

<b>STATE OF ALASKA</b> <b>DEPARTMENT OF HEALTH &amp; SOCIAL SERVICES</b>  <b>SENIOR AND DISABILITIES SERVICES</b>  <b>POLICY &amp; PROCEDURE MANUAL</b>	<b>Section:</b> 15 Quality Assurance	<b>Number:</b> 15-3	<b>Page:</b> 1
	<b>Subject:</b> Complaint Management		
	<b>Approved:</b> /s/ Kimberli Poppe-Smart Kimberli Poppe-Smart Acting Director		<b>Date:</b> 7/22/10

**Purpose**

To inform individuals of the processes for resolution of complaints.  
To provide guidelines for evaluating complaints.

**Policy**

Senior and Disabilities Services (SDS) provides for a complaint system that offers a number of approaches to resolve problems and issues with program operations or services. This system, which includes provider grievance processes as well as state agency processes, fosters the identification of problems that, when remediated, lead to improvement in the quality of program operations and to the health, safety, and welfare of participants.

While the system provides latitude for filing complaints, it is not a substitute or a pre-requisite for a Fair Hearing, and filing with SDS does not undermine the participant’s right to request a Fair Hearing. Participants who file complaints with SDS about problems that fall under the scope of the Fair Hearing process are assisted with the information provided in the *Notice of Adverse Actions, Hearings and Appeals*.

Individuals file initial complaints about provider services or personnel with the provider or SDS, or file with SDS if the matter is not resolved through the provider grievance process. Individuals file complaints about SDS or about specific participants with the SDS Quality Assurance Unit. When the complaint is within the authority of SDS to investigate and remediate, SDS evaluates the circumstances and, whenever possible, resolves the problems or issues presented.

When first enrolled for services and annually thereafter, SDS advises program participants of the right to submit complaints in the *Senior and Disabilities Services Program Recipient Rights* form. SDS encourages participants to file a complaint with the provider first, as this approach offers the better opportunity for quick resolution; however, filing with the provider is not a pre-requisite for filing a complaint with SDS.

SDS does not review complaints based on dissatisfaction with program determinations for which an appeal process is provided by regulation. For providers, this includes denied or reduced claims for payment, establishment of rates, and imposition of sanctions; for participants, modification, termination, or denial of a covered Medicaid service as outlined in the *Notice of Adverse Actions, Hearings and Appeals*.

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### Authority

42 CFR 441.302 State assurances. 7 AAC Chapter 49 Hearings. 7 AAC 125.60 Personal care provider certification and enrollment. 7 AAC 130.220 Provider certification and enrollment. SDS Policy and Procedure 2-2 *Program Rights Information for Recipients*.

### Definitions

“Complaint” means an oral or written expression of dissatisfaction about services, personnel, actions, or lack of action, by a provider or by SDS.

“Complainant” means an individual who has a complaint, including a participant, representative, concerned individual, or a provider agency or agency employee.

“Participant” means an individual who receives services through one of the Home and Community-Based Waiver Services programs (Adults with Physical Disabilities, Older Alaskan, Children with Complex Medical Conditions, or Intellectual and Developmental Disabilities); the Personal Care Services program; or a grant program administered by SDS.

“Provider” means any sole practitioner or agency certified by SDS or any SDS grantee.

“Provider grievance process” means the process, established by providers as a requirement for SDS certification, for review and resolution of complaints about their services.

### Responsibilities

1. The **complainant** is responsible for filing a complaint with the provider or SDS.
2. **SDS** is responsible for
  - a. reviewing complaints or referring complaints to the appropriate agency,
  - b. evaluating findings,
  - c. implementing remediation of deficiencies, and
  - d. developing reports of complaint activities.

### Procedures

#### A. Timelines.

1. Upon receipt of information alleging harm to vulnerable adults or to children, the SDS Quality Assurance (QA) Unit refers the complaint to the appropriate state agency for investigation.

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2. Within three business days of receipt, the QA Unit refers the complaint to the appropriate SDS unit for processing.
3. Within 15 business days of receipt of a complaint about SDS operations or personnel, the SDS unit processes the complaint and reports its findings and resolution to the QA Unit.
4. Within 30 business days of receipt of the SDS unit report, the QA Unit provides a report to the provider, and when requested, to the complainant.

## **B. Filing Complaints.**

### 1. Complaints about provider services.

#### a. Filing with the provider.

A complainant dissatisfied with provider services, or the actions or conduct of provider personnel, may file an initial complaint with the provider.

#### b. Filing with SDS.

i. A complainant dissatisfied with provider services, or the actions or conduct of provider personnel, may file an initial complaint with SDS.

ii. A complainant dissatisfied with the resolution offered by the provider through its grievance process files a complaint with SDS.

iii. A complainant concerned about possible Medicaid fraud or abuse files a complaint with SDS.

### 2. Complaints about SDS.

A complainant dissatisfied with SDS operations, policies, or personnel files an initial complaint with the QA Unit.

### 3. Complaints about participants.

A complainant concerned about a specific participant's eligibility or misuse of Medicaid funds files an initial complaint with the QA Unit.

## **C. SDS complaint process.**

### 1. Intake.

#### a. Complaint information. SDS

i. documents oral complaint information or reviews written complaints;

ii. enters essential information into the SDS database (e.g., date, time, complainant, subject and nature of the complaint, and names of contacts); and

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iii. either

(A) redirects the complainant to the appropriate agency when a complaint is not within the authority of SDS to investigate and remediate, or

(B) distributes complaints after review and data entry.

b. Review. The QA Unit,

i. based on the information provided,

(A) evaluates whether an investigation is warranted, or

(B) closes the case if the complaint lacks sufficient information to initiate an investigation;

ii. determines

(A) whether it is within the authority of SDS to investigate and remediate, or

(B) whether it requires referral to another SDS unit or state agency; and

iii. either

(A) investigates the complaint or refers it to another SDS Unit, or

(B) refers complaints outside the scope of SDS authority to investigate and remediate to the agency that has investigative responsibility:

(1) to Adult Protective Services, complaints that contain allegations of harm to vulnerable adults,

(2) to the Office of Children's Services, complaints that contain allegations of child abuse or neglect, and

(3) to the departmental Program Integrity Unit, complaints that contain allegations of Medicaid fraud or abuse.

2. Investigation responsibilities.

a.. The QA Unit

i. investigates complaints about provider services or non-compliance with program requirements, and

ii. monitors complaint referrals to other agencies to evaluate whether investigative findings include deficiencies that require remediation.

b. SDS units

i. process complaints referred by the QA Unit, and

ii. report findings and resolution to the QA Unit.

3. Complaint processing.

a. Information basis. SDS establishes an information basis by

i. reviewing intake information and gathering additional information, as needed;

ii. reviewing SDS records pertaining to the substance of the complaint; and

iii. as necessary, conducting interviews, reviews of provider records, and onsite surveys.

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b. Evaluation. SDS bases its determinations regarding a complaint on guidelines including, but not limited to, the following criteria.

- i. Complaints about SDS or provider operations or services:
  - (A) consistency with purpose of program,
  - (B) consistency in application of agency policy,
  - (C) consistency in application of standards or principles, and
  - (D) consistency with regulations.
- ii. Complaints about SDS personnel:
  - (A) conduct considered negligent, rude, or discourteous,
  - (B) timeliness of actions,
  - (C) requirement of unreasonable or unnecessary documentation or clarification, and
  - (D) treatment different than others without reasons related to regulations.
- iii. Complaints about SDS decisions:
  - (A) failure to consider all relevant information,
  - (B) misunderstanding of relevant facts,
  - (C) made by biased or unqualified individual, and
  - (D) not supported by policy, standards, or regulations.

4. Review conclusion.

- a. Complaints without merit. SDS closes cases of complaints determined to be without merit, and enters required data into the SDS database.
- b. Remediation. SDS implements appropriate remediation if the complaint brings a deficiency to light, including, but not limited to, the following actions.
  - i. For providers: sanctions as required by Medicaid regulations, 7 AAC 105.400 – 105.490.
  - ii. For SDS:
    - (A) changes in process or policy,
    - (B) clarification of policy or regulations,
    - (C) individual, unit or division-wide training, and
    - (D) referral to Human Resources.
- c. Administrative remediation. SDS unit managers or designees implement remediation regarding administrative or SDS system complaints.
- d. Reports of findings. SDS reports findings and requirements for remediation
  - i. to the provider, and
  - ii. upon request, to the complainant.

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**D. Complaint oversight.**

1. Provider complaint processes. The QA Unit reviews
  - a. annual provider reports submitted for recertification, and
  - b. complaint files during onsite surveys.
  
2. SDS complaint process. The QA Unit
  - a. reviews and analyzes aggregated complaint data on a monthly basis, and
  - b. prepares a report for the Quality Improvement Workgroup, including
    - i. analysis of complaint data, and
    - ii. recommendations for
      - (A) provider or SDS improvements or remediation,
      - (B) development of new, or modification of current, policy and procedures, and
      - (C) improvements to the complaint process.
  
3. Monitoring SDS activities. The Quality Improvement Workgroup
  - a. reviews monthly reports of findings and recommendations by the QA Unit,
  - b. develops a plan to address identified issues,
  - c. recommends administrative or operational changes if indicated,
  - d. identifies training and technical assistance needs,
  - e. tracks and evaluates progress on actions items, and
  - f. reports on the performance of SDS complaint process activities to the departmental Quality Improvement Steering Committee on a quarterly basis.