

Chesterfield Mental Health Support Services

Section: Consumer Complaint Procedure

Section No. 40.13

Subject: Resolving a complaint by a non-staff person.

Effective Date: 7/16/90

Reviewed Date: 2/21/14

The process outlined in this document is meant establish the procedures to implement the Complaint Resolution Hearings, and Appeals Section of the DMHMRSAS Human Rights Relations (12VAC35-115-150); to comply with Chesterfield Community Services Board (CCSB) Policy 3.03; to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Section 164.530(d) regarding privacy complaints made to the Chesterfield County Department of Mental Health Support Services (CMHSS); and to assure and protect the rights of individuals receiving services.

A **"complaint"** is an expression of dissatisfaction, grievance, concern, or an allegation of a violation of the State human rights regulations or the provider's policies and procedures related to the State regulations. This includes all complaints that are brought to the attention of the provider, an employee of the provider, the State Human Rights Advocate, the Privacy Information Security Officer or the State protection and advocacy agency.

I. Consumer Complaints:

- A. Any individual or anyone acting on his behalf, such as an Authorized Representative (AR) as determined by 12VAC35-115-145, who thinks that a provider has violated any of his rights under these regulations may make a complaint and get help in making the complaint.
- B. Anyone who believes that a provider has violated an individual's rights under the State regulations may make a report to the Case Manager, Service Coordinator, Primary Therapist, Operational Manager, Consumer Advocate, Executive Director or the State Human Rights Advocate for resolution.
- C. All communication with the individual during the complaint resolution process shall be in the manner, format, and language most easily understood by the individual.
- D. Anyone initiating a complaint is entitled to an impartial review of their allegation. This includes the right to appeal the results of a human rights violation decision to the Local Human Rights Committee (LHRC) and;
- E. Upon the mutual agreement of all parties any complaint may be withdrawn by the consumer or their AR, at any time.

II. When a review of a complaint is undertaken:

- A. The information gathered or disclosed during the course of the review shall be confidential.
- B. Such data shall not be disclosed to any person except to the extent necessary to conduct the review according to the procedures specified below.
- C. Meetings, reviews, and hearings will generally be closed to other people unless the individual making the complaint requests that other people attend or if an open meeting is required by the Virginia Freedom of Information Act and;
- D. The LHRC on the motion of any party or on its own motion may, for good cause, extend any of the following time periods either before or after the expiration of that time period.

III. Employees shall, as a condition of employment:

- A. Become familiar with these regulations, comply with them in all respects, and help individuals understand and assert their rights.
- B. Protect individuals from any form of abuse, neglect, or exploitation
 - 1. by not abusing, neglecting or exploiting any individual;
 - 2. by not permitting or condoning anyone else abusing, neglecting, or exploiting any individual; and
 - 3. by reporting all suspected abuse, neglect, or exploitation to the director.
- C. Protecting individuals receiving services from abuse also includes using the minimum force necessary to restrain an individual and;
- D. Cooperate with any investigation, meeting, hearing, or appeal held.

IV. Procedure for processing a consumer's complaint or grievance:

Situation/Responsible Person	Activity
NOTIFICATION	
<p>CASE MANAGER, SERVICE COORDINATOR, OR FINANCIAL INTERVIEWER</p>	<p>INFORM each consumer at admission and annually thereafter of:</p> <ul style="list-style-type: none"> • The Rights and Responsibilities of Consumers. • Consumer Complaint Procedure. <p>ASSURE that the consumer and/or their AR has received the above material, signs and dates the Rights Notification Form.</p>
INFORMAL COMPLAINT PROCESS	
<p>CONSUMER OR ANY AUTHORIZED REPRESENTATIVE</p>	<p>NOTIFY the Case Manager, Care Coordinator, Primary Therapist, Operational Manager or Consumer Advocate of the desire to file a Complaint.</p>
<p>CASE MANAGER, SERVICE COORDINATOR, PRIMARY THERAPIST, OPERATIONAL MANAGER OR CONSUMER ADVOCATE</p>	<p>MEET with the consumer and/or AR or contact by phone within 24 hours or later if requested by the consumer and notify the individual of his right to pursue a complaint through the process established in the Human Rights Relations (12VAC35-115);</p> <ul style="list-style-type: none"> • Maintain services at current status, and refrain from any action that might be perceived as punishment, retaliation, or an obstacle to the filing or resolution of an alleged complaint. <p>INVESTIGATE with all concerned parties as directed by the consumer, individual acting on behalf of the consumer or AR.</p> <p>ARRANGE all interviews through the Case Manager. If the Case Manager is a principal of the complaint, interviews shall be arranged through the Case Manager's supervisor.</p>

Situation/Responsible Person	Activity
	<p>NEGOTIATE with the consumer and/or their AR, if applicable, in an attempt to resolve the alleged complaint. If the complaint is resolved to the individual's or their AR's satisfaction resolved <u><i>within five (5) working days</i></u>, no further action required.</p>
<p>THE EXECUTIVE DIRECTOR OR DESIGNEE</p>	<p>REPORT any complaint that is not resolved <u><i>within five (5) working days</i></u> to the DMHMRSAS Regional Advocate.</p> <ul style="list-style-type: none"> • The consumer or the AR may contact the DMHMRSAS Regional Advocate at any time to pursue a <u>Formal Complaint</u>.
<p>FORMAL COMPLAINT PROCESS (BEYOND FIVE WORKING DAYS)</p>	
<p>CONSUMER OR ANY AUTHORIZED REPRESENTATIVE</p>	<p>NOTIFY the Executive Director or designee or the DMHMRSAS Regional Advocate of the desire to file a <u>Formal Complaint</u>.</p>
<p>THE EXECUTIVE DIRECTOR OR DESIGNEE</p>	<p>NOTIFY the DMHMRSAS Regional Advocate that a complaint has been filed if not already done.</p> <p>NOTIFY the CMHSS Privacy/Information Security Officer if a privacy complaint has been filed.</p> <p>MEET with the individual, any representative the individual chooses, and others as appropriate within 24 hours of receipt of the complaint or the next business day if that day is a weekend or holiday.</p> <ul style="list-style-type: none"> • Maintain services at current status and refrain from any action that might be perceived as punishment, retaliation, or an obstacle to the filing or resolution of an alleged complaint or grievance. <p>COINVESTIGATE with the CMHSS Privacy/Information Security Officer if a privacy complaint (suspected HIPAA violation) has been filed.</p> <p>INVESTIGATE if necessary, give the individual and his chosen representative a written preliminary decision and, where appropriate, an action plan for resolving the complaint within 10 working days of receiving the complaint. Along with the action plan, the director shall provide written notice to the individual about the time frame for the individual's response pursuant to Step 3 of this subdivision, information on how to contact the human rights advocate for assistance with the process, and a statement the complaint will be closed if the individual does not respond.</p> <p>NEGOTIATE with the consumer and/or their AR, if applicable (privacy/information security complaints are not</p>

	<p>applicable), in an attempt to resolve the alleged complaint. If the complaint is resolved to the consumer or AR satisfaction within ten (10) working days, no further action required.</p> <p>If resolved COMPLETE a Complaint Form (CSB0001):</p> <ul style="list-style-type: none"> • Complete <u>all</u> items. • Include a description of any solution proposed (written decision) to the consumer and/or AR. <p>DISTRIBUTE the completed Complaint Form</p> <ul style="list-style-type: none"> • Send original to the Quality Coordinator. • Keep one (1) copy • Send one (1) copy to the CMHSS Privacy/Information Security Officer if it is a privacy complaint.
<p>QUALITY CONTROL OFFICE (FOR COMPLAINTS THAT HAVE BEEN RESOLVED)</p>	<p>FAX a copy of the completed Complaint Form to DMHMRSAS Regional Advocate and send the consumer or AR via Certified Mail of the US Postal Service.</p>
<p>PRIVACY INFORMATION SECURITY OFFICER</p>	<p>FORWARD a copy of a privacy complaint to the County Privacy Officer.</p>
<p>APPEAL THE EXECUTIVE DIRECTOR'S PRELIMINARY DECISION</p>	
<p>CONSUMER OR ANY AUTHORIZED REPRESENTATIVE</p>	<p>NOTIFY the Executive Director of disagreement with preliminary decision within five (5) working days.</p>
<p>THE EXECUTIVE DIRECTOR</p>	<p>MEET with the consumer and/or AR or contact by phone within 24 hours or later if requested by the consumer:</p> <ul style="list-style-type: none"> • Maintain services at current status and refrain from any action, which might be perceived as punishment, retaliation, or an obstacle to the filing or resolution of an alleged complaint or grievance. <p>INVESTIGATE further as appropriate and make a final decision regarding the complaint. Forward a written copy of the final decision and action plan to the individual, his chosen representative, and the human rights advocate within five (5) working days after receiving the individual's written response. Along with the action plan, provide written notice to the individual about the time frame for the individual's response pursuant petition for a hearing by the LHRC, information about how to contact the human rights advocate for assistance with the process, and a statement that if the individual does not respond that the complaint will be closed.</p> <p>NEGOTIATE with the consumer and/or their AR, if applicable (privacy/information security complaints are not applicable), in an attempt to resolve the alleged complaint. If the complaint is resolved to the consumer or AR satisfaction within five (5) working days, no further action required.</p>

	<p>If resolved COMPLETE a Complaint Form (CSB0001):</p> <ul style="list-style-type: none"> • Complete <u>all</u> items. • Include a description of any solution proposed (written decision) to the consumer and/or AR. <p>DISTRIBUTE the completed Complaint Form</p> <ul style="list-style-type: none"> • Send original to the Quality Coordinator. • Keep one (1) copy • Send one (1) copy to the CMHSS Privacy/Information Security Officer if it is a privacy complaint.
<p>QUALITY CONTROL OFFICE (FOR COMPLAINTS THAT HAVE BEEN RESOLVED)</p>	<p>FAX a copy of the completed Complaint Form to DMHMRSAS Regional Advocate and send the consumer or AR via Certified Mail of the US Postal Service.</p>
<p>PRIVACY INFORMATION SECURITY OFFICER</p>	<p>FORWARD a copy of a privacy complaint to the County Privacy Officer.</p>
<p>APPEAL TO LOCAL HUMAN RIGHTS COMMITTEE (LHRC)</p>	
<p>CONSUMER OR ANY AUTHORIZED REPRESENTATIVE</p>	<p>If dissatisfied with the Executive Director’s decision, file a written petition to APPEAL with the Chair of the LHRC within ten (10) working days of the decision. Any representative or the DMHMRSAS Regional Advocate may assist in the drafting of this appeal.</p>
<p>THE EXECUTIVE DIRECTOR OR DESIGNEE</p>	<p>INFORM the CSB Board Chair and DMHMRSAS Regional Advocate of the consumer's appeal of the decision, on the day of receipt of the petition of intention to appeal</p> <p>INFORM the consumer and any AR that they retain the right to present witnesses and other evidence and have the opportunity to be heard.</p> <p>SUBMIT a copy of the entire written record of the complaint <u>and</u> a written response to everything contained in the request to appeal to the LHRC within five (5) working days of the scheduled hearing.</p>
<p>LOCAL HUMAN RIGHTS COMMITTEE CHAIR</p>	<p>ARRANGE a hearing of the LHRC within twenty (20) working days of the petition.</p> <p>NOTIFY the parties of the hearing at least five (5) working days in advance of the hearing.</p> <ul style="list-style-type: none"> • If at any time during the formal complaint process the human rights advocate concludes that there is substantial risk that serious or irreparable harm will result if the complaint is not resolved immediately, the human rights advocate shall inform the director, the provider, the provider’s governing body, and the LHRC. The LHRC shall conduct a hearing according to the special procedures for emergency hearings in 12VAC35-115-190.

LOCAL HUMAN RIGHTS COMMITTEE	<p>CONDUCT a hearing in accordance with Section 12 VAC 35-115-180 of the Code of Virginia (2001) within twenty (20) days of receipt of the notice of appeal</p> <p>DETERMINE if a human right of a consumer appears to have been violated by the conditions set forth in the complaint and appeal.</p>
LOCAL HUMAN RIGHTS COMMITTEE CHAIR	<p>NOTIFY in writing the findings of the LHRC of facts & recommendations to all parties within ten (10) working days after the hearing.</p> <ul style="list-style-type: none"> • When appropriate, the LHRC shall identify information that it believes the Executive Director shall take into account in making decisions concerning discipline or termination of personnel.
EXECUTIVE DIRECTOR	<p>WRITE an action plan to be taken in response to the decision of the LHRC, within five (5) working days of receipt of the report of the LHRC decision:</p> <ul style="list-style-type: none"> • Describe how you intend to take to respond to the LHRC's findings and recommendations • The plan shall not be implemented for five (5) working days unless the individual agrees to its implementation sooner. <p>FORWARD this written action plan to the LHRC, the DMHMRSAS Regional Advocate, the consumer and/or AR & the governing body</p> <p>IMPLEMENT the action plan on the 6th working day after the plan was submitted, if there are no objections.</p>
CONSUMER OR ANY AUTHORIZED REPRESENTATIVE OR THE REGIONAL ADVOCATE	<p>NOTIFY the Executive Director by telephone of the intent to submit a written objection to the implementation of the intended action within five (5) working days of receipt of the Executive Directors written action plan.</p> <p>WRITE an objection to the Executive Director's action plan.</p> <p>SUBMIT copies of the objection to all parties to the hearing</p>
EXECUTIVE DIRECTOR	<p>RESOLVE the objection to the action plan within two (2) working days of receiving the objection.</p>
CONSUMER OR AUTHORIZED REPRESENTATIVE OR ANY PARTY TO THE COMPLAINT	<p>APPEAL to the State Human Rights Committee if dissatisfied with the decision of the LHRC or Executive Director</p>

Executive Director's Signature: _____ Date _____

**Chesterfield Mental Health Support Services
Consumer Complaint Form**

Instructions: Complete this form to file a complaint. Seek the assistance of your case manager, or a supervisor. Three (3) copies of the completed form will be made. Copies should be distributed to the following: a) Complainant or AR, b) CMHSS staff named in the form and c) the program's Operational Leader. **The original goes to the Quality Improvement Coordinator.**

Date of Complaint: _____

Consumer's Name or AR: _____

Address: _____

City: _____ **State:** _____ **Zip:** _____

Phone: _____

Employee named in complaint: _____ **Program:** _____

Employee reporting the complaint: _____

Description of complaint:

Please check general category:

- | | | | |
|--|---|----------------------------------|--|
| <input type="checkbox"/> Service/Treatment | <input type="checkbox"/> Access | <input type="checkbox"/> Dignity | <input type="checkbox"/> Privacy |
| <input type="checkbox"/> Personnel/Staff | <input type="checkbox"/> Customer Service | <input type="checkbox"/> Other | <input type="checkbox"/> Risk Management |

Results of investigation and resolution:

 Consumer or AR Signature

_____/_____/_____
 Date

 Staff Signature

_____/_____/_____
 Date

FINDINGS:

- INFORMAL COMPLAINT**
- FORMAL COMPLAINT**
- Human Rights Violation
- No Human Rights Violation

RESOLUTION:

- No Action Required
- Complaint Withdrawn
- Consumer or AR Satisfied
- Other

POINT OF RESOLUTION:

- Direct Care Staff
- Operational Leader
- Consumer Advocate
- Privacy Officer
- Executive Director
- LHRC
- SHRC
- Commissioner

DATE OF RESOLVED WITH CONSUMER: _____
 Unable to Notify

Consumer Complaint Process

