

GRIEVANCE PROCESS - PROCEDURAL ISSUES

[Note: The community Grievance Procedure rules are found in **Subchapter III** of DHS 94. The cases cited below reflect decisions on issues related to the procedure itself.]

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. Subsection 51.30(4)(b)5 allows **access without consent** "...to qualified staff members of the department..." as is necessary to determine progress and adequacy of treatment..." Thus the **State Grievance Examiner is allowed to obtain otherwise confidential records without the informed consent** of the complainant. (Level IV decision in Case No. 98-SGE-02 on 1/22/99.)
3. A county received a **complaint about denial of services**. The county **treated the complaint as a reapplication** for services and thus **did not follow the DHS 94 grievance process rules**. Since the complainants clearly identified it as a grievance and asked that a Client Rights Specialist investigate it, this was a **violation** of the complainants' right of access to the grievance process. (Level III decision in Case No. 98-SGE-03 on 11/10/98.)
4. **The rights and grievance procedure in DHS 94 do not apply to the Intoxicated Driver Program (IDP) or the driver's safety program plans**. (Level IV decision in Case No. 99-SGE-01 on 5/16/00.) [Note: This ruling was issued prior to the **revisions to DHS 62 in 2006**, which specifically **gave persons** in the drivers assessment program **patient rights** under § 51.61, Stats., and **access to the DHS 94 grievance procedure**. See DHS 62.14, Wis. Admin. Code.]
5. Even though the patient rights and grievance procedure in DHS 94 do not apply to the Intoxicated Driver Program (IDP) or the driver's safety program plans, where an **individual is also in a methadone treatment program, she has patient rights** and **access to the grievance process** regarding that treatment. (Level IV decision in Case No. 99-SGE-01 on 5/16/00.) [Note: This ruling was issued prior to the **revisions to DHS 62 in 2006**, which specifically **gave persons** in the driver's assessment program **patient rights** under § 51.61, Stats., and **access to the DHS 94 grievance procedure**. See DHS 62.14, Wis. Admin. Code.]
6. Where a **methadone clinic discouraged a patient from bringing an advocate with him to a team meeting**, the clinic **violated** his right to bring a grievance

without fear of retaliation or discrimination. (Level III decision in Case No. 99-SGE-02 on 5/17/00. Appeal to Level IV by the patient was dismissed since the Level III decision was in his favor.)

7. Where a **Level II grievance decision did not advise the complainant of his right to a state-level review, his rights were violated.** (Level III decision in Case No. 99-SGE-02 on 5/17/00. Appeal to Level IV by the patient was dismissed since the Level III decision was in his favor.)
8. Where a **methadone clinic did not ensure that all clinic employees were aware of patient rights and the grievance process, they violated the patients' rights.** (Level III decision in Case No. 99-SGE-02 on 5/17/00. Appeal to Level IV by the patient was dismissed since the Level III decision was in his favor.)
9. The DHS 94 **grievance procedure does not include a “fair hearing”.** (Level IV decision in Case No. 99-SGE-02 on 5/24/00.)
10. Someone in a **methadone treatment program can ask for a “fair hearing” only when they have been involuntarily terminated from the program.** (Level IV decision in Case No. 99-SGE-02 on 5/24/00.)
11. **Level IV reviews are limited to consideration of factual information that was not available for the Level III review.** (Level IV decision in Case No. 99-SGE-05 on 3/29/02.)
12. Where a **Level III decision found that the patient's right to make and receive a reasonable amount of phone calls was violated, the complainant's appeal to Level IV on that issue was dismissed.** (Level IV decision in Case No. 99-SGE-05 on 3/29/02.)
13. Where **the county's Client Rights Specialist was also the case manager** of a woman bringing a complaint, **a conflict of interest arose.** In that case, the CRS **had the discretion to skip the county stage of the process** and forward the grievance to the State Grievance Examiner. [Note: Another option would have been to have another county staff member act as the alternate CRS for that case.] (Level III decision in Case No. 99-SGE-07 on 1/3/01.)
14. The **Level I Client Rights Specialist has the discretion to look beyond the original complaint to identify related client rights issues**, even if they are not articulated as such. (Level III decision in Case No. 99-SGE-07 on 1/3/01.)
15. Where a complainant had **already initiated a civil lawsuit** on the issues raised in the grievance, the **State Grievance Examiner has the discretion to not issue a decision** in the patient rights grievance procedure. A **court decision takes precedence** over a grievance decision. (Level III decision in Case No. 99-SGE-07 on 1/3/01.)

16. The **State Grievance Examiner is responsible for ensuring compliance** with the **grievance procedure** on behalf of **all patients** protected by DHS 94 client rights. As such, the **SGE has a role in providing technical assistance** to **Client Rights Specialists** who issue Level I and II decisions. (Level III decision in Case No. 99-SGE-12 on 1/3/01.)
17. The **Client Rights Specialist's is expected to be objective and neutral** in regard to a complaint. The CRS is **expected to investigate all allegations** raised in a complaint. (Level III decision in Case No. 99-SGE-12 on 1/3/01.)
18. **When a patient raises treatment issues**, it is **not sufficient** for the Client Rights Specialist to **simply note the response of the patient's attending physician**. **Further investigation may be required**. (Level III decision in Case No. 99-SGE-12 on 1/3/01.)
19. The **grievance procedure** under DHS 94 has **no authority to award damages**. Monetary damages can be pursued and **awarded only by a court of law**. (Level III decision in Case No. 00-SGE-02 on 4/6/00.)
20. A **therapist's supervisor correctly referred** a client to the facility's Client Rights Specialist to file a complaint about the therapist. The client felt the supervisor did not care about her concerns. However, the **referral was appropriate** and did not violate the client's right to be treated with dignity and respect. (Level III decision in Case No. 00-SGE-02 on 6/17/00, upheld at Level IV.)
21. A **favorable grievance decision cannot be appealed by the prevailing party**. (Level IV decision in Case No. 00-SGE-02 on 6/17/00.)
22. 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.)
23. A woman **complained about her doctor**, alleging that the **medications** he prescribed for her **may have caused an adverse heart reaction** leading to an emergency visit to the hospital. This allegation was **reviewed by the Bureau of Regulation and Licensing (BRL)**, which reviews medical allegations of malpractice or injury to others. BRL did not find that the heart reaction and emergency room visit was necessarily caused by the medication. The **grievance process defers to BRL's medical expertise** on such issues and thus there was no finding of any rights violation. (Level III decision in Case No. 00-SGE-03 on 9/12/01.)

24. 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.)

25. The **State Grievance Examiner has the discretion** whether to **conduct a field investigation or rely on documentation** submitted in the grievance process. Where sufficient documentation exists, **personal interviews of staff are not necessary**. (Level IV decision in Case No. 00-SGE-08 on 2/21/01.)

26. A **client's mother filed a written complaint** on his behalf about the treatment he was receiving from his doctor. She was **referred to the doctor**, instead of the Client Rights Specialist. Since **this was a formal complaint, the doctor had a conflict of interest** and it was **inappropriate to refer the matter to him**. (Level IV decision in Case No. 00-SGE-08 on 2/21/01.)

27. 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.)

28. 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.)

29. A grievance was **filed on well past the 45-day timeframe** in DHS 94.41(5)(a). However the county reviewed it at Level I and II. **It is within the client rights specialist's discretion to accept complaints that are filed after the timeframes**. A **long delay** in filing a grievance after an event **significantly compromises the quality of the investigation** that may be conducted. Individuals often do not recall all the details of what happened or what was said after such a lengthy period of time. In this case, since it was accepted at Level I and II, it was also accepted at Level III. The Level III review was limited to **a desk review** of this case based on the available documents. The ability to conduct a thorough investigation was limited by the delay in the filing of the grievance. (Level III decision in Case No. 00-SGE-16 on 6/19/01, upheld at Level IV.)

30. A complainant questioned **whether a county Client Rights Specialist (CRS), by virtue of employment by the county, could conduct an impartial investigation** into his grievance. **CRSs are required to be impartial to the issues of a specific grievance. Merely working for the county does not create a conflict of interest for a CRS.** The **many levels of appeal, including two levels of state review, ensure that the grievance process as a whole is free from bias.** (Level IV decision in Case No. 00-SGE-16 on 8/14/01.)

31. **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.)

32. A patient's mother complained that her **daughter's doctor** violated her daughter's confidentiality. The Level I **Client Rights Specialist did not address this issue** in his written response. **The failure to address this issue was a violation** of the right to have the grievance fully investigated. (Level III decision in Case No. 01-SGE-02 on 12/10/01.)

33. The law states that, "A patient or a person acting on behalf of a patient" may file a complaint. It was **a violation** of the complainant's rights when a Level I Client Rights Specialist **refused to investigate her allegation that her ex-husband's right to confidentiality had been violated.** (Level III decision in Case No. 01-SGE-02 on 12/10/01.)

34. A facility was **under the impression** that a mother's complaint on behalf of her daughter **could be handled informally and internally.** The complaint itself stated that she wished to file "a formal grievance". **The informal resolution process can only be used if all parties agree to it.** The **facility violated** the mother's right to bring a complaint by not handling it as a formal grievance. (Level III decision in Case No. 01-SGE-02 on 12/10/01.)

35. A facility **issued what amounted to a Level II decision without first providing the complainant a copy of the Level I decision.** The purpose of requiring the facility to provide a copy of the Level I decision is to **allow the complainant the opportunity to review the decision and provide any additional input** to the person making the Level II decision. This **was a violation** of the complainant's rights. The facility was requested to revise its grievance process to comply with DHS 94. (Level III decision in Case No. 01-SGE-02 on 12/10/01.)

36. A service recipient **asked a temporary receptionist for a grievance form.** The **temp asked other staff where the forms were.** The case manager heard about the request and asked the individual to come to her office to discuss her concerns. The grievance she wanted to file, however, was about her case manager. There was **no evidence that anyone tried to talk her out of filing a complaint**, nor any indication of reprisal, retaliation or discrimination because of her grievance. There was **no violation of her right to file a complaint.** The temp asking other staff

where the grievance forms were did not violate her right to confidentiality. (Level III decision in Case No. 01-SGE-05 on 11/29/01.)

37. A patient complained that **his grievance about his therapist was not promptly investigated**. It was noted that he had **threatened to kill his wife, her boyfriend and his therapist** and the **police delayed the investigation** by requiring a waiting period for further action, allowing each party time to seek an injunction against the other. The police also required signed releases from both spouses. **The delay in processing his complaint was reasonable** under the circumstances. (Level III decision in Case No. 01-SGE-06 on 10/18/01.)
38. Where a Level II grievance **decision did not state that the grievance was unfounded** and **did not advise the complainant of his right to appeal**, the complainant's **right to the grievance procedure was violated**. It was thus appropriate to allow him additional time to appeal to Level III. (Level III decision in Case No. 01-SGE-06 on 10/18/01.)
39. Where the complainant was **not provided a copy of the Level I decision** and given the opportunity to provide additional input prior to issuance of the Level II decision, his rights were violated. The issue of the hospital's grievance system being in compliance with the DHS 94 requirements was **referred to the Bureau of Quality Assurance**. (Level III decision in Case No. 01-SGE-06 on 10/18/01.)
40. A complainant was out of state for an extended period of time and **did not receive his Level III grievance decision** until his return. This was **sufficient justification** for the Administrator to **allow a late appeal** of that decision. (Level IV decision in Case No. 01-SGE-07 on 3/29/02.)
41. A complainant raised issues regarding the "**couples therapy**" he and his wife received. At Level II of the grievance process, it was concluded that the complainant was not a client, in the context of therapy that was provided, and thus did not have access to the grievance process. At Level III, it was concluded that the complainant **was a patient** by definition since he was referred to as such numerous times in the treatment records, had his own diagnosis, and had a **joint "treatment plan"** with his wife. Thus, **he had access to the grievance process** like any other "patient". (Level III decision in Case No. 00-SGE-11 on 4/30/02, dismissed at Level IV for lack of standing to appeal because the ruling was in his favor at Level III.)
42. A complainant **wanted to expand his original complaint at Level III** of the process to include several other issues regarding his treatment. The **State Grievance Examiner rightfully refused to allow the expansion** of the original complaint and **correctly referred the complainant to Level I to raise those additional issues**. **New issues must go through the entire grievance process, starting at the first level**. (Level IV decision in Case No. 00-SGE-11 on 8/26/02, upholding the Level III decision.)

43. Where the **Level III decision found in favor of the complainant** on the two issues he raised, the **complainant was without standing to appeal** the decision to Level IV. (Level IV decision in Case No. 00-SGE-11 on 8/26/02.)

44. 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.)

45. A parent filed a **complaint about a doctor giving the wrong pills to her minor children**. But she **refused to sign a consent form** allowing the Level I Client Rights Specialist (CRS) access to the children's treatment records. **This limited the CRS to trying to resolve the matter informally**. Although it was the parent's right to refuse access to the treatment records, it **prevented the CRS from conduct a complete, formal grievance investigation**. Given the **lack of a formal grievance, the appeal to Level III was denied**. (Level III decision in Case No. 02-SGE-01 on 5/2/02.)

46. The **Client Rights Specialist** at Level I **must attempt to resolve matters** to the satisfaction of the patient **whenever possible**. But the CRS **must also be prepared** for the more tedious, potentially adversarial, **process of gathering facts** from parties that may have quite different perspectives. (Level IV decision in Case No. 01-SGE-08 on 8/27/02, modifying the Level III finding.)

47. Where a patient filed a **detailed complaint about her medications**, the Client Rights Specialist at Level I referred the matter for a medical review. The Level I decision acknowledged there had been difficulties with medication adjustments but said there were "no major findings of inadequate medical practice. He found no violation of the patient's right to be free from unnecessary or excessive medications. The **CRS provided few details or facts to support his conclusion**. This **was a violation of the patient's right to an adequate investigation** in the grievance procedure. (Level IV decision in Case No. 01-SGE-08 on 8/27/02, upholding the Level III finding.)

48. A hospital noted on appeal of findings of rights violations that the **State Grievance Examiner (SGE) had not contacted the patient's doctor directly** during the Level III review. The hospital asserted that this evinced a lack of professional courtesy and constituted a violation of due process. The SGE should probably have contacted the doctor to provide him with a sense of fairness. But the **SGE has broad discretion in how to conduct Level III reviews**. Where the SGE felt he could rely on the written records available to him, **failure to contact the doctor was not an abuse of that discretion or a violation of due process**. (Level IV decision in Case No. 02-SGE-04 on 9/19/03.)

49. A Level III decision **described a doctor's progress notes as being "inadequate"**, but **found no rights violation**. This issue was not addressed on appeal because, **no matter how the notes were characterized, the outcome** (no rights violation) **was not affected**. (Level IV decision in Case No. 02-SGE-04 on 9/19/03.)

50. 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.)

51. A man complained on his wife's behalf that **her original complaint was not responded to**. There was evidence in the record to indicate **the facility may not have received the original complaint**. But they did receive the copy provided by the husband later. **They responded to the issues involved as if there was one combined complaint from the two of them**. **No rights violation** was found. (Level IV decision in Case No. 02-SGE-07 on 3/10/04.)

52. A complainant alleged that **the facility's Client Rights Specialist (CRS) did not identify himself as such to him in a timely manner**. There was evidence in the record that the **CRS's name and title were provided to all patients at the facility**. If the individual was not re-informed of his title as CRS when discussing his issues with him, this was a **technical violation** of his rights. (Level IV decision in Case No. 02-SGE-07 on 3/10/04, modifying the Level III decision.)

53. There is insufficient evidence to conclude that a **facility's Chief Legal Counsel discouraged someone from filing a complaint**. The facts indicate he merely **informed the individual that he did not believe he had a malpractice claim that would be upheld in court**. The fact that the individual was able to bring this complaint and appeal it up through the grievance process to Level IV indicates that his right to complain was not violated. (Level IV decision in Case No. 02-SGE-07 on 3/10/04.)

54. The **45-day time limit** for filing a complaint was **not followed** when a complaint was **filed 7 months after the alleged mis-diagnosis**. Case was **dismissed** as untimely filed. (Level III decision in Case No. 03-SGE-01 on 7/16/03.)

55. A **grievance must be filed within 45 days** of the occurrence of the event or circumstances or of the time when the event or circumstances "should reasonably have been discovered" or whichever comes last. Here, a minor's prior physician apparently **misdiagnosed** him. The minor was later correctly diagnosed and appropriately treated during a stay at a state mental health facility. His parents filed a grievance about his original misdiagnosis seven months after his discharge from the state facility. **The grievance was not timely filed**. The program director's **refusal to accept this late complaint was an exercise of his discretion**. He could have accepted the complaint, but chose not to. He **did not abuse his discretion**. In fact,

there would have been little point in accepting it since the **doctor in question was no longer working for the program**. (Level III decision in Case No. 03-SGE-01 on 7/16/03.)

56. The DHS 94 grievance process has **no jurisdiction over an independent physician** delivering services through an office that is not part of a program. Patient rights still apply, but **violations must be dealt with through the licensing process**. (Level III decision in Case No. 03-SGE-01 on 7/16/03.)
57. Even though the DHS 94 grievance process has no jurisdiction over an independent physician delivering services through an office that is not part of a program, the **physician was still obligated to inform his patients of their rights** under Sec. 51.61, Wis. Stats. And, **when the physician became part of an organized service corporation**, he was also **obliged to inform his patients** that the DHS 94 grievance process applied as of that time. (Level III decision in Case No. 03-SGE-01 on 7/16/03.)
58. 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.)
59. A complaint alleged that a **county did not properly allow access to the Grievance Procedure appeal process** as described in DHS 94. Per DHS 94.51, regarding **complaints that are related to the existence or operation of grievance resolution systems**, the **State Grievance Examiner** has **original jurisdiction** over this issue. (Level III Decision in Case No. 03-SGE-05 on 1/23/04.)
60. The **Division of Hearings and Appeals**, as described in the Medical Assistance Waivers Manual, is **only available** for the purpose of **addressing issue of denials of eligibility, terminations of eligibility, and reductions in waiver services**. They are **not the proper referral agency** for someone **appealing a client rights grievance** about **other issues** in the DHS 94 grievance procedure. (Level III Decision in Case No. 03-SGE-05 on 1/23/04.)
61. 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. **Since this appeal information was incorrect, his rights were technically violated**. (Level III Decision in Case No. 03-SGE-05 on 1/23/04.)
62. 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.)

63. 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 request 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.)
64. 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.)
65. The law states that "**any person** who is aware of a possible violation of client rights" [emphasis added] **may file a complaint on behalf** of a client. Where a facility **refused to accept an ex-patient's complaint** on behalf of current patients, **his right to file a complaint was violated**. (Level III decision in Case No. 04-SGE-01 on 7/2/04)
66. Where an **ex-patient filed a complaint on behalf of current patients**, all of whom **had guardians**, the facility was **obligated to check with the guardians to see if they wished to pursue** the complaint. (Level III decision in Case No. 04-SGE-01 on 7/2/04)
67. Where a **facility initially refused to accept a complaint** from an ex-patient, but then, **after receiving advice** from the Client Rights Office, **did accept the complaint**, the **rights violation was remedied**. (Level III decision in Case No. 04-SGE-01 on 7/2/04)
68. The Level III decision **thoroughly addressed** all of the complainant's issues. In her appeal to Level 4, the complainant provided **no new evidence** sufficient to justify reversing the Level III decision. The Level III decision was therefore affirmed. (Level IV decision in Case No. 04-SGE-07 on 8/15/05)
69. 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)
70. A Level III decision found that a service provider had addressed all ten of the

concerns a client raised and that the matter was considered resolved. The client was **given notice of his right to appeal** the Level III within 14 days. He **appealed 45 days** after the Level III was issued. The client was asked to show good cause why he had not appealed within the time frame. He did not respond. His **lack of response** lead to the conclusion that he was **no longer interested** in pursuing the matter. The complaint was therefore **dismissed**. (Level IV decision in Case No. 05-SGE-09 on 4/3/06)

71. There is **nothing inherently wrong** with a facility Client Rights Specialist (CRS) **conferring with the facility's attorneys** on issues pertaining to patient rights. The patient rights laws and rules are complex. Seeking the advice of counsel is often a good way to ensure that the facility is in full compliance with those rights. (Level IV decision in Case No. 06-SGE-04 on 8/18/06)
72. By **signing a Settlement Agreement** with the court, a client had **agreed to her inpatient placement** under an **Emergency Detention**. She **could not subsequently challenge** that placement **through the grievance process**, only through the courts. (Level IV decision in Case No. 06-SGE-10 on 3/20/07)
73. A client wanted **partial reimbursement** for the costs of her inpatient AODA care because of the lack of treatment during her stay over the holiday season. 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)
74. A client complained about **delays in receiving responses to her grievance**. The program's Client Rights Specialist responded within 33 days. While the **response was three days beyond the statutory time line, there was no evidence of that delay being an injustice to the client**. Three days is not a substantial delay and does not rise to the level of a rights violation. The Program Director responded within 57 days. That response was 27 days late. The Client Rights Office's response was over two months late, but was promptly handled when re-assigned to the new State Grievance Examiner. **The Program Director and the Client Rights Office both violated the statutory time limits.** (Level III decision in Case No. 10-SGE-07 on 02/18/11)
75. A client argued that the program's Client Rights Specialist's **Level I-A report was late**. The **CRS had thirty days** from the date she received the grievance to issue her decision. She **issued her decision within that time frame**. The client's right to a timely grievance response was not violated. (Level IV decision in Case No. 10-SGE-09 On 3/17/11)
76. **Where a client raises several issues, each one could be considered a separate complaint.** According to DHS 94.46, **when someone has multiple pending grievances, the CRS has additional time to investigate each one.** (Level IV decision in Case No. 10-SGE-09 On 3/17/11)

77. A client argued that the program's Client Rights Specialist's **Level I-A report did not address all of his concerns**. The evidence indicates that the CRS made several attempts to discuss the client's issues, but **the client was not cooperative**. The CRS **could have dismissed the grievance issues for "failure to prosecute" them**. The CRS did address as many issues as she could, with the limited information available to her at the time. No rights violation was found. (Level IV decision in Case No. 10-SGE-09 On 3/17/11)

78. A client complained about the way he was treated by a psychiatrist at a county mental health center. The Level III decision found procedural errors in how his grievance was handled, but no other rights violations were found. On appeal, the client **provided additional records from his treatment** to bolster his argument that he had not been treated with dignity and respect. **New evidence submitted on appeal is usually not considered in a Level IV review**. However, the records he submitted on appeal worked against his argument that he was not treated properly and respectfully. Those records showed that his psychiatrist was genuinely concerned about his mental status and possible suicidal thoughts. (Level IV decision in Case No. 10-SGE-10 on 4/20/11)

79. Due to **attempts to informally resolve** a client's issues at the program level and the County level, the **time-frames** for issuing written decisions at those levels were considered **suspended during the resolution attempts**. It was concluded that the program and the County were both in compliance with the requirements of the DHS 94 grievance procedure for timely responses. The client's procedural rights were not violated. (Level IV decision in Case No. 10-SGE-11 on 3/17/11)

80. A former client of an outpatient methadone clinic complained that the person holding the position of **Client Rights Specialist was inaccurately posted**. It was found that this error **did not rise to the level of a grievance process violation** because his complaint was addressed and then dropped once staff thought he had rescinded it. (Level III decision in Case No. 10-SGE-13 on 3/03/11)

81. A former client of an outpatient methadone clinic complained that the **managing doctors had a conflict of interest** in handling his grievances. His concern about the doctors having a conflict of interest because they simultaneously own and practice at the program is a reasonable one. However, there was no evidence to substantiate a conflict in this case. **It is not a conflict of interest for doctors to start a business in which they plan to practice their trade**. Any concerns are alleviated by the fact that the grievance process is not punitive and because multiple levels of review ultimately extinguish any bias that might be present. (Level III decision in Case No. 10-SGE-13 on 3/03/11)

82. 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. The State Grievance Examiner (SGE) **opted to use her discretion to address this issue anyway** in the Level III decision. The subsequent analysis of the situation led to the conclusion that he had failed to meet his burden of showing that his rights had been violated by the termination of his services. He provided no new evidence in his appeal to Level IV that would add sufficient “weight” to meet his burden of showing that his rights were, in fact, violated. (Level IV decision in Case No. 10-SGE-15 on 03/27/13)

83. A patient originally raised **54 different complaint issues**. Then he agreed with the local Client Rights Facilitator that **only ten issues would be addressed at the lower levels** of the grievance process. He **later agreed to pursue the three that were most important to him**. Since the other 51 original issues were not addressed at Level II, it was ruled in the Level III decision that **they could not subsequently be addressed at Level III due to lack of jurisdiction**. That was the **correct decision** in this situation. (Level IV decision in Case No. 10-SGE-15 on 03/27/13)
84. A patient complained that **neither the provider nor the county would pay the fees for boarding his dog** during his inpatient stay. It was clear that his dog is very important to him. However, **neither the provider nor the county were legally required to reimburse him for the costs he incurred in boarding his dog**. There is nothing in the patient rights law or rules that would require them to do so. Thus, the finding in the Level III decision that the Client Rights Office had **no jurisdiction** over that issue was correct. (Level IV decision in Case No. 10-SGE-15 on 03/27/13)
85. **When a patient complains about services**, s/he should be directed to the designated Client Rights Specialist who can educate the patient about client rights. If the patient then expresses a desire to formally grieve a complaint, the complaint **should be answered with a CRS Level I-A Report within 30 days**. (Level III decision in Case No. 11-SGE-01 on 6/28/11)
86. **Procedural errors** in the grievance process **did not rise to the level of a rights violation** because **the provider responded to the patient's complaints and went over and above the call of duty in processing her concerns**, despite the fact that she initially withdrew her grievance. (Level III decision in Case No. 11-SGE-01 on 6/28/11)
87. A violation of the right to a proper grievance procedure was found where the **provider failed to provide the client with adequate Level I-A and Level I-B responses** to his complaints. The issues were **remanded** back to the provider level. (Level III decision in Case No. Case No. 11-SGE-09 on 03/05/13)
88. A patient had several complaints that stemmed from her alleged misdiagnosis by one of the provider's doctors. The patient was diagnosed with bi-polar II, which allegedly caused severe problems for her. The **patient alleged that the complaint that she filed was not processed in a timely manner**. There was a dispute as to when the grievance was received by the provider. The patient provided inconsistent

information regarding when the grievance was originally filed. The State Grievance Examiner determined that the patient had probably unintentionally attempted to circumvent the first two levels of review by requesting a level III investigation. **It was concluded that provider's Client Rights Specialist and Chief Medical Officer responded in a timely manner to the patient's grievance and no violation was found.** (Level III decision in 12-SGE-0006 decided on 11/14/2012)

89. A client was seen at the provider's emergency room for suicidal ideations. The provider recommended the client enter the inpatient mental health treatment facility at the hospital. The client claimed that many of his patient rights were violated. **The provider was found to have violated the client's right to an adequate grievance procedure. The State Grievance Examiner did not have jurisdiction over the substantive issues that the patient grieved until they were properly addressed at the program level. The substantive issues were remanded to the provider if the client wanted to pursue the issues at Level I-A and Level I-B.** (Level III decision in case No. 12-SGE-10 decided on 5/8/2013)

90. A client was seen at the provider's emergency room for suicidal ideations and entered the inpatient mental health treatment facility at the hospital. The client claimed that the provider violated many of his client rights. **The patient asked to speak to the patient advocate repeatedly and these requests were evaded by provider staff.** Staff receiving a request for the formal resolution of a grievance must present the request to the program manager or designee as soon as possible, but not later than the end of the staff person's shift. The patient was there long enough for most staff shifts to end and for staff to be required to report the request to the program manager. **The provider was found to have violated the client's right to adequate grievance procedure.** (Level III decision in case No. 12-SGE-10 decided on 5/8/2013)

91. The client was seen at the provider's emergency room for suicidal ideations and entered the inpatient mental health treatment facility at the hospital. The client claimed that the provider violated many of his client rights. **When the patient complained about his experience after his discharge he received a written response from the provider's "Patient Representative" (PR) that stated that he had not complained while an inpatient, had not complained when he received a follow-up telephone call from the provider and had left the provider's care against medical advice.** When the patient then argued that he should not be billed and that his insurance company should be refunded his cost of care, the PR sent him a letter on behalf of the "Grievance Committee," which had reviewed his complaints and determined that the care and services provided were appropriate and refused to dismiss the patient's bill. The grievance committee made a finding of no basis for the grievance in both reviews of the client's concerns. When a Client Rights Specialist's investigation is complete, he or she is required to prepare a written report with a description of the relevant facts agreed upon by the parties or gathered during the inquiry, the application of the appropriate laws and rules to those facts, a determination as to whether the grievance was founded or unfounded,

and the basis for the determination. **A finding of no basis for the complaint, - without client rights analysis - lacks the support and explanation required by the Code.** If such were not the case, providers could simply decide that many client grievances were baseless and provide a simple negation of the complaints without actually analyzing whether there was a client rights violation. **The provider was found to have violated the client's right to an adequate grievance procedure.** (Level III decision in case No. 12-SGE-10 decided on 5/8/2013)

92. The client was seen at the provider's emergency room for suicidal ideations and entered the inpatient mental health treatment facility at the hospital. The client claimed that the provider violated many of his client rights. When the patient complained about his experience after his discharge he received a written response from the provider's "Patient Representative" (PR) on behalf of the "Grievance Committee," which had reviewed his complaints and determined that the care and services provider were appropriate and refused to dismiss the patient's bill. The grievance committee made a finding of no basis for the grievance in two reviews of the client's concerns. The letter instructed the patient to contact the Division of Quality Assurance if he wanted to pursue the matter further. **The client was referred to the wrong Division to appeal the committee's decision. The provider was found to have violated the client's right to an adequate grievance procedure.** (Level III decision in case No. 12-SGE-10 decided on 5/8/2013)

93. The client was seen at the provider's emergency room for suicidal ideations. The provider recommended the client enter the inpatient mental health treatment facility at the hospital. The client claimed that the provider violated many of his client rights. The patient asked to speak to the patient advocate repeatedly and these requests were evaded by provider staff. No formal Level I-A or Level I-B decision was issued. **Generally, grievances must be processed in order of Levels I-IV, sequentially.** However, the State Grievance Examiner may investigate and has jurisdiction over complaints about the grievance procedure regardless of whether the issue was grieved by the client or how far along a case is in the procedural process. **The only issue that can be addressed for the first time at Level III, without first going through the rest of the grievance process, is whether the grievance process requirements were adhered to by the provider.** Consideration of substantive issues raised by the grievant on appeal to III must be delayed until they are addressed at the earlier levels of the grievance process. The substantive issues were remanded to the program level for investigation and determination of whether the issues are founded or unfounded in relation to the applicable client rights. A violation of the patient's right to a proper grievance procedure was found. (Level III decision in case No. 12-SGE-10 decided on 5/8/2013)

94. A patient grieved that he was put into the provider's Safety Management Level System (SMLS) in violation of his client rights. The patient alleged that he was not an appropriate candidate for SMLS because he was not suicidal. The level I-A Report was informal and lacked investigation and analysis. In this case the question about whether the SMLS was a violation of the grievant's client rights was a

straightforward question. **Although the investigation at Level I-A was subpar, the case could be decided at level III in order to avoid elongating an already lengthy grievance process.** (Level III decision in Case No. 12 SGE-0012 decided on 06/11/2013)

95. A patient filed a grievance and the Client Rights Specialist's (CRS) Level I report was one hand written note to the effect that the grievance was resolved to the client's satisfaction. This result was either in error or a change occurred because the client subsequently appealed the decision. **Generally, grievances must be processed in order of Levels I-IV, sequentially.** However, the State Grievance Examiner may investigate and has jurisdiction over complaints about the grievance procedure regardless of whether the issue was grieved by the client or how far along a case is in the procedural process. **The only issue that can be addressed for the first time at Level III, without first going through the rest of the grievance process, is whether the grievance process requirements were adhered to by the provider.** In this case, **it appears that the CRS thought that the complaint had been resolved. However, when it became clear that the matter was not resolved it should have been rerouted to the CRS for a full investigation and analysis.** There are three reasons behind this result: (i) the matter had not been fully investigated at the program level; (ii) the CRS was in the best position to evaluate the evidence because he or she has access to the most recent information; and (iii) the CRS had the authority and the responsibility to do a full investigation whereas the program director (who was supposed to author the Level I-B report) was expected to evaluate complaints based on an overview of information already collected. **The provider's Level I-A report was inadequate, even in light of the provider's efforts at level I-B.** A violation of the patient's right to a proper grievance procedure was found. (Level III decision in Case No. 12 SGE-0012 decided on 06/11/2013)

96. The County contracted with a company to provide Level II decisions when client rights grievances arose. The County's Department Director could name a designee to issue Level II decisions. However, the designee had to be a county staff person and the decision was supposed to be approved by the Director. The company qualified as county staff for the purposes of client rights. **However, the Level II decision was not signed by the County Director.** The Level II decision must consider the Level I-A and Level I-B reports and must **independently render an opinion by applying the appropriate provisions of the law and administrative codes.** The person preparing the Level II decision must prepare a written report with findings of fact, conclusions based upon the findings of fact and a determination of whether the grievance was founded or unfounded. **The Level II decision was inadequate and thus a violation of the patient's rights.** (Level III decision in Case No. 12 SGE-0012 decided on 06/11/2013)

97. A patient grieved about cash disappearing from her purse which was in her closet at an inpatient facility. The provider's Level I-B decision contained incorrect information about how to appeal the determination. The Level I-B

indicated that the client should contact the state Grievance examiner, rather than the County, to appeal the decision. The client did appeal first to the county and received a Level II decision. Thus the **client was not harmed by the mistake and the overall grievance procedure employed by the provider was thorough and concise. The provider should correct the appeal information in its decisions in the future** in order to provide optimum access. However, the client's right to the grievance procedure was not violated in this case. (Stage III decision in 12-SGE-0015 decided on 7/10/2013)

98. The State Grievance Examiner (SGE) has the duty to investigate concerns related to suspected rights violations in a provider's grievance procedure even if the client does not grieve it. Here, the Level I-A and Level I-B Decisions did not include a finding of "founded" or "unfounded" for the grievant's claims. Further, neither decision included the proper appeal contact information. **Normally, these omissions would result in a finding of a violation of the patient's right to a proper procedure.** However, in this case it appeared that the Bureau of Prevention, Treatment and Recovery (BPTR) liaison was assisting the client and the provider in an attempted resolution of these grievances and that a hybrid of formal and informal grievance procedure was being used. In this case the provider took responsibility to make the best of a difficult situation that was exacerbated by the way the client's services were terminated. The provider changed its policies, gave additional therapy sessions, required additional staff training, apologized and attempted to assist the client in locating a new therapist, all at no cost to the client. These actions demonstrate that the provider sincerely cares about the client and about providing effective mental health services in general. Based on the facts that the client was not harmed by the omissions, that the provider put forth a great deal of effort to resolve the grievances, that the provider worked closely with the BPTR liaison and that the provider was cooperative and forthcoming in the investigation, no violation was found because the provider put forth a great deal of effort to resolve the patient's grievances and was cooperative and forthcoming with the investigation. (Level III decision in 12-SGE-00017 decided on 8/22/2013)

99. The State Grievance Examiner (SGE) has the discretion and duty to investigate whether a client's rights are violated even if the client does not grieve a specific issue. If the SGE or a County Director finds that a client or a group of clients are at risk of harm and the provider has not acted to eliminate the risk the SGE or County director has a duty to take immediate action to protect the client or clients pending further investigation. Thus, **all rights implicated by a complaint are investigated and analyzed even if a client has not complained about the violation of a specific right.** (Level III decision in 13-SGE-0004 decided on 11/5/2013)

100. A patient's husband filed a grievance on the patient's behalf. The provider's Client Rights Specialist sent the grievant a written Level I-A report. The report directed the client to appeal the Level I-A decision directly to Level III, which was in error. The report should have directed the patient to appeal to the Program

Manager/Director for a level I-B review. However, the Risk Management Department investigated and helped the CRS prepare the Level I-A report. **In this case the combination of the CRS report and Director's response did not rise to the level of a violation of the client's right to proper grievance procedure because the provider had an adequate opportunity to have upper management review and respond to the CRS' findings.** (Level III decision in 13-SGE-0004 decided on 11/5/2013)

101. A patient received services at a provider's partial hospitalization program in the psychiatric and bariatric programs and withdrew within 24 hours. Among the patient's grievances was the allegation that she did not receive notice of her client rights upon admission. The patient signed a document containing a "notice of privacy practices, payment policy and client rights." **Such documentation is dispositive evidence that the client did, at a minimum, receive some client rights information from the provider.** The provider's policy was to give all patients three pamphlets, go through each of them orally and then give them the acknowledgement form to sign and date. The provider's claims that they have in-patient and out-patient client rights posters up in their units and that they inform patients of their rights in writing upon admission were credible. The patient's right to proper notification was held not to have been violated because the patient failed to meet her burden of proof to show that she did not receive client rights information from the provider. (Level III decision in 13-SGE-0005 decided on 11/18/2013)
102. A patient who was receiving treatment for less than 24 hours claimed that the provider violated her right to adequate treatment and to be treated with dignity and respect. The patient found that the topics discussed in group therapy were extremely upsetting. The patient's claims were **found to not be frivolous** despite the limited duration that she was receiving services. There was **no reason to suspect that the client brought her complaints in an attempt to harass the provider. Also, the patient communicated genuine concern about several aspects of her treatment that raised client rights issues.** (Level III decision in 13-SGE-0006 decided on 12/18/2013)
103. A patient brought a grievance about her dismissal from a bariatric stomach program. The dismissal was based, in part, on her mental health. The provider's behavioral health program director completed a single Level I grievance decision. The decision did not: (i) contain the application of relevant rights or rules; (ii) make a finding of "founded" or "unfounded"; (iii) provide the basis of the provider's determination; or (iv) give the provider a chance for a final review of the issues raised before consideration at Level III. **The provider's response must include clear language indicating whether the client's rights were violated after the client's grievances are investigated. Further, the report must use facts to support the conclusions reached by the provider, which was not done in this case.** The grievance process implemented by the provider was a violation of the patient's right to a proper grievance process. (Level III decision in 13-SGE-0007 decided on 2/7/2014)

104. A patient brought a grievance about her dismissal from a bariatric stomach program. The dismissal was based, in part, on her mental health. The provider's behavioral health program director completed a single Level I grievance decision. The director's single letter was construed as a single Level I A and I B response to avoid having to remand the case back to the provider and because the State Grievance Examiner would review the provider's grievance process as part of the Level III decision. However, **the Level I-A (to be completed by a Client Rights Specialist) and Level I-B decisions are required by law and precedent to be separate.** The client must have the opportunity to submit additional information after the provider's initial (Level I-A) decision is made. **The use of a single Level I decision was a violation of the patient's right to a proper grievance process.** (Level III decision in 13-SGE-0007 decided on 2/7/2014)

105. A patient brought a grievance about her dismissal from a bariatric stomach program. The dismissal was based, in part, on her mental health. The provider's behavioral health program director completed a single Level I grievance decision. The decision did include a notification of the patient's right to a state level investigation. However, **the decision directed the patient to the wrong address, the wrong division in state government and the wrong online complaint form to appeal the provider's decision. Further, the patient was not advised that she only had 14 days to submit her appeal.** The grievance process implemented by the provider was a violation of the patient's right to a proper grievance process. (Level III decision in 13-SGE-0007 decided on 2/7/2014)

106. A grievant became upset with a staff member well before he was discharged by the provider. The provider was aware of the conflict between the staff person and the patient but did not direct the patient to the Client Rights Specialist to file a complaint. **The provider violated the patient's right to an adequate grievance process because the provider did not adequately notify the patient of his right to file a formal client rights grievance about a staff person's behavior.** (Level III decision in 13-SGE-0009 decided on 3/20/2013)

107. A **technical violation** of a patient's right to a proper grievance procedure was found when **the Level 1-A report was 14 days late.** (Level III decision in 13-SGE-0009 decided on 3/20/2013)

108. A patient complained that he had to pay for treatment out of pocket because the provider's staff failed to send documentation of his diagnosis signed by a doctor to his insurance company in a timely manner. The provider refused to reimburse the patient for his out of pocket costs. The patient wished to be reimbursed. **It is outside of the scope of the grievance process to order restitution.** (Level IV decision in 14-SGE-0001 decided on 12/22/2014)

109. A patient complained that neither the Client Rights Specialist nor the Vice President of Patient Care contacted him before issuing their Level I-A and Level I-B

decisions. **It was more likely than not that the CRS did not contact the client prior to issuing the Level I-A report. A violation of the patient's right to proper grievance procedure was found.** (Level IV decision in 14-SGE-0001 decided on 12/22/2014)

110. A patient **experienced unwanted sexual side effects from a medication.** The patient alleged that his doctor laughed and said the side effects were in his head when he reported sexual side effects of eight weeks duration to his doctor. The medications were helping the patient's symptoms. The patient was weaned off of the medication and the side effects dissipated. The State Grievance Examiner considered a case from a mental health facility as precedent. The facility case held that **a patient's right to be free from unnecessary or excessive medication is not violated when the patient's behavior improves with the medication in question and deteriorates without the medication and when attempts are made to accommodate the patient with lower doses and different types of medication.** The case was worth considering but it was not direct precedent because it was not a community mental health case. (Level IV decision in 14-SGE-0001 decided on 12/22/2014)

111. A patient filed a grievance stemming from a disagreement between the patient and the therapist about whether the client should be tested for PTSD. The grievant raised some new issues for the first time at Level III. **Normally, issues cannot be investigated for the first time at Level III. However, some of the new complaints fit an exception that allows newly raised complaints about a provider's grievance procedure to be investigated at Level III.** (Level III decision in 14-SGE-0002 decided on 11/19/2014)

112. **The provider is required to complete Level I-B a review when a client has appealed a lower decision even if the client is aware that the investigator will not rule in his or her favor.** According to the administrative code, the program manager should issue a written decision that includes the remaining disputed issues, the findings and an explanation of the reasoning supporting the findings. It was a grievance process violation for the provider to issue a Level I-B decision that lacked several required components. (Level III decision in 14-SGE-0002 decided on 11/19/2014)

113. A patient alleged that his rights to dignity and respect and adequate treatment were violated when his therapist failed to write notes during treatment and when the therapist failed to provide/contact promised resources and or referrals. The patient alleged that the provider violated his right to dignity and respect and his right to adequate treatment when his therapist lied to him about talking to his doctor about his treatment plan, pain medication and steroid injections. The issues related to the client's therapist were not grieved at the provider level and thus were not grievable at Level III. **New complaints raised in the appeals of grievances cannot be investigated because the provider has not had the opportunity to respond to the issues raised. Also, applicable law does not allow for skipping levels of review**

unless the complaint is about the provider's grievance procedure. Thus, the patient's new complaints about the provider's grievance procedure were investigated even though they were first raised at Level III but complaints about the therapist were not investigated. (Level III decision in 14-SGE-0003 decided on 6/26/2015)

114. A patient indicated that he would be willing to provide evidence to back up his claims upon request from the State Grievance Examiner. A **deadline for providing evidence was imposed on the patient so that the patient would have the opportunity to submit everything that he felt would support his grievance without further extending the decision making process.** (Level III decision in 14-SGE-0003 decided on 6/26/2015)

115. Evidence was sufficient to find that provider staff misinformed the client about the identity and contact information of the provider's Client Rights Specialist (CRS). The client had difficulty filing his grievance because he did not have correct contact information for the CRS. **The client's right to access the Grievance Procedure was violated when the proper CRS information was not provided upon request. The determination that there was a violation did not require a finding that the provider willfully withheld the information.** (Level III decision in 14-SGE-0003 decided on 6/26/2015)

116. A client claimed that his right to proper grievance procedure was violated when a Client Rights Specialist (CRS) did not address the several complaints in the patient's grievance. The State Grievance Examiner (SGE) determined that the issues raised in the patient's initial grievance were addressed upon the SGE's review of the grievant's record. **In light of the number of concerns raised by the patient and the evolution of the issues for him, it seems likely that the CRS did respond to the patient's complaints to the best of her ability.** The grievant's right to access the grievance procedure was not violated by the CRS' failure to adequately respond to his concerns in this case. (Level III decision in 14-SGE-0003 decided on 6/26/2015)

117. A client claimed that his right to proper grievance procedure was violated when a Level I-B decision contained responses to issues that were not addressed in the Level I-A decision. The program manager affirmed what she identified as a decision made in the I-A decision. However, the issue was not addressed in the level I-A decision. This amounts to an **apparent mistake in the Level I-B decision, but does not rise to the level of a rights violation.** Grievance issues can be difficult to untangle and address, especially when new issues are being raised during the appeals process. (Level III decision in 14-SGE-0003 decided on 6/26/2015)

118. A grievant alleged that a provider violated her husband's client rights when she complained about his doctor's treatment of them when they discussed side effects related to the electroconvulsive therapy (ECT) that he was receiving. The grievant alleged that the provider violated the patient's rights: to dignity and respect; to prompt and adequate treatment; to non-arbitrary treatment decisions; to participation

in his treatment; to a second opinion and to be free from retaliation. The doctors allegedly threatened to put the patient on a “non-treat list” if he failed to show up for an ECT appointment despite the side effects that he was reporting. **The patient was allegedly told that he was on the non-treat list when he cancelled an appointment. This allegedly triggered a fear of retaliation in the patient which caused him not to file a formal grievance until the patient obtained new insurance** that allowed him to be treated by another provider. **The grievance was submitted and dismissed at the first and second provider levels because it was not filed within the 45 day time limit** provided in the regulations. The grievant did not meet his burden of proof to show that there is good cause to investigate the allegation despite the late filing because there was no evidence other than the grievant’s recollection that the patient was placed on a non-treat list. **A client rights investigation into the substantive issues was barred and the case was dismissed because there was no other evidence submitted to explain the delayed filing of the grievance.** (Level III decision in 14-SGE-0004 decided on 10/10/2015)

119. It was a direct violation of the administrative code when formal Client Rights Specialist and Program Manager decisions did not contain any appeal information. The Program Manager decision must contain a notice that explains how, where and by whom a request or appeal of the decision may be filed and must include information about the time limit for filing a request for administrative review. **Failure to include the required information was a violation of the patient’s rights.**

(Level IV decision in 14-SGE-0005 decided on 10/17/2016)

120. It was a violation of the client’s right to access the grievance procedure where an **issue raised in the client’s grievance was not addressed at level I-A or I-B.**

(Level IV decision in Case No. 15-SGE-0001 on 10/17/2016)

121. It was a violation of the client’s right to access the grievance procedure where a **complaint was addressed in the Level I-B decision but not in the Level I-A decision.** (Level IV decision in Case No. 15-SGE-0001 on 10/17/2016)

122. A grievant’s **complaint was addressed in a Level I-A decision but not in the grievant’s Level I-B decision.** The provider violated the client’s right to proper grievance procedure by failing to address this issue at the secondary level of review. (Level IV decision in Case No. 15-SGE-0001 on 10/17/2016)

123. A patient’s grievance resulted in Level I-A and Level I-B decisions that failed to include any discussion of client rights. **The decisions did not explain which rights applied to the grievant’s complaints or how the facts did or did not lead the reviewer to his or her conclusions.** This omission is a violation of the grievant’s right to proper grievance procedure. (Level IV decision in Case No. 15-SGE-0001 on 10/17/2016)

124. A patient’s grievance resulted in a Level I-B decision that **did not include any**

instructions as to how the grievant should appeal the decision if the patient disagreed with its findings. Important information, such as the availability of another investigation, the 14 day time limit for appeal and contact information for the ensuing level of review **must be communicated** in the decision so that there is a record that the **grievant has been made aware of her right to the entire 4 tier grievance process**. The lack of appeal information in the Level I-B decision was a violation of the grievant's right to proper grievance procedure. (Level IV decision in Case No. 15-SGE-0001 on 10/17/2016)

125. A grievant filed a grievance significantly after the 45 day time limit. **The 45 day time limit can be extended for good cause**. It was assumed that the CRS and the Director of the provider found good cause to overlook the 45 day time limit since they investigated the grievant's concerns and provided responses to her. **The State Grievance Examiner found good cause to investigate the grievance because the investigation of the grievance could result in improved services and grievance process**. (Level III decision in Case No. 15-SGE-0002 on 01/29/2016)

126. A patient's **grievance was admittedly put in the Director of a provider's desk for two weeks**. The director thought that this was acceptable because the patient might have changed her mind and because nothing in the documents said "grievance." **People receiving services for mental health, substance abuse or developmental disability are required to have access to the grievance procedure**. Any complaint submitted to a provider should be sent to a Client Rights Specialist (CRS) by the end of the work shift of the person who received it under the applicable administrative code. The CRS has the responsibility to determine if it is a formal or informal grievance related to client rights. The CRS must then provide a written response. **The provider violated the patient's right to a proper grievance procedure by setting aside the grievant's initial submission of her complaints**. (Level III decision in Case No. 15-SGE-0002 on 01/29/2016)

127. A grievant complained that a Client Rights Specialist (CRS) was a friend of the Director of the provider that she was grieving about. The grievance process is not litigation. The purpose of the grievance process is to ensure that patients are heard and to improve services. **The essential qualification if a CRS is that a CRS is able to make relatively objective decisions regarding the client's complaints and that the CRS is trained in the requirements of the position**. The patient's right to proper grievance procedure was not violated by the relationship between the Director and the CRS because there was not an inherent conflict of interest. (Level III decision in Case No. 15-SGE-0002 on 01/29/2016)

128. A patient's grievance lead to a Client Rights Specialist (CRS) Report that did not **respond to many of the complaints** contained in the grievance. Evidence showed that the original grievance contained 63 allegations. The CRS Report identified three complaints and responded to one. **There was no excuse for the meagre investigation and analysis completed in the CRS Report**. Also, the CRS Report did not contain any appeal information. The relevant administrative code requires

that the report contain a discussion of the rights implicated by the complaints, determinations of whether the complaints are founded or unfounded and a determination of whether the patient's rights were violated. The CRS Report should include information about appeal process, time limits and contact information. Since the CRS Report did not contain these items the client's right to proper grievance process was **violated**. (Level III decision in Case No. 15-SGE-0002 on 01/29/2016)

129. A director of a provider wrote a Program Manager's decision in response to complaints about the director's wife (who was also an employee of the provider) and therapy sessions where the director was acting as the patient's therapist. **The director had a direct and glaring conflict of interest** which should have precluded him from issuing the decision. The administrative code requires that providers have a process to protect a Client Rights Specialist's (CRS) neutrality. Providers must have a back-up CRS and Program Manager reviewer or designee who can respond to complaints when the **complaints are directly pertaining to the CRS, program manager or close family member**. In this case, no designee was named even though the complaints were directly related to the issuer of the Program Manager's decision and his spouse. **A violation of the Client's right to proper grievance procedure was found**. (Level III decision in Case No. 15-SGE-0002 on 01/29/2016)

130. A **level I-A and I-B decision did not include an analysis of the relevant rights** and a finding of whether the specific grievance was "founded" or "unfounded." Further, neither decision contained complete appeal information. A violation of the client's right to the proper grievance process was found. (Level III decision in Case No. 15-SGE-0003 on 01/14/2016)

131. A patient's mother grieved that the patient's rights were violated when an in home ceiling lift was installed improperly. The patient was receiving services from the County for developmental disabilities. The provider combined the Client Rights Specialist's report (Level I-A decision) with the Program Manager's report (Level I-B Decision) and the County's decision (Level II). **Applicable regulations require that a separate decision be investigated and issued upon appeal at each level in order to ensure that the patient receives due process and to give the provider adequate time to consider the short and long term implications of the complaint**. Although a modified grievance process is allowed where the County is the provider, best practice would be for the County to issue two separate decisions, one by the CRS (Levels I-A and I-B) and one by the County Administrator for the DHS (Level II). A technical violation of the client's right to the client rights grievance process was found because the County issued a single decision in this case. (Level III decision in Case No. 15-SGE-0004 on 01/14/2016)

132. A grievant filed a Level III grievance after the 45 day time limit. **The 45 day time limit can be extended for good cause**. The State Grievance Examiner (SGE) found that the investigation of the grievance could result in an improvement in care or the prevention of harm to the client in question or other clients. **Good cause to**

extend the deadline was found because problems with the provider's grievance procedure could be discovered and alleviated as a result of the investigation. (Level III decision in Case No. 15-SGE-0006 on 7/11/2016)

133. A grievant claimed that **he told county staff that he wished to file a verbal grievance. The staff member allegedly told the grievant that it "did not matter" and that a discharge "decision was final."** The grievant talked to the State Grievance Examiner (SGE) and **initially stated that he did not wish to file a grievance, changed his mind, and then changed his mind again.** The CRS reported the same phenomena and that the CRS was under the impression that the patient did not wish to grieve. The grievant's claim that he was blocked from grieving is unsupported by evidence other than his claim that he told staff that he wished to grieve. **The burden of proof was on the grievant to show that it was more probable than not that staff violated his rights even if the grievant had wished to file a grievance.** The only evidence was the Grievant's claim that staff violated his rights, which staff denied. This was not sufficient evidence to satisfy the more probable than not standard. (Level III decision in Case No. 15-SGE-0006 on 7/11/2016)

134. **A grievant and county provider disagreed about whether the grievant's discharge from outpatient services was voluntary or involuntary.** Similarly, the grievant and the county disagreed about whether the patient attempted to access the grievance process. Eventually, the patient filed a grievance. The grievant **agreed to give the CRS a 14 day extension** to complete the level II grievance decision. The CRS' decision was issued 13 days after the 30 day time limit, but within the 15 day extension that the client had agreed to. This was not a violation of the patient's right to proper procedure. (Level III decision in Case No. 15-SGE-0006 on 7/11/2016)

135. A county's Client Right Specialist ("CRS") sent the program's associate director a level II grievance decision and CC'd the grievant. The county director's decision must be made by the director of the county department or his or her designee. **The county director must sign the decision even if a designee completes a draft.** **In this case the CRS signed the decision. The patient's right to proper grievance process that complies with applicable regulations was violated when the county director did not conduct or sign the level II investigation.** (Level III decision in Case No. 15-SGE-0006 on 7/11/2016)

136. A county's Client Right Specialist ("CRS") sent the program's associate director a level II grievance decision and CC'd the grievant. **The Level II decision must be given personally or sent via first class mail to all of the parties.** **The patient's right to a grievance process that complies with applicable regulations was violated** when several versions of the level II decision were sent to the parties, and when the Level II decision was not sent via first class mail to the grievant. The DHS 94 community grievance resolution procedure is a person centered process and **responses should be addressed to the grievant directly.** (Level III decision in

Case No. 15-SGE-0006 on 7/11/2016)

137. A grievant claimed that a **strip search conducted upon her admission was improperly performed** by staff at an inpatient psychiatric hospital. The patient alleged that she was not informed of her right to speak with a Client Rights Specialist until after she had contacted the Wisconsin State Client Rights Office. No evidence was submitted that would indicate that the grievant requested information about her rights or asked to speak to a client rights specialist before contacting the State. The provider claimed that the grievant was given notice of patient rights when she was admitted. No violation of the client's right to the proper grievance procedure was found because the patient's concerns were addressed by the provider in a thorough and prompt manner after the grievant contacted the provider's Client Rights Specialist. (Level III decision in Case No. 15-SGE-0008 on 6/16/2016)

138. A grievant raised several issues as issues of first impression at Level III. **Substantive issues must be raised in the initial grievance and addressed by the provider in Level I-A in order to be addressed at level III.** The grievances were de facto dismissed. (Level IV decision in Case No. 16-SGE-01 on 12/15/2016)

139. A patient claimed that her former therapist, who retired during the pendency of the grievance, lied in her progress notes, behaved inappropriately towards her and was not properly credentialed to provide services to her. All that the grievant provided to support her claims were annotated copies of the progress notes prepared by the provider. The annotations were made by the grievant. The grievant did not submit any other evidence. **The case had to be dismissed for failure to provide evidence that the grievant's claims were valid.** (Level III decision in Case No. 16-SGE-03 on 11/3/2016)

140. A patient claimed that her former therapist, who retired during the pendency of the grievance, lied in her progress notes, behaved inappropriately towards her and was not properly credentialed to provide services to her. The Client Rights Specialist (CRS) originally thought that the patient was filing a HIPPA complaint and closed the file when the patient did not return Release of Information forms or share any information about her concerns. The State Grievance Examiner (SGE) has the responsibility to evaluate the grievance process used by providers and write a report to the parties regarding areas of non-compliance and to provide recommendations as appropriate. Although the provider level decisions did address the issues raised by the client, they did not discuss the client rights implicated by the grievant's complaints. However, **since the patient did not provide any evidence beyond an annotated copy of the provider's progress notes**, the SGE found that no harm was done to the patient and no violation was found. (Level III decision in Case No. 16-SGE-03 on 11/3/2016)

141. A patient grieved that a monetary settlement was not included in the informal or formal grievance resolution process. The **community rights grievance process**

does not provide for or result in monetary damages. (Level III decision in Case No. 16-SGE-04 on 4/20/2017)

142. A patient's mother acted on the patient's behalf and grieved that the County violated her patient rights when she was discharged from the Treatment Alternative and Diversion program. The grievant raised a new complaint about billing on appeal to level III. **New issues that were not raised in the initial grievance must be presented to the provider's Client Rights Specialist and investigated at the provider level prior to Level III investigation.** (Level IV decision in Case No. 16-SGE-0006 on 10/23/2017)

143. A Client Rights Specialist and a Program Manager **failed to address issues that were raised by a patient in her initial grievance.** A violation of the patient's right to the grievance procedure was found. This finding was based on the facts that the code requires the Client Rights Specialist and the Program Manager to conduct an inquiry into all of the incidents which are the focus of the grievance. Prior case precedent has held that omissions of this sort are a violation of the patient's right to proper grievance procedure. Recommendations were made to the provider to address issues with their grievance procedure. (Level III, Case No. 17-SGE-03)

144. A patient grieved the facility violated her rights when her medication dosage was increased. The grievant's right to a proper grievance procedure was technically violated. **The provider directed her to appeal to Level III before issuing a Level II decision. Also, the provider issued its Level II decision 2 months late.** (Level III Decision, Case No. 17-SGE-05)

145. A patient's family grieved after the patient committed suicide, however the family faced difficulties during the grievance process. **The family alleged the following: they were informed there was not a Client Rights Specialist to file their grievance with; the Level I-A report was five days late; and the provider decisions did not contain appeal information.** There was not enough information to verify that the family was told that there was not a Client Rights Specialist. It was also not a violation of the 30 day timeframe a CRS has to issue a Level I-A decision when the Level I-A report was issued five days late. It was a violation of the grievance process when the provider's Level I-A and I-B reports did not include information of the appeal process in writing. (Level III Grievance Decision in Case No. 18-SGE-01).

146. A five year old patient's family grieved on behalf of the minor. The provider is required to assign a Client Rights Specialist to investigate a grievance and provide a written decision within 30 days the grievance was filed, which must include the findings of the investigation and analysis. The grieving party then has the ability to appeal the decision to the Program Manager, and he or she will provide a written decision upholding, modifying or overturning the CRS report. It was determined that **the provider violated the patient's right to notification of the grievance procedure and failed to follow the proper grievance procedure, because none**

of the requirements of the applicable law or code were met in the investigation, and the response to the grieving party's concerns was a mere five sentence summary. (Level III Grievance Decision in Case No 18-SGE-02)

147. A patient complained that her rights related to the grievance procedure were violated when **she was not informed of her rights or the grievance procedure, when the Level I-A decision was issued 39 days late, and when each issue was not individually stated in the Level II decision.** There was not a violation found of the grievant's right to be informed of the grievance procedure as the patient had signed a consent to treatment document stating she was informed of her rights and the grievance procedure upon admission. A technical violation was found when the Level I-A report was issued 39 days past the due date. There was also a technical violation of the patient's rights when the Level II decision did not state the specific issues or findings of facts or conclusions in the Level II decision. (Level III Grievance Decision in Case No 18-SGE-03)

148. A patient claimed that her grievance should be considered an emergency **when the provider was unable to provide impractical accommodations to the patient's crisis plan. It was determined that this grievance was not an emergency, since the patient was not at a signification risk** given the provider was already doing as much as they could to accommodate the patient's requests. (Level III Grievance Decision, upheld at Level IV, in Case No. 18-SGE-05).

149. A provider violated a patient's right to the grievance procedure when **the patient's family initially did not have access to the grievance procedure; the Level I and II decisions were considerably late; and the appeal instructions provided to the grieving party were inaccurate.** (Level III Grievance in Case No. 18-SGE-06)

150. A patient claimed the provider did not have a grievance process and did not inform the patient of her patient rights. The patient signed an acknowledgement that she received information related to the grievance procedure and patient rights. The real issue was determined to be **the provider was informally attempting to resolve the patient's complaints. However, both parties have to agree to an informal resolution process, which was not done in this case.** The grievant's right to the grievance procedure was violated. (Level III grievance decision in Case No. 20-SGE-07)

151. A patient complained that a former therapist with Comprehensive Community Services (CCS) violated her rights by **failing to disclose a personal relationship with the patient's alleged abuser and by treating the patient disrespectfully with respect to her abuse history. The patient filed the complaint with the County, not the provider, and the County examined the concerns as a contract compliance issue within CCS, not as a Client Rights Grievance.** The patient filed a subsequent grievance with the County alleging that the investigation into the former therapist was inadequate because it did not substantiate any concerns. The

subsequent grievance also alleged that the County violated the patient's right to access the grievance process in the way it handled the first grievance. The County issued two decisions in the subsequent grievance and this office issued a decision termed as Level III, although the steps of the grievance process were unusual. **As the service provider, the former therapist, was never afforded the opportunity to respond to the patient's concerns in the Client Rights grievance process, it was inappropriate to examine these concerns at Level III.** These concerns were remanded to Level I (the service provider, not the county) for examination. The county violated the patient's right to access the grievance procedure in several ways in the way it handled the first complaint. Suggestions for additional training for County staff were made. (Level III in 23-SGE-02)

152. A provider appealed a Level II Decision that was provided by the county. This Level II Decision pertained to an original grievance that was filed originally by a parent of a minor who was receiving Comprehensive Community Services (CCS) through the provider. **During the appeal process, the issues brought forward within the original grievance are currently being heard in circuit court through the Mental Health Review Officer process described in Wisconsin Stat. §51.14. The grievance process outlined within Wisconsin Administrative Code DHS 94 has no jurisdiction over issues raised in circuit court and therefore it would be improper for our office to examine. The appeal to Level III has been dismissed as not grievable.** (25-SGE-00331)

153. A patient's grievance resulted in Level I-A and Level I-B decisions that failed to include any discussion of client rights. **The decisions did not explain which rights applied to the grievant's complaints or how the facts did or did not lead the reviewer to his or her conclusions. The decision did not include any instructions as to how the grievant should appeal the decision if the patient disagreed with its findings.** Important information, such as the availability of another investigation, the 14-day time limit for appeal and contact information for the ensuing level of review must be communication in the decision so that there is a record that the grievant has been made aware of her right to the entire 4 tier grievance process. **The lack of which rights were applied, and lack of appeal information is a violation of the grievant's right to proper grievance procedure.** (Level III Decision 25-SGE-01117)

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