a time:**
  
- 2. What happened?**
  
- 3. What patient right(s) do you think were violated?**
  
- 4. Was anyone else involved or a witness to what happened?**
  
- 5. What do you think would fix the problem/issue?**
  
- 6. Date you sent your written grievance:** \_\_\_\_\_ .
  
- 7. Person you sent or described your grievance to:**
  
- 8. If this person does not resolve the situation by (add 30 days to today's date) \_\_ / \_\_ / \_\_\_\_\_, then you will call/meet with/write to:**

## **Appendix 4: Request for Review/Appeal Worksheet**

Note: you can use this same worksheet for any part of the appeal process-appeal of a program manager decision; appeal of a County Director decision; or appeal of a State Grievance Examiner decision

**1. Date you received decision from the program manager or State Grievance Examiner:**

\_\_\_ / \_\_\_ / \_\_\_\_\_

**2. Add 14 days. Date you need to appeal:** \_\_\_ / \_\_\_ / \_\_\_\_\_

**3. Are you appealing the finding (no rights violation)? Why do you think the finding was wrong?**

**4. Do you need to submit additional documentation? Describe what you need and your plan for getting it:**

**5. Are you appealing the proposed resolution (how to fix the problem)? Why is it wrong?**

**6. What do you think should happen instead?**



## Appendix 6: Contact Log

<b>Date</b>	<b>Person/people involved</b>	<b>Type of contact (phone call, voice message, meeting)</b>	<b>Phone number and/or e-mail</b>	<b>Summarize discussion</b>	<b>Next steps including date</b>