



## **HHS CIRCULAR C-052**

### **HHS Consumer Inquiry and Complaint Policy**

#### **Purpose**

To establish policy for health and human services (HHS) programs to track, analyze, and report consumer inquiries and complaints.

#### **Definitions**

- Agency Monthly Contact Report (AMCR): a monthly report of inquiries, complaints, and legislative contacts submitted to the Executive Commissioner by the Director of the Office of the Ombudsman (OO).
- Consumer: applicants and clients of HHS programs, as well as members of the general public seeking information about HHS programs.
- Contact: an attempt by a consumer to inquire or complain about HHS programs or services.
- Complaint: any expression of dissatisfaction by a consumer of an HHS program or service. For purposes of this circular, complaints do not include:
  - allegations of abuse, neglect, or exploitation;
  - allegations of violations of civil rights, including discrimination;
  - allegations of fraud, waste, or abuse;
  - personnel and disciplinary matters;
  - requests for Fair Hearings and/or other appeals; or
  - concerns about regulated individuals (e.g., occupational licensees) and entities (e.g., nursing facilities).
- Direct service delivery: programs or services provided to consumers by agency staff. This includes vendors contracted to provide services on behalf of an HHS agency.
- Dispute Resolution Services: an independent and impartial review of a program's actions regarding an HHS consumer complaint that has not resolved to the consumer's satisfaction.
- HHS Enterprise Administrative Report and Tracking System (HEART): a web-based system operated by HHSC Information Technology staff that tracks Inquiries and Complaints.
- Inquiry: a request by a consumer for information about HHS programs or services.



- Legislative contacts: inquiries and complaints received from congressional or state legislative offices.
- Resolution: the point at which a determination can be made as to whether a complaint should be substantiated and no further action is necessary.
- Substantiated: a complaint where research clearly indicates agency policy was violated or agency expectations were not met.
- Unable to Substantiate: a complaint where research does not clearly indicate if agency policy was violated or agency expectations were met.
- Unsubstantiated: a complaint where research clearly indicates agency policy was not violated or agency expectations were met.

## **Background**

HHSC's Compact with Texans<sup>1</sup> outlines the agency's customer service principles and standards, including a complaint process for consumers. As part of that process, consumers are directed to first contact the HHS program for which they have an inquiry or a complaint. If the concern is not resolved to their satisfaction, the consumer is directed to contact the HHS OO, established by House Bill 2292, 78<sup>th</sup> Legislature, Regular Session, 2003.

The Complaint Process Improvement Project identified inconsistencies and potential weaknesses in the way HHS agencies received and resolved complaints. A standard glossary of terms and benchmarks were approved by the Executive Commissioner in November 2009. The Enterprise-wide Complaint Review identified where consumer complaints are received throughout the HHS agencies. Recommendations to improve how those complaints are tracked, analyzed, and reported, were approved by the Executive Commissioner in July 2011.

Senate Bill (SB) 200, 84<sup>th</sup> Legislature, Regular Session, 2015, clarified OO's authority and responsibilities to include providing dispute resolution services for the HHS agencies and performing consumer protection and advocacy functions related to HHS programs and services, including assisting consumers with:

- raising a matter that a consumer feels is being ignored;
- obtaining information regarding a filed complaint; and
- collecting inquiry and complaint data across the HHS agencies.

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<sup>1</sup> Available at <https://hhs.texas.gov/compact-texans>



SB 200 further directed a standard process for tracking and reporting inquiries and complaints, including a centralized tracking system that includes field, regional and other local HHS offices.<sup>2</sup>

## **Policy**

State law establishes OO with authority and responsibility over the HHS agencies in providing dispute resolution services and performing consumer protection and advocacy functions. OO provides consumers of HHS programs and services with recourse in the event routine program efforts do not resolve issues to their satisfaction by:

- conducting independent reviews of complaints concerning HHS agency policies or practices;
- ensuring policies and practices are consistent with the goals of the HHS agencies;
- ensuring individuals are treated fairly, respectfully and with dignity; and
- making referrals to other agencies as appropriate.

OO does not have authority to provide a process for resolving complaints that includes overturning or appealing a decision of an HHS program.

Each HHS office that provides direct service delivery of programs or services must offer a process to consumers to submit complaints and advise consumers how to contact OO if that office does not resolve the complaint to their satisfaction. Programs should ensure OO contact information is provided on appropriate web pages, in written materials (such as client handbooks and denial notices), and is available when asked for verbally in local offices. This includes communications made to consumers by contracted vendors.

HHS External Relations will establish a process to refer constituents of legislative offices, including who is authorized to convey the resolution of these inquiries and complaints to legislative staff.

Consumers must be notified of the outcome of a complaint unless the agency is prohibited from doing so due to the nature of the complaint. Examples of when notification is not possible might include complaints relating to an agency personnel matter, a consumer's protected health information, or an investigation by the Office of the Inspector General.

Unless federal requirements, an existing state contract with a vendor, or an investigation process by DADS Regulatory or DFPS Child Protective Services requires a different standard for that program, agencies must attempt to resolve 90 percent of complaints within 10 business days. If this cannot be achieved, the consumer should be notified before the 10<sup>th</sup> business day and regular updates should be provided until the complaint is resolved. Legislative contacts should be

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<sup>2</sup> Government Code 531.0171.



resolved within 48 hours. Contacts relating to a consumer's access to care should be resolved within 24 hours.

Suspected abuse, neglect, or exploitation of a child, a person 65 years or older, or an adult with a disability must be reported to the Department of Family and Protective Services Abuse Hotline by telephone at 1 (800) 252-5400 or online at [www.txabusehotline.org/Login/Default.aspx](http://www.txabusehotline.org/Login/Default.aspx), as required by state law.

Allegations of suspected abuse or neglect of people who are older or who have disabilities should be reported to Consumer Rights & Services by telephone at 1 (800) 458-9858. This number is to report abuse that occurs in nursing homes, assisted living centers, intermediate care facilities, Home Health and Hospice, and Day Activity and Health Services.

Allegations of violations of civil rights, including discrimination regarding the delivery of HHS services, including those concerning lack of access to benefits and services due to language or disability, should be forwarded to the Civil Rights Office, as required by HHS Circular C-001.

Personnel and disciplinary matters should be forwarded to HHS Human Resources.

Allegations of fraud, waste, or abuse regarding HHS programs or services should be forwarded to the Office of the Inspector General, as required by HHS Circular C-027.

Complaints intended for a long-term care ombudsman regarding a person living in a nursing facility or assisted living facility should be forwarded to the Office of the State Long-Term Care Ombudsman by telephone 1(800) 252-2412 or by email at [lrc.ombudsman@dads.state.tx.us](mailto:lrc.ombudsman@dads.state.tx.us).

## **Responsibilities**

### HHS Programs

Each HHS Commissioner and HHSC Deputy Executive Commissioner that oversees a direct service delivery will designate an office to submit contact data to OO on a monthly basis for inclusion in the AMCR, and to attend quarterly meetings to discuss emerging trends and policy updates.

By March 1<sup>st</sup> of each year, each HHS Commissioner and HHSC Deputy Executive Commissioner that oversees a direct service delivery will provide OO an assessment of programs they believe warrant routine analysis and reporting, and those they do not intend to track. The assessment should be based on an analysis of strategic risk that includes the following factors:

- level of impact to consumers, the agency's mission or the agency's budget;
- volume of complaints;



- compliance with state or federal laws, policies, or expectations;
- systemic impact; and
- potential for litigation, media scrutiny or legislative impact.

The assessment must include tracking of complaints submitted to field, regional, and local offices. It must also include information on the tracking system used by each program. For any programs not using HEART, the assessment must outline a plan to migrate to HEART or specifically indicate why that is not feasible for each program.

Each program designated through this process must have policies and procedures in place that address the following:

- *Tracking*: use of a formal tracking system that captures essential information necessary for analysis, including:
  - contact name and other identifying information;
  - date contact received;
  - method of receipt (fax, phone, email, etc.);
  - reason for contact (in line with standard definitions developed by OO);
  - details to isolate potential trends such as location or particular service;
  - resolution actions;
  - date of resolution;
  - determination of whether complaints are substantiated or not; and
  - record of final communication with consumer, including date and method.
- *Analysis*: conduct monthly trend analysis to address shifts in volume of contacts received greater than five percent within a program. Research should be conducted to determine the root causes for variations. For example, changes in agency policy or procedures, newly implemented programs, or staffing challenges that impact service delivery. Specific elements of the analysis must include at a minimum:
  - a listing of the top five reasons for Inquiries, for Complaints, and for Legislative Contacts, as compared to the total number received;
  - explanation of factors impacting changes in reasons for contact from one month to the next; and
  - data to indicate patterns, trends, or systemic issues of which program staff should be aware.
- *Reporting*: monthly submission of contact data in the format determined by OO, with the expectation it will be included in the AMCR and be appropriate for review by agency executives. At a minimum, this reporting will include:



- the number of inquiries, complaints, and legislative contacts received;
- the number of complaints resolved (from that month and previous months);
- the number of complaints resolved that were substantiated;
- the average time for resolution of complaints;
- the percent resolved within 10 business days; and
- summaries of cases that illustrate relevant patterns or trends.

Program staff must maintain records sufficient to allow for verification of their reported data back to the original inquiry or complaint by the consumer.

### HHS Office of the Ombudsman

OO will lead coordination of inquiry and complaint tracking, analysis, and reporting efforts of the HHS agencies. OO will host quarterly meetings of program staff to ensure regular discussion of common trends, standard definitions for common contact reasons, policy updates, and the use of reported data. OO may also provide regular reporting of program-specific contact data to management teams of particular HHS programs.

HEART is operated by HHSC Information Technology staff. OO will serve as a business unit owner of the application and will be available to HHS program staff as part of their required tracking of contacts. OO will be available to assist programs with analysis of their contact data, but will not conduct the analysis on their behalf. State law allows OO to access any system or process for recording inquiries and complaints used or maintained by the HHS agencies.<sup>3</sup> When accessing a program's data, OO will follow the same confidentiality procedures they follow for OO consumer data, which is to follow the requirements outlined in Section 1200 of the Texas Works Handbook<sup>4</sup>, unless a program's confidentiality procedures are more specific or differ based on federal policy or state law.

By June 1<sup>st</sup> of each year, OO will review the assessments submitted by the HHS programs and seek final approval from the Executive Commissioner of the list of programs to be included in the AMCR starting on September 1<sup>st</sup> of each year. OO will compile the report based on data provided by program staff. OO will include vendor-reported data for HHS programs included in the AMCR.

### **Exclusions**

The policy outlined in this circular does not apply to the Office of the Independent Ombudsman for State Supported Living Centers established by Chapter 555 of the Health and Safety Code. However, that office may voluntarily provide aggregate data for AMCR reporting process.

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<sup>3</sup> Government Code 531.0171(d)

<sup>4</sup> Available at <https://hhs.texas.gov/laws-regulations/handbooks/part-b-case-management/twh-b-1200-confidentiality>



## **Inquiries**

Inquiries regarding the content of this circular should be directed to Elisa M. Hendricks, Director, HHS OO, by telephone at (512) 706-7281 or by email at [elisa.hendricks@hhsc.state.tx.us](mailto:elisa.hendricks@hhsc.state.tx.us).

Consumer, stakeholder, and public inquiries and complaints should be directed to the HHS OO, by telephone at (877) 787-8999 or online at [hhs.texas.gov/ombudsman](http://hhs.texas.gov/ombudsman).