

Section 5.3 **Grievance and Requests for Investigation for Persons
Determined to have a Serious Mental Illness (SMI)**

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5.3.1 Introduction

A grievance and request for investigation process has been established for persons determined to have a Serious Mental Illness (SMI) who are receiving services as part of the Arizona Department of Health Services/Division of Behavioral Health Services (ADHS/DBHS) behavioral health system. The grievance and request for investigation process for persons determined to have a SMI focuses on situations in which:

- The rights of a person determined to have a SMI have been violated;
- The person has been abused or mistreated;
- There is a death of a person that occurs in a mental health agency, or as a result of an action of a person employed by a mental health agency.

The intent of this section is to describe behavioral health provider responsibilities related to grievances and requests for investigations involving persons who have been determined to have a SMI.

5.3.2 Terms

Definitions for terms are located online at <http://www.azdhs.gov/bhs/definitions/index.php> and <http://www.magellanofaz.com/for-providers/provider-manual/definitions.aspx>. The following terms are referenced in this section:

Administrative Appeal
Abuse
Appeal
Condition Requiring Investigation
Dangerous
Grievance or Request for Investigation
Illegal
Inhumane
Mental Health Agency
Special Assistance

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5.3.3 Procedures

5.3.3-A. Grievance and Requests for Investigation Principles

It is the intent of ADHS/DBHS that the grievance and request for investigation process for persons determined to have a SMI must:

- Resolve in an expeditious and equitable manner any allegations that a rights violation or a condition requiring investigation has occurred with regard to persons determined to have a SMI;
- Maintain confidentiality and privacy of the grievance matters and records at all times;
- Take the necessary steps to protect the health, safety and security of any person determined to have a SMI, witness or individual filing the grievance;
- Communicate, as appropriate, timely information on matters and decisions related to the grievance and investigation to affected parties;
- Involve the active cooperation and participation as deemed appropriate of providers with a direct interest in the matter under review; and
- Serve as a means for identifying system deficiencies and developing corrective action plans to resolve any deficiencies identified.

5.3.3-B. Filing grievances and requests for investigations

A grievance or request for investigation may be submitted orally or in writing by a person determined to have a SMI who is enrolled with a Tribal/Regional Health Authority (T/RBHA) or by any other concerned person in situations in which it is alleged that:

- A violation of the person's rights may have occurred; or
- A condition requiring investigation currently exists or has occurred.

If asked, a behavioral health provider must assist a person in initiating an oral or written grievance or request for investigation.

If a behavioral health provider has reason to believe that a rights violation or condition requiring investigation has occurred, they must ensure that a grievance or request for investigation is filed. When requested, failure of an employee or individual under contract with a provider to file a grievance or request for investigation may be grounds for corrective action against the employee.

All grievances or requests for investigation must be:

- Submitted orally or in writing to:
Magellan Health Services of Arizona
Call 800-564-5465 with oral grievances (the TTY/TDD number is 602-914-5809),
and send written grievances to:

Magellan Health Services of Arizona
Attention: QI Dept./Grievances
P.O. Box 68110
Phoenix, AZ 85082-8110

- Reduced to writing on the ADHS/DBHS grievance or request for investigation form (see [PM Form 5.3.1](#)) by either the person filing the grievance or request for investigation or by the provider to whom the grievance or request for investigation is made.

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5.3.3-C. Grievance and request for investigation resolution process

The entity initially responsible for resolving grievances or requests for investigation differs depending on the nature of the grievance or request for investigation:

- Allegations of rights violations involving abuse or the death of a person determined to have a Serious Mental Illness are investigated by ADHS/DBHS; and
- Allegations of rights violations other than abuse or death are investigated by:
 - The Arizona State Hospital if the violation occurred at the Hospital;
 - The RBHA if the violation occurred at the RBHA or at one of its providers; or
 - ADHS/DBHS if the violation occurred at the TRBHA or at one of its providers.

The process for resolving grievances or requests for investigation may also vary in length; ranging from:

- Immediate disposition without investigation;
- An investigation and final decision;
- An administrative appeal; or
- An administrative hearing.

How is time computed?

When computing any period of time associated with this process:

- The period begins the day after the act, event or decision occurs and includes all calendar days and the final day of the period. If the final day of the period is a weekend or legal holiday, the period is extended until the end of the next day that is not a weekend or a legal holiday;
- If the period of time is not designated as calendar days and is less than 11 days, then intermediate Saturdays, Sundays and legal holidays must not be included in the computation.

What are the responsibilities of a behavioral health provider?

Behavioral health providers are not directly responsible for the resolution of the grievance or request for investigation, but are required to actively participate in the process as follows:

- Cooperate in the investigation by participating in any private face-to-face interviews the investigator requests. Failure to cooperate may lead to corrective action;
- Provide information requested by the RBHA or ADHS/DBHS designated investigator in a timely manner;
- Continue to cooperate and participate as necessary in any subsequent appeal proceedings relating to the grievance or request for investigation; and
- Implement any immediate, reasonable action required to protect the health and safety of any person determined to have a SMI or involved staff.

5.3.4 References

The following citations can serve as additional resources for this content area:

[A.R.S. §1-254](#)

[A.R.S. §36-502.D](#)

[A.R.S. 41, Chapter 6, Article 10](#)

[A.A.C. R9-21-101\(B\)](#)

[A.A.C. R9-21-103](#)

[A.A.C. R9-21, Article 4](#)

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[ADHS/RBHA Contracts](#)

[ADHS/TRBHA IGA](#)

[Policy and Procedures, GA 3.1, Conduct of Investigations Concerning Persons with Serious Mental Illness](#)

[Section 3.10 SMI Eligibility Determination](#)

[Section 5.2 Member Complaints](#)

[Section 5.4 Special Assistance for Persons Determined to Have a Serious Mental Illness](#)

[Section 7.3 Seclusion and Restraint Reporting](#)

[Section 7.4 Reporting of Incidents, Accidents and Deaths](#)

5.3.5 PM Forms

5.3.6 PM Attachments