



When you have a complaint about your **Community Mental Health Center**

Disabilities Rights Center, Inc.

If you are receiving services from a Community Mental Health Center (CMHC), there are laws and rules to make sure you are treated fairly and receive quality services. There are also rules that set forth your rights to challenge and complain about any actions or decisions made by the CMHC that affect you.

What are my rights?

If you are applying to or receiving services from a CMHC, you have specific rights. Federal and state law also offer special protections to you as a person with a disability. If you have a guardian, or you are committed or conditionally discharged from the hospital, some of those rights may be limited. The hospital and/or CMHC must tell you what your rights are. Many of your rights are listed in He-M 204 and the He-M 300s. Some rights are also included in the He-M 400s. You can ask the DHHS Office of Client and Legal Services, (603) 271-6991, for a paper copy of your rights. They are on the internet at:

http://www.gencourt.state.nh.us/rules/state_agencies/he-m.html

When and what can I complain about?

- Any time you feel your rights have been violated
- If you are unhappy with something the agency has or has not done
- At any time there is an action that affects you (such as changes to your services)



This brochure is not meant to be legal advice. For specific legal advice an attorney should be consulted.

Protection and Advocacy System for New Hampshire

What are some examples of actions or decisions that can be challenged?

- Your eligibility for services
- The quality of your services
- Your service agreement or treatment plan and what is or is not in it
- Abuse, neglect, exploitation
- The lack of services or refusal to provide the services you need
- Unfair treatment or restriction of your rights
- Failure to inform you about risks, benefits, side effects, and alternatives to the treatment and services provided to you
- Violations of your privacy or right to confidentiality
- Suspension, termination, or reduction of your services
- Housing or residential issues



Who may complain?

Anyone may complain. Employees of the agencies **MUST** make a complaint if they have reason to believe there has been abuse, neglect, or exploitation.

How do I make a complaint?

There are many ways you can work to resolve a problem you have with your services. You can work it out informally by speaking to someone or calling a meeting, or you can pursue the formal complaint process (see below). In some cases you can file an appeal directly with the Department of Health and Human Services.

You can complain directly to the Office of Client and Legal Services. The phone number is **(603) 271-6991**. You can also make a complaint to any employee of a CMHC, but you do not have to. However, CMHCs have a complaint manager, and that is the best person to

complain to at a CMHC. If the complaint is about abuse, neglect, or exploitation, the complaint will be investigated by the Bureau of Elderly and Adult Services (for adults) or the Division of Children, Youth, and Families (DCYF). The Office of Client and Legal Services may conduct its own investigation also.



Do I have to put my complaint in writing?

No. You do not have to use a certain form either. You can complain by telling any employee or the agency's complaint manager. You may also complain in writing. You could also tape record the complaint and give it to someone at the agency. If you tell someone your complaint, the agency has to put it in writing and ask you to sign it. Make sure it is correct and complete before you sign it.

It is a good idea to put your complaint in writing if you can. This creates a record of your complaint in case there is a question later about what you complained about, when you complained, or any of the details. You can ask for help if you don't feel you can put it in writing yourself. ALWAYS keep a copy of any paperwork involved in the complaint.

Will I get in trouble?

You should not get in trouble for filing a complaint. CMHCs are not allowed to punish or retaliate against you. If someone else helps you file the complaint or files the complaint themselves, CMHCs are not allowed to punish or retaliate against them either, as long as it was a complaint made in good faith. If problems do arise after you've filed a complaint, call the DRC – 1-800-834-1721.



What happens after I file my complaint? How does it get resolved?

The complaint can be resolved informally IF YOU AGREE, and if the complaint does not involve abuse, neglect, exploitation, retaliation, coercion, restraint, or seclusion. If the complaint does involve these serious issues, the CMHC MUST conduct a formal investigation. On ANY issue, if you want a formal complaint investigation, one must be conducted.

What happens in a formal complaint investigation?

Complaints are forwarded to the OCLS, which then has three days to assign a complaint investigator. The complaint investigator has 20 business days to investigate and attempt to resolve the complaint. The investigator may interview the people involved and any relevant records or documents, then prepare a report with findings of fact and a list of evidence reviewed.

After the investigator's report is complete, the bureau administrator will issue a decision on whether the complaint is founded or unfounded. The determination must be made within 10 business days. If the complaint is founded, the CMHC will have 20 days to implement all ordered corrective actions. The individual and CMHC are entitled to this written decision.

If I don't like the decision, what can I do?

You have the right to appeal the decision to the Department of Health and Human Services. The CMHC must tell you about your appeal rights. If the agency does not tell you about your appeal rights, ask for them or call the Disabilities Rights Center (1-800-834-1721) for more information.

What if it is an emergency?

If the problem involves an emergency situation that may result in serious harm to someone, the CMHC must take immediate steps to protect the safety of the individual and promptly correct or resolve the issue.

What issues can be appealed?

You can appeal any decision you disagree with. Some issues can be appealed directly without first going through the complaint process, like decisions about your eligibility for services or the suspension and termination of your services by the agency.

NOTE: Medicaid changes or termination of services, or denial of services are appealed directly to the Administrative Appeals Unit. If your Medicaid services are terminated or reduced, you can keep these services in place during the appeal process if you file your appeal at the AAU within 10 days of receiving your notice. All appeals must be received within 30 days.



How do I appeal the decision to DHHS?

If you are unsatisfied with the determination of your complaint, you may file an appeal with the AAU. Appeals must be in writing and must be received within 30 days of the decision. You may contact OCLS at (855) 450-3593 and ask for help. You may request either a formal hearing or an independent review. An independent review is an informal process where the presiding officer reviews the relevant information. If requesting an independent review, the right to confront and cross-examine witnesses is waived.

Office of Client and Legal Services
105 Pleasant Street
Concord, NH 03301
(603) 271-6991

Administrative Appeals Unit
105 Pleasant Street
Concord, NH 03301
1-800-852-3345 x4292
Fax: (603) 271-8422

What happens in a hearing?

A hearing officer will conduct a hearing where both parties will be able to present witnesses, documents, and other evidence.

Should I have a lawyer represent me at the hearing?

You do not have to have a lawyer at the hearing, but you may want to have one to protect your rights and assist you through this process. The agency that is the subject of the complaint may have a lawyer representing them. The DRC does provide legal assistance to some people at administrative hearings. Call DRC for more information (1-800-834-1721).



What happens in an independent review?

This is a more informal process where the hearing officer will look at documents and interview involved people in order to reach a decision.

Where can I find out more about the independent review and hearing process?

The Administrative Appeals Unit has FAQs (frequently asked questions) and how-tos on its website, at <http://www.dhhs.nh.gov/oos/aau/documents/rights.pdf>

What if I am not satisfied with the decision of the hearing officer?

The rules allow you to request a rehearing. Often you can appeal the decision to court. You should speak with a lawyer before you take this step. You can contact a private lawyer or you can call the DRC for advice.

The Disabilities Rights Center is dedicated to eliminating barriers existing in New Hampshire to the full and equal enjoyment of civil and other legal rights by people with disabilities.