

## **CHAPTER 65.5-01-05 GRIEVANCE PROCEDURE**

### Section

65.5-01-05-01 Informal Process

65.5-01-05-02 Procedures

#### **65.5-01-05-01. Informal process.**

Disputes covered by this rule will be determined by administrative review which is an informal process.

**History:** Effective June 1, 1998.

**General Authority:** NDCC 25-01.3-02, 25-01.3-03

**Law Implemented:** NDCC 25-01.3-03, 25-01.3-06(9), 25-01.3-10, 28-32-05.1, 28-32-09

#### **65.5-01-05-02. Procedures.**

1. An individual has the right to administrative review of the actions or inaction of a project employee. This right is available only to an individual who is:
  - a. An applicant for services from the project;
  - b. A recipient or former recipient of services from the project;
  - c. A parent of a minor applicant for, recipient of, or former recipient of services from the project; or
  - d. An individual's guardian acting on behalf of the individual, who is an applicant for, recipient of, or former recipient of services from the project.
2. The administrative review that is available under this rule applies only to:
  - a. The denial of services to the individual by the project;
  - b. The amount, quality, or kind of services provided to the individual by the project; and
  - c. The legality of activities or policies of the project.
3. Administrative review by the project is an informal process with the following features:
  - a. Every reasonable accommodation will be provided if requested in advance by the individual to facilitate full participation despite any disability or alleged disability.
  - b. The process is initiated by a written grievance mailed or delivered to the executive director of the project. If the individual needs help to write the grievance, the project will assist the individual to get someone to help write the grievance.
  - c. The individual will be allowed to review and copy relevant documents that were relied upon by the project to make the decision that underlies the grievance. If the supplier of a document has prohibited the project from giving the document to the individual, the individual will be advised of the existence of the document but will have to obtain a copy from the source. If a document contains confidential information about another individual, the project will conceal that information and provide only a sanitized version of the document. If the document cannot be sanitized, the document will not be provided to the individual.

- d. The executive director may designate a project employee to investigate the grievance. The executive director may not designate this duty to the employee whose action or inaction is the subject of the grievance.
  - e. The individual has the right to have a personal interview included as part of the investigation of the grievance.
  - f. If a project employee has been designated by the executive director to investigate the grievance, that employee may recommend a decision to the executive director. The executive director will make the project's decision in each case.
4. The individual may appeal the project's decision to the committee.
- a. The committee's review of the decision is limited to a determination of whether it was made in accordance with the project's policies and priorities.
  - b. The review will be considered at the next regularly scheduled committee meeting if it occurs at least ten days after receipt of the written appeal.
  - c. If the committee determines the decision is consistent with the project's policies and priorities, the committee must affirm the decision. If the committee determines the decision is not consistent with the project's policies and priorities, it must direct the executive director to reconsider the decision and revise it to conform to the project's policies and priorities.
  - d. The committee must protect confidentiality to the maximum extent permitted by law, considering a protected individual's right to waive that protection. When committee review of a decision might jeopardize confidentiality, that review must be conducted in a closed meeting that may be attended by only those people who are authorized under law to have access to all the confidential material that may be disclosed during that review.
5. The following time guidelines apply:
- a. The administrative review must be initiated with a written grievance within fifteen days of the action or inaction that is the subject of the grievance.
  - b. The project must acknowledge receipt of the written grievance within seven days of receipt.
  - c. The investigation of the grievance must be completed within fifteen days of acknowledging receipt of the grievance unless there are reasonable delays in setting up a personal interview with the individual. If scheduling the personal interview causes reasonable delay, the investigation must be completed within ten days after the interview.
  - d. The executive director must issue a decision within fifteen days of completing of the investigation. The decision will be immediately mailed to the individual by certified mail.
  - e. The individual must file an appeal from the project's decision by sending or delivering a written notice of appeal to the committee within fifteen days of receipt of the decision.
  - f. The committee must issue its determination of an appeal within fifteen days of the meeting at which it is considered. The committee's determination will be immediately mailed to the individual by certified mail.
  - g. Any revised decision of the executive director must be issued within fifteen days of receipt of the committee's determination that it must be reconsidered. The committee will review any revised decision by the committee on protection and advocacy within fifteen

days of its issuance. Any revised decision will be mailed to the individual by certified mail from the committee no later than fifteen days after its review.

**History:** Effective June 1, 1998.

**General Authority:** NDCC 25-01.3-02, 25-01.3-03

**Law Implemented:** NDCC 25-01.3-03, 25-01.3-06(9), 25-01.3-10, 28-32-05.1, 28-32-09