Appendix D

Minimum Guidelines for Recipient Grievance Procedures

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Appendix D: Minimum Guidelines for Recipient Grievance Procedures

Section 1: Purpose

A. This outlines the minimum guidelines for recipient grievance procedures that apply to programs administered by the Department, except for the Statewide Medicaid Managed Care Long-Term Care Program.

B. Legal Providers should have an internal grievance procedure that addresses both denial of service and complaints about manner or quality of legal assistance. Grievance policies that comport with the requirements of the Legal Services Corporation are sufficient to meet this standard. At a minimum, the procedure must provide applicants with:

- Adequate notice of the grievance procedures;
- Information on how to file a grievance or complaint, and;
- An opportunity for review of that complaint by the Legal Provider's Executive Director or the Executive Director's designee.

C. In computing any period prescribed by these guidelines, the last day of the established time frame shall be included, unless it falls 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.

Section 2: Legal Authority

- Americans with Disabilities Act
- Section 306(a) (10) Older Americans Act of 1965, as amended
- Section 430.04(2)(g), F.S.

Section 3: Notice to Recipient of Adverse Action Taken and Explanation of Grievance Review Procedures

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:
   - 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.
   - The recipient's right, after a grievance review, for further appeal.
   - 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; and

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.

Section IV: 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 recipient's 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 AAA by written request within seven (7) calendar days, except in decisions involving the professional judgment of a legal assistance provider;

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.

Section V: Procedures For Appeals of a Grievance Review Decision Upon Timely Receipt of a Written Appeal to the AAA

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 seven (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;

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.