

Developmental Services Grievance Process

This grievance process is for people receiving Developmental Services provided or paid for by the Department of Health and Human Services (DHHS.) If you are a person with an intellectual disability or autism, you have the right to file a grievance about a decision by DHHS that affects your life.

You may have been told by your case manager or provider that a service is not available to you. Services and supports you were receiving may have been reduced. You may have made complaints about your home or program and nothing is being done. If you have a complaint about a service or a provider, you or your representative can talk to your case manager about the problem. Talking can be the easiest and the best way to handle complaints and try to work out disagreements. Your case manager is supposed to work with you to try to solve your complaint.

Another way to work things out is called mediation. A mediator is a person who has special training in how to settle a problem. You can ask your case manager for mediation before filing a grievance. You can also ask for mediation after a grievance has been filed.

If these efforts are not working, or things are still not to your satisfaction, you can file a grievance.

I. WHAT IS A GRIEVANCE?

A grievance is a complaint. A grievance can be about an action or inaction of DHHS. It can be about a person or agency providing services or supports to you. A grievance can be about a violation of your rights. Or it can be about your unhappiness with current services or supports.

Grievances include the denial of services or supports relating to your Person-Centered Plan (PCP) or other planning process. A grievance can be about violations of law, or about rules that DHHS is required to follow.

You or your representative may get help from an advocate from Disability Rights Maine at any time during the grievance process.

If you need an interpreter to help you with your grievance, tell your case manager.

You can ask for mediation anytime during the grievance process. It stops the time limits while you, the mediator and district staff are trying to reach an agreement. Sometimes provider staff will be at the mediation meeting. If the mediation is not successful, you can continue with your grievance.

Your providers should try to solve problems with you informally whenever possible. They are required to document problems and their efforts to solve the problems. If your provider can't solve your complaint within eight (8) business days, the provider must notify your case manager.

There is a Maine law about grievances. The law is found in 34-B MRSA Section 5604 (3). www.mainelegislature.org/legis/statutes/34-B/title34-Bsec5604.html

II. HOW DO I FILE A GRIEVANCE?

There are three levels of grievance. The first two levels are informal. The third level is a formal hearing.

Level I: Case Manager

The easiest way to file a grievance is on the one page grievance form. It is on the DHHS website at: <http://www.maine.gov/dhhs/oads/home-support/disability-with-autism/grievance-process.html>. You can also get a copy of the grievance form from your case manager or your provider. Fill this form out, and give it to your case manager or provider. You also have the right to just ask for a grievance. Your case manager or provider should then fill out the form themselves to start the grievance. Your case manager is required to document your grievance, notify Disability Rights Maine, and to work quickly to try to resolve the complaint.

If the grievance cannot be resolved within eight (8) business days the case manager will immediately refer the grievance to a DHHS Office of Aging and Disability Services (OADS) Program Administrator. The case manager will also notify you, your representative and Disability Rights Maine, in writing, that the matter has been referred to Level II.

Level II: OADS Program Administrator

If the disagreement does not get worked out, then your grievance goes to an OADS Program Administrator. The OADS Program Administrator has eight (8) business days to try to resolve your grievance. The Program Administrator has the right to look at documents or other information about you in order to understand the grievance. They also have a right to speak to you and/or your representative in order to understand the nature of the problem. The Program Administrator must include your representative(s) in all discussions.

The Program Administrator will consult with the Developmental Services Manager of OADS about your case and document the discussion. The Program Administrator must give you a written decision within eight (8) business days after getting your Level II grievance.

This decision will tell you:

- What the grievance is about;
- The Program Administrator's understanding of the issue;
- The Program Administrator's decision; and
- The reason for the Program Administrator's decision.

Level III: Formal Administrative Hearing

When you get your final decision from the Program Administrator, it will tell you that you have ten (10) business days after you receive it to ask for a Level III resolution. If you are unhappy with the Program Administrator’s decision, you or your representative should write a short letter and say you want to file a grievance about the decision. In your letter, you can explain why you don’t agree with the final decision of the Program Administrator.

You can also ask for a Level III hearing if you do not get a final decision from the Program Administrator about the Level II grievance within eight (8) business days.

Your letter should be sent be mailed or faxed to your case manager and the OADS Program Administrator in your area. The addresses for Program Administrators are:

<p align="center">Cumberland and York Counties</p> <p>Program Administrator DHHS-OADS 151 Jetport Blvd., Ste. 100 SHS #11 Portland, ME 04102-1946</p> <p>Fax: 207-822-2162</p>	<p align="center">Aroostook County</p> <p>Program Administrator DHHS-OADS 30 Skyway Drive, Unit 100 SHS #11 Caribou, ME 04736</p> <p>Fax: 207-493-4173</p>
<p align="center">Androscoggin, Franklin, Oxford, Kennebec, Somerset, Lincoln, Sagadahoc and Knox Counties</p> <p>Program Administrator DHHS-OADS 41 Anthony Avenue SHS #11 Augusta, ME 04333-0011</p> <p>Fax: 207-287-7186</p>	<p align="center">Penobscot, Piscataquis, Hancock and Washington Counties</p> <p>Program Administrator DHHS-OADS 396 Griffin Road SHS #11 Bangor, ME 04401-3095</p> <p>Fax: 207-561-4396</p>

The request for a Level III hearing must be:

- In writing,
- Addressed to the case manager and the OADS Program Administrator in your area; and
- Made within ten (10) business days of receipt of the Level II decision

III. HOW DOES DHHS PROCESS MY GRIEVANCE?

The Program Administrator will forward the appeal within five (5) business days to OADS Central Office. The Central Office will forward the appeal to the Administrative Hearings Unit within five (5) business days and shall request that a hearing be set within fifteen (15) business days of receipt of the request. A hearing is a chance for you to tell a person who does not work for OADS why you are unhappy. This person is called the Hearing Officer. The Hearing Officer will contact you, your representative, your case manager, and OADS Central Office about where and when the hearing will take place.

IV. WHERE AND WHEN WILL MY HEARING BE HELD?

Your hearing will be held at a place that is comfortable for you. The Hearing Officer will listen to you to decide what the best place for a hearing is. If you have a problem with the date or time of the hearing, the Hearing Officer should be able to find a better date and time for the hearing as well.

V. WHAT CAN I EXPECT AT THE HEARING?

These hearings are less formal than going to court. You can have someone with you to help you with your case, or just help you be comfortable. Here is what a typical hearing might look like:

1. Before the hearing, the Hearings Officer might contact you, your representative and OADS to discuss the upcoming hearing. The Hearing Officer will decide where the hearing is going to take place, what facts people want to present, and what things people want to discuss at the hearing. The Hearing Officer is free to make decisions about some of these things. These decisions, or rulings, have to be in writing. Any rulings must be given to you or your representative before the hearing.
2. At the hearing, the Hearing Officer will make sure everyone is comfortable. The Hearing Officer will explain what the hearing is about, and will ask anyone if they have any questions before the hearing starts. The Hearing Officer may also swear in witnesses to make sure everyone tells the truth.
3. The Hearing Officer can decide who will speak first at the hearing. In most cases OADS will speak first. OADS will explain to the Hearing Officer its side of the story and will usually give documents such as reports and letters to the Hearing Officer. OADS may call witnesses to testify about what happened in this case. You or your representative have the right to object to information or facts that OADS is giving to the Hearing Officer.
4. After OADS has finished presenting its case, it is your turn. You can explain your point of view and present documents to the Hearing Officer. You can have witnesses testify to support your case. OADS can object to information or facts that you give to the Hearing Officer.

At the end of the hearing the Hearing Officer will ask if everyone had a full chance to present all

their facts. The Hearing Officer may also ask if either you or OADS want to make any final arguments. When everyone is done, the Hearing Officer will make a recommended decision. The Hearing Officer will send the recommended decision in writing to you, your representative, your case manager, the OADS Program Administrator and OADS Central Office.

VI. WHAT HAPPENS WHILE MY GRIEVANCE IS GOING ON?

While a grievance is going on, services you are receiving will continue unless your doctor or planning team suggest otherwise for health or safety reasons. You and your case manager can keep trying to solve your problem during the grievance, to mediate the conflict, or to solve new problems that come up. If something needs to happen right away, you and your case manager can try to find a temporary solution. If a temporary solution can't be found, then nothing will change until there is a final decision on your grievance.

VII. IS THE HEARING OFFICER'S RECOMMENDED DECISION FINAL?

No. The Hearing Officer's recommended decision gets sent to the Commissioner of DHHS. The Hearing Officer at the same time gives both you and DHHS ten (10) business days to write any last argument you have which you can also send to the Commissioner. The Commissioner will make a final decision within thirty (30) business days. If the Commissioner does not send out a decision within thirty (30) business days, then the decision of the Hearing Officer becomes the final decision.

VIII. WHAT IF I DO NOT LIKE THE DECISION?

You have the right to appeal the Commissioner's decision. The Commissioner's letter will tell you about your right to appeal the decision to the Maine Superior Court.

IX. WHAT CAN'T BE GRIEVED?

A grievance can not be filed around eligibility for developmental services. If you have been denied eligibility for developmental services and you disagree with the decision, you can instead file an appeal.

Information on the appeal process can be found at:

http://www.maine.gov/dhhs/oms/member/fair_hearing.html

and

<http://www.maine.gov/sos/cec/rules/10/chaps10.htm> See 14-147 CMR Ch. 3,

You can print this information from the website or ask OADS to print a copy for you.

Disability Rights Maine

Cumberland and York Counties

Disability Rights Maine
151 Jetport Blvd.
Portland, ME 04101
Tel: 822-2332 or 1-800-269-5208
TTY: Maine Relay 711

Androscoggin, Franklin, Oxford Counties

Disability Rights Maine
200 Main Street
Lewiston, ME 04240
Tel: 795-4538 or 1-800-482-7517
TTY: Maine Relay 711

Kennebec and Somerset Counties

Disability Rights Maine
24 Stone Street – Suite 204
Augusta, ME 04330
Tel: 626-2774 or 1-800-452-1948
TTY: Maine Relay 711

Knox, Lincoln, Sagadahoc and Waldo Counties

Disability Rights Maine
91 Camden Street, Suite 103
Rockland, ME 04841
Tel: 626-2774 or 1-800-452-1948

Penobscot, Piscataquis, Hancock and Washington Counties

Disability Rights Maine
396 Griffin Road
Bangor, ME 04401
Tel: 561-4113 or 1-800-432-7825
TTY: Maine Relay 711

Aroostook County

Disability Rights Maine
PO Box 2007
30 Skyway Drive, Unit 100
Caribou, ME 04736
Tel: 493-4129 or 1-800-432-7366
TTY: Maine Relay 711