

NEW YORK STATE OFFICE FOR THE AGING

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Andrew M. Cuomo, Governor

An Equal Opportunity Employer

Greg Olsen, Acting Director

PROGRAM INSTRUCTION	Number:	17-PI-04
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	Expiration Date:	N/A

DATE: January 24, 2017

TO: Area Agency on Aging Directors

SUBJECT: Grievance Procedures for Programs operated under Title III of the Older Americans Act

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ACTION REQUESTED:

Area Agencies on Aging must have a process in place to provide those denied or dissatisfied with Title III services an opportunity to present their grievances. These procedures must conform to the minimum requirements contained in this Program Instruction. If an Area Agency currently has a grievance procedure in place which satisfies these requirements and applies to Title III programs and services, no change is needed.

RESPONSE DUE DATE:

No response is required.

PURPOSE:

This Program Instruction serves to communicate the requirement that every Area Agency have grievance procedures in place, to provide guidance in the development of these procedures, and to identify basic guidelines that must be followed.

BACKGROUND:

Section 306(a)(10) of the Older Americans Act, as amended (OAA), requires that Area Agencies on Aging "establish a grievance procedure for older individuals who are dissatisfied with or denied services under [Title III]." The purpose of this Program Instruction is to provide Area Agencies with guidance on how to develop a grievance process and to identify and communicate guidelines that must be adhered to. Also provided with this Program Instruction is a model procedure that may be used for assistance in developing appropriate procedures.

It is important to note that grievance procedures are not intended to take the place of the regular interactions staff have with program participants through which most complaints are resolved. For example, many senior centers have regular monthly meetings at which participants give feedback about improving programming, menus, etc., and such discussions often satisfactorily address a wide range of complaints. Additionally, many aging network staff have an "open door" policy and invite service recipients to let them know if they have a concern about the services offered. The continuation of such mechanisms for addressing complaints is encouraged.

The grievance procedures required by the Older Americans Act should supplement, rather than supplant, the mechanisms mentioned above. Grievance procedures may be particularly helpful to clients who feel they are more effective in "gathering facts and presenting their case" privately, in writing, rather than sharing them in a monthly senior center meeting. Grievance procedures also may provide in-home services clients who are reluctant to discuss concerns with their case manager with alternate means of resolving these concerns. Further, grievance procedures may be preferred by clients who are dissatisfied with services because of a staff member's or other participant's approach or attitude, but who are uncomfortable addressing that person directly. Grievance procedures offer such clients a way to have the other person's actions reviewed by an impartial third party in a non-confrontational manner.

Minimum Requirements for Grievance Procedures

Grievance procedures must be in writing and must apply to all OAA Title III services provided by the Area Agency and its subcontractors. At a minimum, grievance procedures must include:

1. Methods for notifying clients or service applicants of their right to file a grievance.
2. The steps to be followed in filing a grievance.

3. Reasonable timeframes for filing a grievance, investigating the grievance, reaching a decision, and having that decision communicated in writing to the grievant.
4. An opportunity for the grievant to present her/his grievance, along with any pertinent information or documents relating to the issues, to a clearly identified individual or group of individuals that has the authority to make a binding decision.
5. The criteria to be used for making a decision on the grievance.
6. A process by which a program participant may appeal an initial decision made by a service provider agency. The Area Agency may also provide for an appeal of its own initial decisions.

General Guidelines

1. Grievance procedures must apply to both denial of services and client satisfaction issues.
2. Grievances should be resolved at the lowest possible level, either within the provider agency, Area Agency, County government, etc. The Area Agency's grievance procedures must not be structured to channel complaints directly to the State Office for the Aging for resolution.
3. The Area Agency and its subcontractors must advise participants that assistance is available, upon request, to help with filing grievances; e.g., drafting a written grievance for those who are unable to or have difficulty doing so.
4. The procedures must ensure that the entire grievance process, including any written materials, is treated in a confidential manner.
5. The Area Agency must ensure that persons with limited English proficiency are provided meaningful access to the Area Agency's grievance procedures as required by Federal Executive Order 13166 and 12-PI-08. This includes, at a minimum, adherence to all language access requirements contained in the Area Agency's Standard Assurances and the translation of vital documents as described in 12-PI-08.
6. Grievance procedures and their implementation by the Area Agency, including site accessibility, must comply with all relevant sections of the Americans with Disabilities Act and the Rehabilitation Act of 1973.

7. If the Area Agency has EISEP grievance procedures in place that are consistent with the “Minimum Requirements for Grievance Procedures” noted above and that apply to Title III programs and services, these may be used to satisfy the OAA requirements. It is not necessary to have two separate procedures in place for the two programs.

Model Procedures

To assist Area Agencies in the preparation of grievance procedures, model procedures are attached. Please feel free to use any or all of the model procedures as you develop or refine procedures for use by your Area Agency and subcontractors. You are encouraged to adjust the suggested timeframes and the personnel designated to handle the reviews to take into account the unique needs and circumstances that exist in your Planning and Service Area.

Once you have developed the procedures, you should forward a copy to your County Attorney (or in the case of a private nonprofit sponsor, the sponsor's lawyer) for legal review and approval.

M O D E L
Grievance Procedures for
Area Agencies on Aging

I. Purpose

- A. In accordance with § 306(a)(10) of the Older Americans Act, as amended (OAA), the Area Agency on Aging has established the following process for resolving complaints from older persons who are dissatisfied with or denied services funded under Title III of the Act.

II. Notifying Participants of Right to File Grievance

- A. The Area Agency on Aging (AAA) and each of its service provider agencies that provide Title III services (service provider agencies) shall notify participants and applicants of their right to file a grievance, as follows:
- 1) A summary of the procedures, including a statement that assistance to file shall be provided to older persons, must be prominently posted at service delivery sites or offices at which participants and service applicants apply for services. Summaries shall also be written in languages other than English where needed to serve the client/applicant population.
 - 2) In-home services participants shall be informed of the grievance procedures through written and verbal statements provided to them upon assessment and/or reassessment for services.
- B. Denial of Service. Any participant or applicant who is denied Title III services must be given the reasons for the denial. For housekeeping, homemaker, home delivered meals, case management, and other services for which written applications are made, the denial shall be confirmed in writing and the applicant informed of the right to file a grievance and of the individual to whom the grievance shall be addressed. For congregate meals, transportation, recreation, and other services which are applied for by telephone or verbally in person, the client may be told of the right to file a grievance verbally.

III. Grievance Process

A. Filing of Grievance.

- 1) Participants must submit their grievances in writing to the person(s) or office that has been designated by a service provider or by the AAA

Director, whichever is appropriate, to conduct the initial review. The reviewer may be the director of the service provider agency or of the Area Agency on Aging, or any other person designated by such director who is not familiar with or otherwise involved in the particular grievance.

- 2) The grievance should be filed within thirty (30) days of denial, reduction, or termination of services, or of the event or circumstance with which the participant is dissatisfied. The AAA or service provider may grant an extension for good cause shown.
- 3) The grievance should be filed on the form provided by the AAA, which shall include a written statement setting forth in detail the date, time, and circumstances that are the basis of the complaint.

B. Investigation and Response to Grievance.

- 1) The designated reviewer who performs the initial review shall investigate the grievance. If appropriate, this may include meeting with the grievant and/or other persons involved in the action(s) complained of or in the denial of services. The reviewer shall review all pertinent facts and/or documents, and shall determine whether the complained-of agency action or determination was consistent with applicable federal and State laws, regulations, and policies.
- 2) The designated reviewer shall prepare and send a written response to the grievant within fifteen (15) days after the grievance is filed. The response shall set forth the circumstances relating to the grievance, the action requested by the grievant, the findings of the reviewer, a proposed remedial action, if any, and an explanation of the determination, including the facts relied upon. If the grievance is being handled by a subcontractor organization, a copy of its decision must be forwarded to the Director of the Area Agency on Aging.
- 3) The designated reviewer shall create and maintain a Complaint File consisting of the grievance form submitted the AAA or service provider, all documents and/or information relied upon in making a determination, and the written response described above.

C. Appeal of Initial Response/Decision. If the complaint has been handled by a service provider agency under subcontract to the AAA and the grievant is not satisfied with the determination reached by such service provider, the grievant has the right to further review as follows:

- 1) The grievant may initiate a request for subsequent review by the Area Agency Director within twenty (20) calendar days following receipt of notification by the service provider agency of its decision.
- 2) The Area Agency Director shall request, and the subcontractor agency shall provide, copies of the Complaint File. The Area Agency Director will review the materials to ensure that pertinent policies and procedures have been applied and followed. If appropriate, the Area Agency Director will meet with the grievant to allow for an opportunity to present information about the grievance.
- 3) If policies and procedures have been adhered to, the Area Agency Director will not overturn the decision of its subcontractor agency. If proper policies and procedures have not been applied, the Area Agency reserves the right to overturn the decision. The subsequent review shall be completed within forty-five (45) days of receipt of the request by the grievant and the grievant will be promptly notified in writing of the result of the subsequent review.

IV. Recordkeeping

The AAA or service provider agency which is handling the grievance shall keep a file, for six (6) years, of all relevant documents and records. This shall include at a minimum: the initial grievance; any investigative reports; any written response submitted by the AAA or service provider agency; any documents or other records submitted by any party; the written Initial Response of the agency; and, if applicable, the notice to the grievant of the right to an appeal.

V. Confidentiality

No information, documents, or records relating to a grievance shall be disclosed by program staff or volunteers in a form capable of identifying the grievant without the written informed consent of the grievant unless the disclosure is required by court order or for program monitoring by authorized agencies.

COMPLAINT LETTER FORM

Instructions

Please complete both sides of this form. If assistance is needed in completing this form, you may contact John Doe at (555) 123-4567. Completed forms should be sent to:

Ms. Jane Smith, Director
Doe Area Agency on Aging (or name of service provider)
11 Main Street
Any City, New York

This form must be filed within thirty (30) calendar days of the event or action complained of unless you are granted an extension for good cause.

I am requesting a review of the following grievance:

- I was denied service.
- I am not satisfied with the quality of service or an activity provided by your agency or by your service provider.
- I have the following grievance (briefly describe):

_____.

Date/estimated date of the event or action complained of: _____.

Please describe in detail what happened or what your grievance is (if you need extra space, use the back side of this form):

Please state, if you know, what relief you are seeking:

Signed: _____

Name (print): _____

Date: _____

Address: _____

Phone Number: _____

PROGRAMS AFFECTED:

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|---|---|---|---|---|
| <input checked="" type="checkbox"/> Title III-D | <input checked="" type="checkbox"/> Title III-E | <input checked="" type="checkbox"/> Title III-B | <input checked="" type="checkbox"/> Title III-C-1 | <input checked="" type="checkbox"/> Title III-C-2 |
| <input type="checkbox"/> EISEP | <input type="checkbox"/> NSIP | <input type="checkbox"/> CSE | <input type="checkbox"/> WIN | <input type="checkbox"/> Energy |
| <input type="checkbox"/> Other: | | <input type="checkbox"/> Title V | <input type="checkbox"/> HIICAP | <input type="checkbox"/> LTCOP |

CONTACT PERSON: Aging Services Representatives