

THE ECKAAA-CDDO SERVING COFFEY, OSAGE AND FRANKLIN COUNTIES
Policies and Procedures

SUBJECT: DISPUTE RESOLUTION

EFFECTIVE: 7/2/2018

SECTION: 545A

PAGE: 1 of 2

SUPERCEDES: 545

R1 Dated 2/6/2017

Policy:

The East Central Kansas Area Agency on Aging Community Developmental Disability Organization (ECKAAA-CDDO) serving Coffey, Osage, and Franklin counties, in conjunction with the Council of Community Members shall develop and implement a dispute resolution process. This process will apply to all persons being served by the CDDO or by any Affiliated Provider with the CDDO, pursuant to K.A.R. 30-64-32.

Procedure:

- 1) These procedures shall provide persons being served by the CDDO or by any affiliated Provider with a means for resolving disputes which may arise between the following:
 - A) The person or person's legal guardian, if one has been appointed;
 - B) Other individuals from the individual's support network;
 - C) The CDDO;
 - D) The affiliated community provider or any other component of community service system;
 - E) The CDDO and any entity that wishes to become an affiliated provider;
 - F) The CDDO and any other component of community service system that involves the CDDO including Community Service Providers.
- 2) Disputes will be presented to the Council of Community Members at either a regularly scheduled meeting or a special meeting. All requests for dispute hearing should be forwarded, in writing, to the Chairperson of the Council for scheduling. The Council may choose not to review or hear a dispute unless documentation is presented indicating that all Community Service Providers specific internal grievance procedures have been exhausted.
- 3) All actions of the Council of Community Members relative to dispute resolution activities will be scheduled within twenty (20) calendar days following receipt of written notice to the Chairperson of the Council of dispute. All notifications of such activities will be communicated to each party using certified mail delivery. If mail delivery is not possible, other means of communication may be utilized, provided they can be duly witnessed and documented.
- 4) The Council of Community Members shall attempt to resolve the dispute as presented in a manner that is agreeable to both parties. If consensus is reached, that recommendation will be documented in the Council's meeting minutes and considered resolved. In the event consensus cannot be reached, or should either party not carry out actions as agreed to in the process, the opportunity for the intervention into the dispute by a mediator, who has no decision making authority and is impartial to the issues being discussed, will be an option. Mediation shall be completed no later than forty (40) calendar days following the receipt of written notice to the CDDO of a dispute.
- 5) Any fees charged by the mediator can be shared equally between the parties to the mediation, but with the provision that a person shall not be denied mediation services solely because of an inability to pay the applicable fee. In no case shall the fee requirement be modified or waived for mediation services provided at the request of another CDDO or paid provider.
- 6) Any party to the dispute may decline to enter into any process of mediation if that party chooses to proceed directly to the appeal procedures. Any party to the dispute may

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withdraw from any mediation whenever that party believes further efforts at mediation will not likely result in resolution of the dispute.

- 7) Any party of the dispute may appeal to either of the following:
 - A) The governing board of the CDDO, or any other body that the board may designate, if the dispute involves the CDDO as a party. The board shall have twenty (20) calendar days from the date of receipt of written notice of appeal to conduct any appropriate proceedings and issue a written decision by the end of the twenty (20) day period, the appeal shall be deemed decided in favor of the appellant. Each decision of the board shall be binding upon the parties unless either party appeals further to the commission as specified.
 - B) Kansas Department of Aging and Disability Services, Division of Disability and Behavioral Health Services, Community Supports and Services commission (KDADS/DBHS/CSS), unless the dispute involves the CDDO as a party, in which case the appeal shall first have been made to the governing board of the CDDO.
- 8) If an appeal is made to the KDADS commission and the appeal is from a decision made by the CDDO's governing board, a written notice of appeal shall be delivered to the commission within ten (10) calendar days of the appealing party's receipt of the board's decision. If the dispute does not involve the CDDO as a party, a written notice of appeal shall be delivered to the commission within sixty (60) calendar days following the CDDO's receipt of written notice of the dispute as specified in section 7) a) of this policy.
- 9) KDADS/DBHS/CSS reviews any relevant material and/or discusses the issue with the parties involved, to assist the parties in resolving the dispute and preventing similar disputes in the future. KDADS/DBHS/CSS may require changes of policies, procedures, or practices of community service participants, in which case, the matter will be referred back to the local level so the situation can be rectified. KDADS/DBHS/CSS may recommend corrective actions, a peer review process by community service participants, or other resolution guidelines.
- 10) IF KDADS/DBHS/CSS confirms the local decision, the party to the dispute will then be referred to the Office of Administrative Hearings (OAH). If disputes are filed directly to the OAH, KDADS/DBHS/CSS may file a motion to dismiss so the summary review process can take place.
- 11) Functional (BASIS) Assessments (i.e. tier changes) are not reviewed under K.A.R. 30-64-32, nor can they be appealed to OAH, as they do not directly affect services provided to the individual and/or family. However, a tier change from five (5) to zero (0) is considered a matter of eligibility and therefore may be appealed directly to OAH by the individual and/or the individual's guardian/responsible party.
- 12) Nothing in the regulations shall be construed to limit the right of any person to bring any action against a CDDO, any affiliated Provider, or any other individual or entity as permitted by law.