

PATIENT DEFINED
(TO WHOM PATIENT RIGHTS APPLY)

LAW

“Patient Rights... In this section, ‘patient’ means any individual who is **receiving services for mental illness, developmental disabilities, alcoholism, or drug dependency**, including any individual who is admitted to a treatment facility in accordance with this chapter or ch. 48 or 55 or who is detained, committed or placed under this chapter or ch. 48, 55, 971, 975 or 980, or... who is receiving care or treatment for those conditions through the department or a county department under s. 51.42 or 52.437 or in a private treatment facility... In private hospitals and public general hospitals, ‘patient’ includes any individual who is admitted for the primary purpose of treatment of mental illness, developmental disabilities, alcoholism, or drug abuse but **does not include an individual who receives treatment in a hospital emergency room** nor an individual who receives treatment on an outpatient basis at those hospitals, unless the individual is otherwise covered under this subsection...”

§ 51.61(1), Wis. Stats. [emphasis added]

[An **outpatient mental health clinic**] “...shall implement written policies and procedures that are consistent with s. 51.61, Stats., and ch. DHS 94 to protect the rights of consumers.”

DHS 35.24(1), Wis. Admin. Code

“(1) Any client [of the **intoxicated driver program**] may file a grievance under ch. DHS 94 or s. 51.61, Stats., if the client believes that the client rights specified under ch. DHS 94 or s. 51.61, Stats., have been violated.

(2) If a client files a grievance under ch. DHS 94 or s. 51.61, Stats., the grievance review and resolution process does not change the timelines or reports of compliance or noncompliance specified in s. DHS 62.07, 62.08, or 62.09 to complete the assessment and driver safety plan and the department of transportation notification of compliance or noncompliance.”

DHS 62.14(1), Wis. Admin. Code

DECISIONS

1. Individuals **in a methadone treatment program have patient rights** and access to the grievance process regarding their treatment. (Level IV decision in Case No. 99-SGE-01 on 5/16/00)
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 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.)
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. Her daughter's therapist told her mother, in a rather public place, by that she (the mother) was the one who needed treatment. This remark was **insensitive,** but the **mother was not a patient** at the time and the **right to dignity and respect did not apply to her.** (Level III decision in Case No. 01-SGE-02 on 12/10/01.)
7. A complainant claimed he was not allowed to participate in the planning of his treatment with regard to **joint marriage counseling.** It was found that these were **individual sessions for his wife in which he was invited** to be present. No rights violation was found since it **was not his treatment** that was involved. It was concluded that **joint marriage counseling, per se, is not mental health treatment to which "patient rights" apply.** There was no violation of his rights, even if it was joint marriage counseling. (Level IV decision in Case No. 02-SGE-07 on 3/10/04.)
8. The purpose of an **independent outpatient evaluation** is to determine whether or not the individual is experiencing a mental illness and is in need of treatment. **It is the provision of treatment that makes the individual a "patient".** The full panoply of patient rights did not attach to such an evaluation. However, the complainant still had rights in regard to access to

the records generated by the evaluation. (Level IV decision in Case No. 06-SGE-09 on 9/27/06)

9. All of a client's grievances originated from treatment that she received in a **hospital's Emergency Room**. According to Wisconsin Statute 51.61(1), **"patient rights" do not apply to individuals that receive treatment in a hospital ERs**. Therefore, the State Grievance Examiner could not evaluate her claims in the context of patient rights. (Level III decision in Case No. 10-SGE-12 on 3/22/11)
10. A **person gains patient rights when they receive services** for mental illness, substance abuse or developmental disability. Thus, a person may not utilize the grievance procedure until they are actively receiving services. **Since appropriate services are initially determined at intake, complainant's services began during her intake assessment**. (Level III decision in Case No. Case No. 11-SGE-07 on 06/19/12)
11. A patient was taken to the provider's ER. The patient was voluntarily admitted to the behavioral health unit after considerable indecision. The patient claimed that provider staff misinformed her husband that no strip searches would be performed. The State Grievance Examiner held that even if the claim were true, **any misinformation supplied to her husband regarding body searches occurred before she received services and, therefore, the DHS 94 Wis. Admin Code grievance procedure is not available to her for this claim**. Further, the definition of patient expressly excludes anyone who receives services in a hospital emergency room, which means that the rights and processes provided in 51.61 do not apply to treatment received in an ER. (Level III decision in Case No. 16-SGE-08 on 5/26/2017)

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