

**ADDENDUM A**  
**HIV Planning Council**  
**Grievance Policy and Procedures**

**1. Grievance Procedure Requirement**

Section 2602 (b) of the Ryan White CARE Act, and as subsequently amended in the Ryan White Treatment Modernization Act of 2006, requires, in part, that Planning Councils develop procedures for addressing grievances with respect to funding, including procedures for submitting grievances that cannot be resolved to binding arbitration. Such procedures shall be described in the by-laws of the Planning Council and be consistent with the requirements of subsection (c).

**2. Policy**

It is the policy of the HIV Planning Council to establish a grievance process by which a grievant's complaint regarding priority setting or resource allocation process can be addressed and resolved expeditiously. A grievant shall not be discriminated against nor suffer retaliation as a result of filing a grievance in good faith or participating in the investigation of a grievance.

**3. Scope of coverage**

This procedure applies to the priority setting and resource allocation processes under the Ryan White Treatment Modernization Act Part A.

**4. Definitions**

Definitions of terms-used throughout this procedure are contained in Appendix I, which is attached hereto and is fully incorporated by reference.

**5. Eligible Grievant**

Entities directly affected by the outcome of a Planning Council decision related to priority setting or resource allocation process for Ryan White Part A grant funds are eligible to initiate a grievance. These entities are limited to:

- Persons Living with HIV (PLWH)
- HIV consumer groups, HIV coalitions or caucuses.

Entities not eligible to file a grievance include:

- Contracted Ryan White service providers
- Appointed Planning Council members
- Grantee

**6. Eligible Grievances**

Planning Council priority setting or resource allocation process decisions regarding Ryan White Part A and MAI grants will be made in accordance with established policies and procedures

## **ADDENDUM A**

approved by the Planning Council for the setting of service category priorities and the allocation of resources. Eligible grievants, as defined above, may initiate a grievance regarding a deviation from the then-applicable Planning Council approved priority setting or resource allocation process as they apply to:

- Deviation from an established, written priority setting or resource allocation process.
- Deviation from an established, written process for any subsequent changes to priorities or allocations.

### **7. Dispute Prevention**

The Planning Council will make all reasonable efforts to prevent circumstances or situations regarding the priority setting or resource allocation process that could give rise to a grievance. When an entity is directly affected by the outcome of the priority setting or resource allocation process because the Planning Council did not adhere to its established, written procedure(s) for the priority setting or resource allocation process for the Ryan White Treatment Modernization Act Part A or MAI funds, the Planning Council will cooperate and explain its rationale for the decision in an effort to resolve the disagreement at an early, informal stage.

It is expected that entities which have a disagreement regarding the priority setting or resource allocation process will identify the situation to the Planning Council Chairperson at the earliest opportunity. The Planning Council Chairperson shall attempt to informally resolve disputes by providing information or statements to entities dissatisfied with the priority setting or resource allocation process. Grievants are expected to cooperate in good faith with the Planning Council in efforts to resolve the disagreement before formal grievance procedures are pursued.

Entities that have not been able to resolve a disagreement by the informal techniques of dispute prevention may, within the guidelines presented herein, initiate the formal, structured grievance process.

### **8. Grievance Process Overview**

Grievances regarding the priority setting or resource allocation process for Ryan White Treatment Modernization Act Part A grant funds will be addressed by the Planning Council in accordance with the following process:

**Priority Setting or Resource Allocation Process Review** - After all attempts at an informal dispute resolution have been made, the grievant will submit a written Request for Priority Setting or Resource Allocation Process Review to the Planning Council Chairperson. After investigation by the Chairperson with support from Planning Council staff, a report to include recommended actions that are expected to resolve the grievance, will be written; Upon review and approval by the Executive Committee of the Planning Council, it will be provided to the grievant. If the report satisfies the grievance, the grievant will so indicate by signing the report.

**Mediation** - Failing resolution through the Priority Setting or Resource Allocation Review

#### **ADDENDUM A**

process, the grievant may submit a Request for Mediation utilizing independent mediation service Dispute Resolution Center, 5407 N. IH35, Austin TX 78223 or other mediation service mutually acceptable to both parties. The role of the mediator will be to help the parties reach agreement on a resolution to the grievance and document in a report recommended actions that are expected to resolve the grievance. If the recommendation satisfies the grievance, the grievant will so indicate by signing the report.

**Binding Arbitration** - Failing resolution through the mediation process, the grievant may submit a Request for Binding Arbitration to mediation service. Upon deciding to do so, the grievant must simultaneously submit a copy of this request to the Planning Council Chairperson. An arbitrator will be selected by the mediation service. The arbitrator, following the rules of the American Arbitration Association (AAA) will review all relevant information concerning the grievance and render a resolution that will be binding on both parties. Both parties will acknowledge receipt and acceptance of the resolution by signing the arbitrator's resolution.

**Costs** - Costs associated with the arbitration process will be borne by the parties equally. However, each party shall be responsible for expenses related to its own counsel, experts, witnesses, and preparation and presentation of all documents. Cost and fees may include, but are not limited to, all reasonable pre-award expenses of the mediator's or arbitrator's fees, travel expenses, out-of-pocket expenses for copying and telephone.

Each of the above processes will be in accordance with the time frames indicated in this grievance procedure.

#### **9. Funding of Contracts while a Grievance is in Process**

To ensure the provision of HIV related services while a grievance is in process, the Planning Council will implement its priority setting or resource allocation process according to its approved schedule. Agreed grievance resolutions will be prospective (i.e., they will not require reversal of priorities or categorical allocations made in support of the funding decision being grieved) unless such actions are an agreed component of the grievance resolution.

#### **10. Time Extensions**

Time frames identified in this procedure may be altered only by mutual agreement, in writing, of both parties to the specific time frame.

#### **11. Priority Setting or Resource Allocation Process Review**

If reasonable attempts to resolve priority setting or resource allocation process disagreements have not resulted in a solution acceptable to both parties, the eligible grievant may initiate the grievance process by submitting a written Request for Priority Setting or Resource Allocation Process Review Form. The Planning Council Chairperson must receive this request within 10 business days of the occurrence of an alleged deviation by the Planning Council from its published priority setting or resource allocation policies and procedures. If a request is not received within the 20 business days, the grievant will have waived all rights to grieve the priority setting or resource allocation decision. The Request for Priority Setting or Resource

## **ADDENDUM A**

Allocation Process Review Form is attached hereto as Appendix II is fully incorporated herein by reference.

The Planning Council Chairperson is the individual designated to receive the Request for Priority Setting or Resource Allocation Process Review. The request, in writing, must be delivered by U.S. mail, return receipt requested, or by personal delivery, during Office of Planning Council normal business hours, 8:00 am to 5:00 pm.

The Planning Council Chairperson will provide a written summary of the options available to the grievant under the informal dispute prevention process and the formal grievance procedure. The Chair will also provide the grievant with a written outline and time frames describing the procedures.

Upon receipt of a Request for Priority Setting or Resource Allocation Process Review, the Planning Council Chairperson, or his/her agent, will within the days shown below, complete the following actions:

Two (2) business days: acknowledge, in writing, receipt of the Request for Priority Setting or Resource Allocation Process Review to the grievant at the address shown on the request.

Five (5) business days: determine if the grievant is an eligible grievant, and if he/she has identified an eligible grievance.

Fifteen (15) business days: complete a thorough review of the circumstances and information available regarding the grievance. This may include, but is not limited to reviewing all correspondence, records, or documentation related to the priority setting or resource allocation process that is the subject of the grievance, interviewing any or all persons who have, or might have, knowledge of the priority setting or resource allocation process, or were, or could be, affected by the priority setting or resource allocation process thereto.

Eighteen (18) business days: deliver to the Executive Committee of the Planning Council:

- A Priority Setting and Resource Allocation Process Review Report for review and approval summarizing the priorities or allocations decisions, whether the Planning Council Chairperson believes there is a basis for the grievance and, if appropriate, recommended action(s) that are expected to resolve the grievance;
- a statement that the Priority Setting or Resource Allocation Process Review will continue by mutual agreement of the grievant and the Planning Council Chairperson; or
- a Priority Setting or Resource Allocation Process Review Report summarizing the results achieved, the reason(s) for an impasse, a recommendation that further informal efforts will not likely produce a resolution, and a recommendation to discontinue the Priority Setting or Resource Allocation Review process.

Within six (6) business days of receipt, the Executive Committee of the Planning



#### **ADDENDUM A**

Council will review the Priority Setting and Resource Allocation Process Review Report. If approved, the Planning Council Chairperson will notify the grievant accordingly and provide two (2) copies of the report.

The grievant, upon receipt of the Priority Setting or Resource Allocation Review Report, will have five (5) business days to review it, decide if it satisfactorily addresses the grievance, and select one of the following actions:

If the report is satisfactory, the grievant will indicate his/her acceptance by signing one copy of the report and returning it to the Planning Council Chairperson.

If the report is not satisfactory, the grievant may contact the Planning Council Chairperson to express a desire to continue the Priority Setting or Resource Allocation Review process in an effort to resolve the grievance.

If the grievant is not satisfied with the report and believes that the grievance cannot be resolved by further discussion with the Planning Council Chairperson, the grievant may, within the five (5) business days of receipt of the report, submit a Request For Mediation to the designated mediation service in accordance with the procedure below.

If the PLANNING COUNCIL Chairperson does not receive a written reply from the grievant within the five (5) business days, the grievant will have waived all further rights to grieve the priority or allocation issue and all associated issues.

#### **12. Mediation**

If reasonable attempts to resolve a grievance have not resulted in a solution acceptable to both parties, eligible grievants may request Mediation. Mediation is a non-binding process in which an objective, neutral, third party who has been selected by the dispute mediation service, assists the grievant and the Planning Council reach a grievance resolution that both parties can accept.

A grievant must submit a written Request for Mediation Form. The Request for Mediation Form is attached as Appendix III and is fully incorporated herein by reference. This Request must be received by the Planning Council designated organization within five (5) business days of receipt by the grievant of the Priority Setting and Resource Allocation Process Review Report. If a Request is not received within the five (5) business days, the grievant will have waived all further rights to grieve the funding decision and all associated issues related to the priority setting and resource allocation process.

The Planning Council designated organization to receive a Request for Mediation is the dispute mediation service. The request, in writing, must be delivered by U.S. mail, return receipt requested, or by personal delivery or facsimile, during normal business hours. The Planning Council must receive a copy of this request at the same time that it is delivered to the dispute mediation service.

### **ADDENDUM A**

Upon receipt of a Request for Mediation, the dispute mediation service will, within the days shown below, complete the following actions:

Two (2) business days: acknowledge, in writing, receipt of the Request for Mediation to the grievant at the address shown on the Request.

Five (5) business days: provide to the grievant the name of a disinterested person who is skilled in the process of mediation. This neutral person will not have been involved with the funding decision that is the subject of the grievance nor will they have any direct interest in the outcome of the grievance process.

Upon appointment as the mediator, dispute mediation service will, within the days shown below, complete the following actions:

Three (3) business days: contact the grievant and Planning Council Chairperson and agree on a day, time, and location of the initial mediation meeting. The mediation meeting will be scheduled within fifteen (15) business days to complete a thorough review of the circumstances and information available regarding the grievance.

During the mediation discussion, the mediator will facilitate communication between the parties to assist with a resolution of the grievance. If the grievance is resolved, both parties will indicate acceptance by signing a statement of resolution. The mediation process must be completed within five (5) days following the scheduled mediation meeting. Mediation findings, including all documentation and meeting transcripts are public record unless both parties specifically agree to hold the mediation process confidential. However, any mediation that results in changes to allocation of Ryan White funding is a matter of public record and cannot be designated confidential.

If the recommendation(s) fail to satisfy the grievant, he/she may contact the dispute mediation service to express a desire to continue the grievance process in an effort to resolve the grievance.

The grievant may, within the five (5) business days of the mediation, submit a Request for Binding Arbitration to the dispute mediation service (Appendix IV) in accordance with the procedure below.

If the dispute mediation service does not receive a written reply from the grievant within the five (5) business days, the grievant will have waived all further rights to grieve the priority setting or resource allocation decision and all associated contractor selections and awards.

### **13. Binding Arbitration**

If reasonable attempts to resolve a grievance have not resulted in a solution acceptable to both parties, eligible grievants may request Binding Arbitration. Binding Arbitration is a process in which the grievant and the Planning Council agree to be bound by the decision of an objective, neutral, third party who has been selected by the dispute mediation service to hear and decide a grievance.

## **ADDENDUM A**

A grievant must submit a written Request for Binding Arbitration Form. The Request for Binding Arbitration Form is attached as Appendix IV and is fully incorporated herein by reference. This Request must be received by dispute mediation service within five (5) business days of the grievant's Mediation. If a Request is not received within the five (5) business days, the grievant will have waived all further rights to grieve the priority setting or resource allocation decision process and all related issues.

The Request for Binding Arbitration must be submitted to the dispute mediation service. The Request must be in writing, delivered by U.S. mail, return receipt requested or by personal delivery or facsimile, during normal business hours.

Upon receipt of a Request for Binding Arbitration, dispute mediation service, using dispute mediation service Arbitration Rules, will, within the days shown below, complete the following actions:

Two (2) business days: acknowledge, in writing, receipt of the Request for Binding Arbitration to the grievant and Planning Council at the address shown on the Request.

Five (5) business days: provide to the grievant the name of the disinterested person who is skilled in the process of arbitration. This neutral person will not have been involved with the priority setting or resource allocation process that is the subject of the grievance nor will they have any direct interest in the outcome of the grievance process.

Upon appointment as the arbitrator, the arbitrator will, within the days shown below, complete the following actions:

Three (3) business days: contact the grievant and Planning Council Chairperson and agree on a day, time, and location of the arbitration meeting. The initial arbitration meeting will be scheduled within fifteen (15) business days to review all correspondence, records, or documentation related to the priority setting or resource allocation process that is the subject of the grievance, any or all person(s) who have, or might have, knowledge of the priority setting or resource allocation process, or were, or could be, affected by the priority or allocations decision or changes thereto.

Ten (10) business days: deliver to the grievant, the Planning Council Chairperson, and dispute mediation service an Arbitration Decision summarizing the priority setting or resource allocation decision and an arbitration decision that will resolve the grievance. Within three (3) days of receipt of the Arbitrator's Decision, all parties will sign one copy.

In the event the binding arbitration decision necessitates a change in allocation of Ryan White funds, the reallocation shall be applied prospectively.

## **DEFINITIONS**

**AAA.** American Arbitration Association

**Arbitration.** The submission of a dispute to an impartial or independent individual or panel for a binding determination. Arbitration is usually carried out in conformity with a set of rules. The decision of an arbitrator generally has the force of law, although it generally does not set a precedent.

**Arbitrator.** An individual selected to decide a grievance. Arbitrators will be selected by the dispute mediation service selected and mutually agreeable to both parties.

**Binding.** A process in which parties agree to be bound by the decision of an arbitrator.

**Dispute Prevention.** Techniques or approaches that are used by an organization to resolve disagreements at as early and informal a stage as possible to avoid or minimize the number of disputes that reach the formal grievance process.

**Dispute Mediation Service.** A third party non-profit organization which provides dispute mediation services following AAA approved guidelines. The Dispute Mediation Service provider shall be mutually acceptable to both parties.

**Entity.** HIV consumer groups; or Persons Living With HIV, coalitions or caucuses.

**Grievance.** A complaint or dispute that has reached the stage where the affected party seeks a structured approach to its resolution.

**Grievant.** An entity seeking a structured resolution of a grievance.

**Mediation.** A voluntary process in which a neutral third party assists parties to a grievance in reaching an acceptable resolution to the issue(s) being grieved. Mediation may involve meetings held by the mediator with the parties together and separately.

**Mediator.** A trained neutral third party selected by the designated dispute mediation service to help the parties reach an agreement on a determined set of issues.

**Neutral.** A term used to describe an independent third party, including a mediator or arbitrator, selected to resolve a grievance.

**Non-binding.** Techniques in which the parties to a grievance attempt to reach an agreement. The results must be agreed to by both parties; results are not imposed by the third party as they are in binding arbitration.

**Party.** Refers to one of the participants in the grievance process. This includes the grievant who brings the grievance action, and the respondent against which the grievance is brought.



**Planning Council.** The HIV Planning Council is a planning body that conducts health and social service planning for HIV grant funding in the Austin Area Transitional Grant Area (TGA).

**Third Party.** A term used to describe an independent or impartial person, including a mediator or arbitrator, selected to resolve a grievance or assist the parties in resolving a grievance.

**REQUEST FOR PRIORITY SETTING OR RESOURCE ALLOCATIONS  
DECISION REVIEW**

(Provide the following information in letter format)

Date:

PLANNING COUNCIL Chairperson  
HIV Planning Council  
7201 Levander Loop  
Building H  
Austin, Texas 78702

Re: Request for Priority Setting or Resource Allocation Decision Review

The undersigned party(ies) submit(s) the following grievance for resolution under the Priority Setting and Resource Allocation Decision Review phase of the HIV Planning Council Part A/MAI Grant Programs Grievance Procedure.

Statement of Grievance: (include date the priority setting or resource allocation decision was made, by what entity, how the Planning Council deviated from its written, established process, and the reason(s) for filing the grievance).

Statement of Eligible Grievant: (state how you were directly affected by the priority setting or resource allocation decision)

Statement of Remedy Sought: (indicate what you would want the Planning Council to do in order to correct the grievance)

Statement of Previous Action Taken: (indicate results of previous attempts at resolution, attach written documentation as appropriate)

I affirm that the above statements are true and accurate to the best of my knowledge.

Name of grievant:

If grievant is an organization, name of authorized individual:

Address:

City/state/zip code:

Telephone number:

Fax number:

\_\_\_\_\_  
Signature

**REQUEST FOR MEDIATION**

(Provide the following information in letter format)

Date:

Organization name (dispute mediation services  
address

Ref: Request for Mediation

The undersigned party(ies) submit(s) the following grievance for resolution under the Mediation phase of the HIV Planning Council Part A Grievance Procedure.

Date of Receipt of the Priority Setting or Resource Allocation Decision Review Report: (identify date)

Results of the Informal Priority Setting or Resource Allocation Review Process: (state why the results of the Priority Setting or Resource Allocation Review process were not sufficient to resolve the grievance, attach written documentation as appropriate)

I affirm that the above statements are true and accurate to the best of my knowledge.

Name of grievant:

If grievant is an organization, name of authorized individual:

Address:

City/state/zip code:

Telephone number:

Fax number:

\_\_\_\_\_  
Signature

In addition, please fax or mail a copy of the above letter to the following address:

Planning Council Chairperson  
7201 Levander Loop  
Building H  
Austin, TX 78702

**REQUEST FOR ARBITRATION**

(Provide the following information in letter format)

Date:

Organization name (dispute mediation services  
address

Ref: Request for Arbitration

The undersigned party(ies) submit(s) the following grievance for resolution under the arbitration phase of the HIV Planning Council Part A/MAI Grievance Procedure.

Date of Receipt of the Mediation Review Process Report: (identify date)

Results of the Mediation Review Process: (state why the results of the Mediation Review Process were not sufficient to resolve the grievance, attach written documentation as appropriate)

I affirm that the above statements are true and accurate to the best of my knowledge.

Name of grievant:

If grievant is an organization, name of authorized individual:

Address:

City/state/zip code:

Telephone number:

Fax number:

\_\_\_\_\_  
Signature

In addition, please fax or mail a copy of the above letter to the following address:

PLANNING COUNCIL Chairperson  
7201 Levander Loop  
Building H  
Austin, TX 78702