

APPENDIX D

Minimum Guidelines for Recipient Grievance Procedures

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PURPOSE OF APPENDIX D:

The purpose of Appendix D is to outline the minimum guidelines for recipient grievance procedures that apply to programs administered by the Department, with the exception of the Medicaid waivers. Medicaid waiver clients have the right to request a fair hearing from the Department of Children and Families (DCF) Office of Appeal Hearings.

In computing any period of time prescribed by these guidelines, the last day of the established time frame shall be included, unless it fall on a Saturday, Sunday, or legal holiday. If the last day falls on a Saturday, Sunday, or legal holiday, the established time frame shall be extended until the end of the next business day.

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SPECIFIC LEGAL AUTHORITY:

Americans with Disabilities Act

Section 306(a)(10) Older Americans Act of 1965, as amended

Section 430.04(2)(g), F.S.

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Notice to the Recipient of Adverse Action Taken and Explanation of the Grievance Procedure

NOTICE TO THE RECIPIENT OF THE ADVERSE ACTION DEEMED TERMINATION, SUSPENSION OR REDUCTION IN SERVICE TO BE TAKEN AND EXPLANATION OF THE GRIEVANCE PROCEDURE:

- A. Written Prior Notice:** The service provider shall inform the recipient in writing of the adverse action to be taken not less than ten (10) calendar days prior to the effective date of the adverse action.

Prior notice is not applicable when the health or safety of the recipient is endangered if action is not taken immediately; however, notice must be made as soon thereafter as practicable.

- B. Continuation of Services:** Services cannot be reduced or terminated and there can be no other adverse action during the 10-day period.

- C. Notice Contents:** The notice shall contain the following elements:

1. A statement of what action is being taken.
2. The reason(s) for the intended action.
3. An explanation of:
 - a. The recipient's right to a grievance review. The request shall be made in writing and delivered within ten (10) calendar days of the date the notice is postmarked. The service provider shall offer the recipient assistance in writing, submitting and delivering the request.
 - b. The recipient's right, after a grievance review, for further appeal.
 - c. The recipient's right to seek redress through the courts, if applicable.
4. **Statement of Services Continuation:** A statement indicating that if a grievance review is requested, current services will continue until a final decision is made regarding the adverse action.
5. **Representation:** A statement advising that the recipient may represent himself/herself or use legal counsel, a relative, a friend or other qualified representative in the review proceedings.

- D. Records:** All records of the above activities shall be preserved in the recipient's file.

Grievance Review Procedure Upon Timely Receipt of a Written Request for Review

GRIEVANCE REVIEW PROCEDURE UPON TIMELY RECEIPT OF A WRITTEN REQUEST FOR REVIEW:

- A. Written Acknowledgement:** Within seven (7) calendar days after receiving a request for review, the service provider shall acknowledge receipt of the request in writing. This written acknowledgment shall also provide notice of:
1. The date, time, and place scheduled for the review;
 2. The designation of one or more impartial reviewers who have not been involved in the decision at issue;
 3. The opportunity to examine the recipient's case record within a reasonable time before the review. Copies of the case record shall be provided at no cost to the recipient if requested;
 4. The opportunity for the recipient or the recipients representative to informally present argument, evidence, or witnesses at a reasonable time before or during the review; and
 5. A contact person for any accommodations required under the Americans with Disabilities Act, including assistance, if needed, to attend the review, and assurance that the intended adverse action will not be taken until all appeal rights have been exhausted.
- B. Reasonable Accommodations:** All grievance reviews shall be conducted at a reasonable time, date and place by one or more impartial reviewers who have not been directly involved in the initial determination of the adverse action.
- C. Written Confirmation of Decision:** The reviewer(s) shall provide written notification to the recipient, within seven (7) calendar days after the grievance review. The written notice shall include the following information:
1. The decision and the detailed reason(s) for the decision;
 2. The effect the decision has on the recipient's current benefits, if favorable, or the circumstances regarding continuation of current benefits until all appeal rights are exhausted, if not favorable;
 3. The recipient's right to appeal an adverse decision to the Area Agency on Aging by written request within seven (7) calendar days, except in decisions involving the professional judgment of a legal assistance provider;

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4. The availability of assistance in writing, submitting and delivering the appeal to the appropriate agency;
5. The recipient's right to represent himself/herself or be represented by legal counsel, a relative, a friend or other qualified representative; and
6. The recipient's right to file a grievance with the Florida Bar relative to complaints involving the provision of legal representation in cases where the recipient is represented by a legal assistance service provider.

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Procedure for Appeals of a Grievance Review Decision Upon Timely Receipt
of a Written Appeal to the Area Agency on Aging

**PROCEDURES FOR APPEALS OF A GRIEVANCE REVIEW DECISION UPON
TIMELY RECEIPT OF A WRITTEN APPEAL TO THE AREA AGENCY ON AGING**

- A. Written Acknowledgement:** Within seven (7) calendar days after receiving a notice of appeal of a grievance review decision, the AAA shall send the recipient written acknowledgement of receipt of the appeal notice. The written acknowledgement shall also provide notice of:
1. The date, time, and place of the scheduled appeal hearing;
 2. The designation of one or more impartial AAA officials who have not been involved in the decision at issue;
 3. The opportunity to examine the recipient's case record within a reasonable time before the appeal hearing. Copies of the case record shall be provided at no cost to the recipient, if requested;
 4. The opportunity for the recipient or the recipient's representative to informally present argument, evidence, or witnesses during the appeal;
 5. A contact person for any accommodations required under the Americans with Disabilities Act, including assistance, if needed, to attend the appeal hearing; and
 6. A statement that current benefits will continue until all appeal rights are exhausted.
- B. Reasonable Accommodations:** All appeal hearings involving grievance reviews shall be conducted at a reasonable time, date and place by one or more impartial AAA officials who have not been directly involved in the determination of the adverse action.
- C. Written Confirmation of Decision:** The designated AAA official(s) shall provide written notification to the recipient within 7 calendar days after the grievance review appeal is heard. The notification shall include the following information:
1. The decision and the detailed reason(s) for the decision;
 2. The effect the decision has on the recipient's current benefits, if favorable, or the circumstances regarding continuation of current benefits until all appeal rights are exhausted, if not favorable;

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**Procedure for Appeals of a Grievance Review Decision Upon Timely Receipt
of a Written Appeal to the Area Agency on Aging (AAA)**

3. The recipient's right to appeal the AAA's decision, if applicable; and
 4. A contact person for any accommodations required under the Americans with Disabilities Act.
- D. Final Decision:** The AAA's decision shall be the final decision.
- E. Records:** All records of the above activities shall be preserved and remain confidential. A copy of the final decision shall be placed in the recipient's file.

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