

## GRIEVANCE PROCESS - GRIEVABILITY

[NOTE: The decisions cited in this section of the digest have to do with whether or not a specific issue can be brought as a grievance.]

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### DECISIONS

1. The DHS 94 grievance process has **no jurisdiction over issues raised by an individual under the control of the Department of Corrections**. The individual was redirected to appeal through the DOC inmate complaint system. (Level III decision in Case No. 98-SGE-01 on 2/6/98.)
2. A patient being **emergency detained** complained about **being shackled by the sheriff officers during transport**. This is their standard practice. The **grievance process has no jurisdiction over the actions of law enforcement agencies**. (Level III decision in Case No. 00-SGE-04 on 4/9/01.)
3. A patient's **ex-husband attempted to file a grievance** on his ex-wife's behalf about the **fees charged for her mental health services**. He had been ordered by the divorce court to pay that bill. He **lacked standing to bring the complaint or appeal it through the grievance process without his ex-wife's consent**. **Patient rights attached to her, not her ex-husband**, since she was the one receiving the treatment. (Level III decision in Case No. 00-SGE-06 on 4/14/00.)
4. A client **also filed a complaint** with the Department of Health and Family Services **Bureau of Quality Assurance** (BQA), which certifies providers and clinics. The issues raised in that context were reviewed as part of a separate process. The **grievance procedure reviews complaints in the context of DHS 94 rights, and does not deal with licensing or certification issues**. Thus, **there is no standing to raise licensing and certification issues in the grievance process**, too. (Level IV decision in Case No. 00-SGE-11 on 8/26/02, upholding the Level III decision.)
5. **Financial assistance for housing is not an issue covered by client rights** and such decisions **cannot be challenged in the grievance process** in DHS 94. (Level III decision in Case No. 01-SGE-02 on 6/6/01.)
6. An ex-patient complained that an inpatient treatment facility **overcharged** him for some smoking materials. **County funds paid for those materials**, rather than the patient. The issue was thus between the county and the facility and the issue was **not appropriate for the grievance process**. (Level III decision in Case No. 02-SGE-05 on 3/19/03.)

7. A father **wanted to audio-tape staff's meetings** where they discussed his son's treatment. The **facility refused to allow this**. This is **not a patient rights issue**. The only relevant patient right is the right **not** to be filmed or taped. The facility offered to write up the outcomes of the meetings for the father. This was a reasonable resolution, but the father refused to accept it. (Level III decision in Case No. 03-SGE-03 on 7/17/03)
8. A **court decision to order medications cannot be challenged in the grievance process**. (Level III decision in Case No. 03-SGE-10 on 10/23/03.)
9. **Sheltered workshops** that have been **approved by DWD** [or the federal Department of Labor] to **pay sub-minimum wages** are, by such approval, deemed in compliance with the client wage requirements of § 51.61(1)(b), Stats. The DHS 94 grievance procedure has **no jurisdiction** over issues of **compliance** with the **federal Fair Labor Standards Act**. (Level IV decision in Case No. 04-SGE-04 on 11/11/04)
10. A man whose adult son had been protectively placed with him as an Adult Family Home provider **requested to be reimbursed** from the county for the "respite" hours and mileage he had provided when the assigned respite staff did not show up to take his son out. That issue is **not grievable** as a client rights issue. Rather, it is an issue between the provider/father and the county to work out. (Level IV Decision in Case No. 06-SGE-03 on 9/01/10)
11. A **diagnosis** made by an independent, outpatient clinician was that **clinician's opinion**, which **cannot be challenged in the grievance process**. The client has the right to get a second opinion if she disagrees with the diagnosis. (Level IV decision in Case No. 06-SGE-09 on 9/27/06)
12. A client complained about a **clinic policy that did not affect him** personally, so he **lacked standing** to bring this issue. However, it was determined that the issue **would be reviewed** since it **had significant importance to other patients**. (Level III decision in Case No. 10-SGE-13 on 3/03/11)
13. The grievants filed a complaint on behalf of their granddaughter. The grievants claimed that the **provider falsely accused the grievants of refusing medication on behalf of their granddaughter, not understanding medical opinion and not acting in the best interest of their granddaughter**. They also accused the provider of **including inaccurate information in the protective placement comprehensive report filed with the court**. As the **grievants were essentially asking CRO to overturn a valid court order** removing guardianship from the grievants, something which CRO is unable to do, the case was dismissed. (Level III Grievance Decision in Case No. 19-SGE-03)
14. The grieving party claimed that the **provider did not involve them in their son's treatment planning and treatment decisions**. The client is **not a minor, nor was**

**there documentation that states the grieving party has authority over the client's care** so therefore, the provider was not obligated to inform them of every treatment decision. However, it was documented that the provider had numerous conversations with the grieving party about the client's care and references the grieving party's concerns when making treatment decisions. Stage III Decision in Case No. 19-SGE-04, upheld at Stage IV

15. A patient **filed a grievance regarding his treatment services three to five years after the services had ended. The patient was well beyond the 45 day timeframe to file a grievance, and did not provide evidence to support his reasoning for the delay in filing the grievance.** The grievance was accepted at Level I-A and I-B, however, after a review of the grievant's medical records, it was determined there was not enough evidence to support the allegations in the grievance that would establish "good cause" to fully investigate the each issue. Therefore, the case was dismissed. (Level III Grievance Decision in Case No. 19-SGE-05)
16. A patient **complained that he did not receive a copy of his rent certificate in a timely manner. It was determined this is not something that can be investigated through the grievance procedure, as housing is not a right within Wisconsin Statute § 51.61, nor is the rent certificate considered a treatment record** under Wisconsin Statute § 51.30. The case was dismissed as not grievable. (Level III grievance decision in Case No. 21-SGE-02)
17. A patient filed a complaint that his **treatment team was not actively assisting the grievant with his treatment goal to obtain housing. The complaint was determined to be applicable to the grievance procedure as the grievant's complaint was not regarding financial assistance for housing, nor was it against a housing program.** The grievance was regarding the services the patient received to achieve one of his treatment goals, which was to obtain housing. (Level III decision in Case No. 21-SGE-06).
18. A patient filed a complaint that his treatment team was not actively assisting the grievant with his treatment goal to obtain housing. The complaint was determined to be applicable to the grievance procedure as the grievant's complaint was not regarding financial assistance for housing, nor was it against a housing program. **The grievance was regarding the services the patient received to achieve one of his treatment goals,** which was to obtain housing. (Level III decision in Case No. 21-SGE-06).
19. A patient asserted that the **crisis worker who responded to the hospital created a false narrative, which was used as the basis for the emergency detention** of the patient. The Level III Decision affirmed the Level I and Level II Decision which stated that **the time and place for disputing the truthfulness of the crisis worker's statement was at the Probable Cause hearing.** As a judge had already ruled that there was a basis for the patient's emergency detention, it was not a

proper issue for the grievance procedure. (Level III Decision in Case Number 22-SGE-06)

20. A patient asserted that the county had **violated her right to prompt and adequate treatment when she was detained and did not receive the medication she believed she should have received.** The grievance was filed with the County, who did not control what medication the grievant did or did not receive in the hospital. **The proper venue for the patient's concern was the hospital, not the county.** (Level III Decision in Case Number 22-SGE-06)

21. The parent of a patient (the grieving party) filed a complaint alleging that staff at a provider had racially profiled him and treated him insensitively throughout interactions in person, via phone and email. **None of the parent's concerns was regarding treatment of the child, the identified patient. Therefore, the grieving party was not afforded patient's rights or the grievance process under Wisconsin law.** The concerns were dismissed at Level III. (Level III in case 22-SGE-07)

22. An individual attempted to **file a grievance on behalf of her mother alleging that Adult Protective Services conducted an emergency protective placement of her mother and removed her from her home.** The grievant felt that the emergency protective placement was not necessary and therefore does not want the mother to be responsible for the fees accrued for the incident. In review of WI Stat. 51.61(1) **the mother does not meet the definition of "patient" and therefore concerns identified are not grievable** through the grievance resolution process outlined in DHS 94. Additionally, the grievance process has no jurisdiction over the emergency protective placement evaluation conducted by a crisis worker within the department of Adult Protective Services and therefore cannot be challenged in the grievance process in DHS 94. (Level III 24-SGE-01993)

23. A grievant **alleged that a county violated multiple rights of their two children who were receiving services through Children's Long-Term Support (CLTS) program.** The grievant alleged that CLTS made inaccurate assessments on the functional screens (FS) which ultimately led to both of their children being found not functionally eligible for services. All the allegations brought forth are related to eligibility of services as well as services that the children did or did not receive through CLTS. **CLTS is a provision of Medicaid that is administered by the county on behalf of the Department of Health Services. The Client Rights Office does not provide oversight of county administered CLTS programs. The client right grievance process was not the appropriate forum to examine this grievance. Dismissed at Level III as not grievable.** (Level III Decision in 25-SGE-00078)

24. A grievant **alleged that while seeking voluntary inpatient mental health care she was treated in a hostile manner and felt unsafe.** The grievant had been assessed at an Emergency Room and was transported to the inpatient mental health

unit of another provider where an interaction occurred prior to the completion of the intake process which caused the grievant to leave the facility. **The grievant was not admitted for treatment and therefore was not a patient.** In review of WI Stat. 51.61(1) the grievant does not meet the definition of "patient" and therefore concerns identified are not grievable through the grievance resolution process outlined in DHS 94. **The client rights grievance process is not the appropriate forum to examine this grievance. Dismissed at Level III as not grievable.** (Level III Decision in 25-SGE-02065)

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