ATTACHMENT

California Code of Regulations
Title 22. Social Security
Division 1.8. California Department of Aging
Chapter 3. Title III Programs - PSAs and AAAs
Article 5. Grievance Process

Cite: 22 CCR § 7400-7406

§ 7400. Grievance Process - General

(a) Each AAA shall:

(1) Establish a written grievance process for the disposition of complaints by older individuals or persons authorized to act on behalf of older individuals against the AAA's programs and employees or volunteers of such programs. The process shall meet the conditions specified in this article.

(2) Include a requirement in all of its contracts and subgrant agreements with service providers that the service providers must establish a written grievance process for reviewing and attempting to resolve complaints of older individuals. At a minimum the process shall include all of the following:

(A) Time frames within which a complaint will be acted upon.

(B) Written notification to the complainant of the results of the review, including a statement that the complainant may appeal to the AAA if dissatisfied with the results of the service provider's review.

(C) Confidentiality provisions to protect the complainant's rights to privacy. Only information relevant to the complaint may be released to the responding party without the older individual's consent.

(3) Require service providers to notify all older individuals of the grievance process both through the service provider and the AAA, available to them by:

(A) Posting notification of the process in visible and accessible areas, such as the bulletin boards in multipurpose senior centers. For areas in which a substantial number of older individuals are non-English speaking, the notification shall also be posted in the primary language of a significant number of older individuals. “Substantial number” and “significant number” shall be determined by the AAA.

ATTACHMENT

(B) Advising homebound older individuals of the process either orally or in writing upon the service providers' contact with the individuals.

(b) Complaints may involve, but not be limited to, any or all of the following:

(1) Amount or duration of a service.

(2) Denial or discontinuance of a service.

(3) Dissatisfaction with the service being provided or with the service provider. If the complaint involves an issue of professional conduct that is under the jurisdiction of another entity, such as the California Medical Board or the State Bar Association, the complainant shall be referred to the proper entity.

(4) Failure of the service provider to comply with any of the requirements set forth in the Department's regulations or in the contract or subgrant agreement with the AAA.

(c) The grievance process established by each AAA shall be both:

(1) Formally adopted by the AAA's governing board.

(2) Distributed to both of the following:

(A) All service providers within the PSA.

(B) Organizations and locations where older individuals congregate.

(d) Nothing in this article shall be construed as prohibiting older individuals from seeking other available remedies, such as presenting their complaints at an open meeting of the AAA's governing board.

§ 7402. First Level of Resolution.

(a) The service provider shall be the first administrative level for the resolution of complaints from older individuals. When the service provider:

(1) Is not the AAA, the grievance procedures established by the service provider in accordance with Section 7400 (a) (2) shall apply.

(2) Is the AAA, the procedures specified in Section 7404 shall apply.

ATTACHMENT

(b) Any complaints received by the Department shall be forwarded to the appropriate AAA for referral to the service provider.

7404. AAA Informal Administrative Review.

(a) The provisions of this section shall apply to both of the following:

(1) The first level of complaint resolution when the AAA is the service provider.

(2) Complaints received from older individuals or persons authorized to act on their behalf who are dissatisfied with the results of a service provider's grievance process.

(b) All complaints shall be in writing to the director of the AAA. If a complainant cannot submit a written complaint, the AAA shall take all of the following actions:

(1) Verbally accept the complaint.

(2) Prepare a written complaint.

(3) Have the complainant sign the written complaint, although not necessarily prior to the commencement of the informal administrative review.

(c) Complaints shall include all of the following information:

(1) The name, mailing address and telephone number, if any, of the complainant or person authorized to act on behalf of the claimant.

(2) The type of service and the service provider involved.

(3) The names of the individuals involved.

(4) The issue of concern or dispute.

(5) The date, time and place that the issue of concern or dispute occurred.

(6) The names of witnesses, if any.

(d) Each AAA shall establish an informal administrative review process for the resolution of complaints received by older individuals or persons authorized to act on their behalf. At a minimum, the process shall be completed within 45 days of receipt of the complaint and include all of the following:

ATTACHMENT

(1) The number of days from the receipt of a complaint in which the informal review will commence.

(2) An impartial investigation of the complaint and an attempt to informally resolve the issues with the parties involved.

(3) The time frame within which the activities specified in (d) (2) will occur.

(4) The preparation of a written report of the results of the activities specified in (d)

(2). A copy of the report shall be sent to the parties involved. In addition, the report shall advise the complainant of his/her right to an administrative hearing pursuant to Section 7406 if dissatisfied with the results of the review.

(5) A process for ensuring that any agreements reached during the informal review are fulfilled.

§ 7406. Final Grievance Resolution.

(a) Any complainant dissatisfied with the results of the review conducted pursuant to Section 7404 shall have 30 days from the receipt of the report specified in Section 7404 (d) (4) in which to request a hearing to present his/her complaint orally before an impartial hearing officer/panel. The request shall be made either orally or in writing to the director of the AAA.

(b) Each AAA shall establish a formal administrative hearing process in compliance with all of the following:

(1) The process shall include the time frames within which all of the following shall occur:

(A) From receipt of a hearing request, the notification of the complainant and the other party(s) involved of both of the following:

1. The date, time and location of the hearing.

2. The complainant's and other party(s) right to be present at the hearing and/or to have another person act on their behalf, including the right to have legal counsel present.

(B) From the receipt of a hearing request, the holding of the hearing which shall be no later than 45 days from the receipt of the hearing request.

ATTACHMENT

(C) From the date of the hearing, the issuance of a proposed decision in accordance with (b) (5).

(D) From the date of receipt of the proposed decision, the issuance of a final decision in accordance with (b) (7).

(2) The hearing shall be:

(A) Conducted both:

1. By an impartial hearing officer/panel.

2. In an informal manner with testimony being restricted to the issues requiring resolution. All parties shall have the right to all of the following:

a. Be present at the hearing.

b. Present evidence and witnesses.

c. Examine witnesses and other sources of relevant information and evidence.

(B) Be recorded verbatim, either electronically or stenographically.

(3) Technical rules of evidence and procedure shall not apply to the hearing.

(4) All persons testifying at the hearing shall be placed under oath or affirmation.

(5) The impartial hearing officer/panel shall prepare a proposed decision based upon all relevant evidence presented and in consideration of the policies, procedures, regulations and laws governing the program no later than 30 days after the date the hearing was held. At a minimum, the proposed decision shall contain all of the following:

(A) A description of each issue.

(B) A statement as to whether the complaint was upheld or denied. In the case of complaints that are upheld, an explanation of the remedy for the complaint shall also be included.

(C) A citation of applicable laws and regulations.

ATTACHMENT

(6) The proposed decision shall be forwarded to either of the following, as appropriate, for the issuance of a final decision.

(A) The director of the AAA, unless the complaint is against the director.

(B) The chairperson of the governing board when the complaint is against the director of the AAA.

(7) No later than 30 days after receipt of the proposed decision, the director or the chairperson shall either:

(A) Adopt the proposed decision as the final decision.

(B) Write a new final decision.

(8) The decision pursuant to (b) (7) shall be:

(A) Immediately transmitted to the parties involved.

(B) Final and not subject to appeal.

(9) The process shall include procedures for ensuring that the remedies, if any, specified in the final decision are implemented.