

TREATMENT – METHADONE CLINICS

THE LAW

Each patient shall... "Have a right to receive **prompt and adequate treatment, rehabilitation** and **educational services** appropriate for his or her condition..."

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

"All patients shall be provided **prompt and adequate treatment, habilitation** or **rehabilitation, supports**, community services and **educational services** as required under s. 51.61(1)(f), Stats., and copies of applicable licensing and certification rules and program manuals and guidelines."

DHS 94.08, Wis. Admin. Code [Emphasis added.]

"Methadone is a highly regulated controlled substance. The clinics have strict rules about its use that clients must follow to ensure their own safety as well as the safety of others in the community. If a client violates those rules and is dismissed from the program or their dosage is changed, the client may file a grievance about these issues. However, they would have to show that the decisions made about them were arbitrary. To be "non-arbitrary", there must have been reasons for the decisions that made sense under the circumstances."

- Client Rights Office position statement

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. **Methadone is a nationally recognized treatment modality for heroin addiction.** Where a patient has done well on a methadone program, staying drug-free for a period of 18 months, the **continuation of outpatient treatment** for her is **appropriate.** It is also the least restrictive alternative to inpatient treatment. (Level IV decision in Case No. 99-SGE-01 on 5/16/00)
3. The client's **rights were violated** when the **Level II grievance decision** by a methadone clinic **did not advise the complainant of his right to a state-level review.** (Level III decision in Case No. 99-SGE-02 on 5/17/00. The client appealed; but this issue was dismissed at Level IV because the Level III decision ruled in his favor.)

4. The client's **rights were violated** when a methadone **clinic did not ensure that all clinic employees were aware of patient rights and the grievance process**. (Level III decision in Case No. 99-SGE-02 on 5/17/00. The client appealed; but this issue was dismissed at Level IV because the Level III decision ruled in his favor.)
5. A patient in an **outpatient methadone treatment program** was observed **"splitting his dose"** in a bathroom at the clinic. The clinic subsequently **increased his "monitoring level"** for a six-month probationary period. This **did not violate his right** to the least restrictive treatment. (Level IV decision in Case No. 99-SGE-02 on 5/17/00, upholding the Level III)
6. A methadone clinic took away a client's **Sunday take-home privileges** after some rule violations. The client had a positive breathalyzer test result for alcohol, had lost her take-home bottle, and had taken an overdose of another medication. She was **informed in writing** of the **requirements** for restoring her Sunday take-home privilege, which included having no positive breathalyzers for alcohol and obtaining a letter from her psychiatrist stating that in his/her best clinical judgment that she was responsible and could handle her Sunday take home bottle. Her **right to be treated fairly was not violated** because the clinic had **significant, appropriately documented reasons** to take away her Sunday take-home dose. The Sunday take-home dose was eventually restored in an individualized and appropriate manner. (Level III decision in Case No. 04-SGE-02 on 12/20/04)
7. A client of a methadone clinic had difficulties receiving **psychiatric treatment for anxiety** that was accessible and affordable to her and which was also acceptable to the clinic. She found one she liked, but **was told to quit seeing him** by the clinic or her services would be terminated. The psychiatrist in question **does not have a good reputation in the field of substance abuse treatment** because he has a reputation for **prescribing medications that may not be appropriate**. The client then found a new psychiatrist who charged more and was less accessible for her to visit. Her right to choose her own psychiatrist was not violated because **the clinic had good reasons** to ask her to see a different psychiatrist. It was not an arbitrary decision by the clinic in these circumstances. (Level III decision in Case No. 04-SGE-02 on 12/20/04)
8. The **confidentiality rights** of a client at a methadone clinic were **violated** when she was **called by her first and last name in the waiting room**. The appropriate and professional way to address her would be to only use her first name when other clients are present. The clinic **remedied** this confidentiality breach by **conducting a staff In-service on confidentiality**. (Level III decision in Case No. 04-SGE-02 on 12/20/04)

9. A client's **right to be treated with dignity and respect** were **violated** at a methadone clinic when her **psychiatrist made a remark** about her lack of treatment progress **in front of other clients in the waiting room**. (Level III decision in Case No. 04-SGE-02 on 12/20/04)
10. A client of a **methadone clinic** was also undergoing treatment for **hepatitis** and liver cancer. The clinic had some concerns about a **small amount of alcohol** in the client's system, which she claimed was a **byproduct** of her **hepatitis treatment**. From the **limited facts** at hand, it was not possible to determine if any violation of her rights occurred. (Level III decision in Case No. 04-SGE-02 on 12/20/04)
11. A patient who had been **discharged from a methadone clinic** requested the Department of Health Services to assign an attorney to assist her. The department does not assign attorneys to individuals. **If she wanted to sue the clinic, she would have to hire a private attorney**. (Level III decision in Case No. 06-SGE-13 on 11/30/06)
12. A patient who had been discharged from a methadone clinic requested **access to two federal forms** from our department. The forms she request were **internal operations forms** between methadone treatment provider agencies and the **federal government**. Clients **do not have a right to either of those forms**. (Level III decision in Case No. 06-SGE-13 on 11/30/06)
13. An ex-patient **filed a complaint 80 days after her discharge** from a methadone clinic. The Client Rights Specialist for the clinic informally considered the concerns and determined that no rights violations occurred. Since the **45 day time frame to file a complaint was exceeded**, the patient's **right to file** a grievance was **not violated** by the clinic's refusal to formally process the complaint. (Level III decision in Case No. 06-SGE-13 on 11/30/06)
14. A former client of an outpatient methadone clinic complained about a new policy that **Sunday take-home doses were restricted to those who did not miss other dosing days**. He wanted the clinic to either be open on Sundays or reverse the Sunday take-home policy. It was concluded that **the policy did not punish patients because it was applied equitably**, it was instituted **to motivate patients** to take every scheduled dose, it has **been successful in decreasing no-shows**, it **complies with the federal regulations, state law and code** and the **provider does make exceptions to the policy for patients that miss doses infrequently and for good reasons**, such as automobile problems or illness. No rights violation was found. (Level III decision in Case No. 10-SGE-13 on 3/03/11)

15. 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)
16. A former client of an outpatient methadone clinic complained that the **managing doctors had a conflict of interest** in handling his grievances. 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)
17. A former client of an outpatient methadone clinic complained that he was **not allowed to use a cell phone** even though staff used them. The restriction of cell phone use on program premises was **not arbitrary**. The clinic must ensure that clients' **confidentiality** is protected. Cell phones can and had been used to record video of patients in the clinic and then post to the Internet. Staff are also prohibited from using cell phones there. If staff were not following that directive, the matter would need to be addressed by program administration since it would not amount to a patient rights violation unless evidence was provided that staff were illicitly video recording clients at the clinic. (Level III decision in Case No. 10-SGE-13 on 3/03/11)
18. A former client of an outpatient methadone clinic complained that the **rules and policies were constantly changing** without being adequately communicated to the patients, that he was not provided with a rule handbook after requesting one, nor were new rules put into writing for him. He wanted all rules to be preceded by four weeks notice and for there to be better staff-patient communication about policies. The two-week notice of the new Sunday take-home policy was adequate and did not violate patient rights. Recommendations were made regarding staff-patient communication and the provision of a rule book for clients. (Level III decision in Case No. 10-SGE-13 on 3/03/11)
19. A former client of an outpatient methadone clinic **complained that he received no counseling and no assistance in finding employment**. The evidence indicated that **the counseling and assistance he had received was adequate** and did not violate his patient rights. He had been enrolled as a part-time student at the time and **had participated in the minimum requirement of monthly counseling sessions** during his treatment. **Assistance with procuring employment is not a patient right**; it is an

additional service that the program had pledged to provide to clients. (Level III decision in Case No. 10-SGE-13 on 3/03/11)

20. A former client of an outpatient methadone clinic **claims he was deterred** from filing complaints for **fear of retaliation**. He felt that **his sister was discharged from the same program for complaining**. The discharge of his sister could not be addressed since the reasons for her discharge from the program were confidential and she did not file a grievance about it. There was **no other evidence** presented **that clients were deterred from filing complaints**. (Level III decision in Case No. 10-SGE-13 on 3/03/11)
21. A client complained about **losing her Phase 5 treatment status** at a methadone clinic. Adjusting someone's treatment level is a **risk-reduction measure**. For that type of decision, the provider **only needs probable cause** to believe that the patient poses a significant risk in order to implement the measure. Her **missed call-back** and the **two anonymous accusations** that she was hoarding and selling her methadone doses provided them with sufficient probable cause to reduce her treatment phase. The decision was therefore not arbitrary. (Level IV decision in Case No. 11-SGE-04 on 10/17/11)
21. All parties agreed that a client was **not at the clinic for a same-day call back** on a specific date and that **reports had been made to the methadone clinic that she had been selling her methadone doses**. Her right to adequate treatment would have been violated if she was administratively discharged as a punishment or for arbitrary reasons. But if the clinic was convinced by her missed same day call-back and the informants accusations that she had, in fact, hoarded and sold her methadone doses, it would not have been excessive to require her to receive her daily doses at the clinic or to administratively discharge her from the clinic. **Requiring her to appear in person** to receive daily doses **was a risk-reduction measure and not a punishment**. (Level III decision in Case No. 11-SGE-05 on 9/20/11)
22. A methadone client **questioned** whether the **decision to reduce her split dose** at 105 mg two times per day to 180 mg once per day was adequate treatment. The courts and the Client Rights Office **give doctors "due deference" in making treatment decisions** like these. The provider's Administrator explained that when accusations of selling are accepted as true, the assumption is that the patient has not been consuming his or her dose as scheduled and, therefore, will not suffer withdrawal symptoms from a large decrease in dosage. If the client does experience withdrawal symptoms, he or she may request their taper be slowed. The client's doctor did recommend that her taper be slowed twice in response to her requests. (Level III decision in Case No. 11-SGE-05 on 9/20/11)

23. A client's right to be free from arbitrary decisions was **not violated** because the provider's **decision to terminate her treatment** was based on accusations the provider found credible. Also, the provider's decision was based, at least in part, on evidence of a missed same day call-back, which is a **rule violation**. (Level III decision in Case No. 11-SGE-05 on 9/20/11)

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