

## The Right Door for Hope, Recovery, and Wellness

Chapter Title	Section #		Subject #
Recipient Rights	RR		101.2
Subject Title <b>Recipient Rights Appeal Process</b>	Adopted 4/22/99	Last Revised 7/13/23	Last Reviewed 3/25/05; 12/10/07; 3/14/08; 2/24/10; 2/20/14; 1/4/17; 3/13/20; 7/30/21; 7/26/22; 7/13/23

### PROCEDURE

#### Application

This procedure shall apply to The Right Door for Hope, Recovery, and Wellness and all services operated by or under contract with it. This procedure shall serve as a guide to assure compliance with Board policy regarding Recipient Rights.

#### 1.0 Purpose

The Recipient Rights Advisory Committee is appointed by the CMH Board of Directors to hear appeals of recipient rights matters.

#### 2.0 Definitions

- 2.1 Allegation--an assertion of fact made by an individual that has not yet been proven or supported with evidence.
- 2.2 Appellant--the recipient, complainant, parent of a minor recipient, or empowered guardian who appeals the findings of a recipient rights complaint or respondent's action.
- 2.3 Complainant--an individual who files a recipient rights complaint.
- 2.4 Investigation--a detailed inquiry into, and systematic examination of, an allegation raised in a recipient rights complaint.
- 2.5 Recipient rights complaint--a written or oral statement alleging a violation of a code protected right. A complaint contains:
  - a) A statement of the allegations that give rise to the dispute.
  - b) A statement of the right or rights that may have been violated.
  - c) The outcome that the complainant is seeking as a resolution to the complaint.
- 2.6 Respondent--the service provider that had responsibility at the time of an alleged rights violation for the services with respect to which a rights complaint has been filed.
- 2.7 Responsible mental health agency--the hospital, center, or community mental health services program that has primary responsibility for the recipient's care or for the delivery of services or supports to that recipient.
- 2.8 Violation--noncompliance with requirements established by the Mental Health Code, Administrative Rules, CMH policies, and other regulations.

#### 3.0 Procedures

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- 3.1 The complainant, recipient (if different than complainant), guardian or parent of a minor, in the Summary Report from the Executive Director shall be informed of the following
  - 3.1.1 An appeal may be filed no later than 45 days after receipt of the summary report.
  - 3.1.2 The grounds for an appeal are:
    - 3.1.2.1 The investigative findings of the rights office are not consistent with the facts, law rules, policies, or guidelines.
    - 3.1.2.2 The action taken or plan of action proposed by the respondent does not provide an adequate remedy.
    - 3.1.2.3 The investigation was not initiated or completed on a timely basis.
- 3.2 The rights office shall advise the complainant that there are advocacy organizations available to assist in preparing the written appeal and offered to make the referral.
- 3.3 In the absence of assistance from an advocacy organization, the rights office shall assist the complainant in meeting the procedural requirements of a written appeal.
- 3.4 The rights office shall inform the complainant of the option of mediation.
- 3.5 Not later than 45 days after receipt of the summary report regarding a recipient rights complaint, an appellant may file a written appeal with the Recipient Rights Appeals Committee.
  - 3.5.1 The appellant submits written notice of intent to appeal to the Recipient Rights Appeals Committee, in care of the Recipient Rights Office. The Recipient Rights Office staff will accommodate this process by providing assistance upon request. The notice may be in any written format, explaining the reason for requesting an appeal.
  - 3.5.2 The notice is date stamped and provided to the chair of the Recipient Rights Appeals Committee.
- 3.6 Within 5 business days after receipt of the written appeal, the chair of the Recipient Rights Appeals Committee, or his/her designee from the committee, shall review the written request for appeal and notify the appellant of their decision. The review of the written request may be conducted at the CMH offices or by having a copy of the written appeal delivered to these members of the committee, at their discretion. These members will consult with each other in person or by telephone, at their discretion. This review is to determine whether the written appeal includes one of the following grounds for appeal:
  - 3.6.1 The investigative findings of the Recipient Rights Office are not consistent with the facts or with law, rules, policies, or guidelines.

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- 3.6.2 The action taken or plan of action proposed by the respondent does not provide an adequate remedy.
- 3.6.3 An investigation was not initiated or completed on a timely basis.
- 3.7 If the basis for appeal does not meet these criteria, the appeal shall be denied.
  - 3.7.1 The Recipient Rights Appeals Committee shall notify the appellant of this decision, in writing, within 5 business days of receipt of the appeal.
  - 3.7.2 When an appeal is denied, notification will be provided to all Recipient Rights Appeals Committee members.
- 3.8 If the basis for the appeal meets the criteria, the appeal shall be accepted. If the reviewers disagree that the basis for the appeal meets the criteria, the appeal shall be accepted.
  - 3.8.1 Written notice that the appeal is accepted shall be provided to the appellant within five (5) business days. The appellant will be notified of the time and location of the appeal, and that while their presence is not required, they may choose to attend.
  - 3.8.2 A copy of the appeal shall be provided to the respondent and the responsible mental health agency within the 5 business day period.
  - 3.8.3 The complete investigative file will be available for review at the time of the appeal.
- 3.9 A member of the Recipient Rights Appeals Committee who has a personal or professional relationship with an individual involved in an appeal will abstain from participating in that appeal as a member of the committee.
- 3.10 Allegations not included in the original complaint will not be accepted for appeal by the committee. The appellant shall be referred to the Recipient Rights Office to initiate a new complaint.
- 3.11 Within 30 days after receipt of a written appeal which has been accepted by the Recipient Rights Appeals Committee, the Recipient Rights Appeals Committee, in accordance with the Open Meetings Act, shall meet in a closed session, and review the facts as stated in all complaint investigation documents, and shall do one of the following:

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- 3.11.1 Uphold the investigative findings of the Recipient Rights Office and the action taken or plan of action proposed by the respondent.
- 3.11.2 Return the investigation to the Recipient Rights Office and request that it be reopened or reinvestigated.
- 3.11.3 Uphold the investigative findings of the Recipient Rights Office but recommend that the respondent take additional or different action to remedy the violation.
- 3.11.4 Recommend that the CMH Board of Directors request an external investigation by the state Office of Recipient Rights.
- 3.12 The chairperson of the Recipient Rights Appeals Committee may request the staff of the Recipient Rights Office to provide additional information regarding facts of the investigation.
- 3.13 If the appellant and Recipient Rights Office staff appear, the committee shall protect the integrity of the recipient rights process by having the individuals meet separately with the committee.
- 3.14 The Recipient Rights Appeals Committee shall document its decision regarding the appeal in writing, including:
  - 3.14.1 The date the appeal was received.
  - 3.14.2 The date members of the Recipient Rights Appeals Committee reviewed the appeal and determined whether to accept or deny the appeal.
  - 3.14.3 Whether the appeal was accepted or denied.
  - 3.14.4 The date notice was sent to the appellant regarding the decision to accept or deny the appeal.
  - 3.14.5 The date the Recipient Rights Appeals Committee met to review an accepted appeal.
  - 3.14.6 The action of the Recipient Rights Appeals Committee, including justification for their decision.
  - 3.14.7 The date notice was sent regarding the decision of the Recipient Rights Appeals Committee.
- 3.15 Within 10 days after reaching its decision, the Recipient Rights Appeals Committee shall provide copies of the decision to all of the following:

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- a) The respondent,
- b) The appellant,
- c) The recipient if different from the appellant,
- d) The recipient's guardian if one has been appointed,
- e) The Recipient Rights Office, and
- f) CMHSP.

- 3.16 Copies of Appeals Committee decision included a statement of appellant's right to appeal to the MDHHS, the time frame for appeal (45 days from receipt of decision) and ground for appeal (investigative findings of the rights office are inconsistent with facts, rules, policies or guidelines).
- 3.17 If the Appeals Committee finds that the investigation was not completed in a timely manner by the rights office, they will recommend appropriate supervisory action for the investigating rights officer to the director of the CMHSP.
- 3.18 If an investigation is returned to the CMH by an appeals committee for reinvestigation, upon receipt of the RIF, the director will take appropriate remedial action and will submit a written summary report to the complainant, recipient if different than the complainant, parent or guardian, and the appeals committee within 10 business days. [MHC 1780, 1782(1), 1784 (5)(b), [CMH Contract C.6.3.2.4]].
- 3.19 If a request for additional or different action is sent to the Director, a response will be sent within 30 days as to the action taken or justification as to why it was not taken. The response will be sent to the complainant, recipient if different than the complainant, parent or guardian, and the appeals committee.
- 3.20 If the committee notifies the CMH Board Chair of a recommendation to seek an external investigation from MDHHS-ORR, the Board will send a letter of request to the director of MDHHS-ORR within 5 business days of receipt of the request from the appeals committee. The director of the CMH making the request will be responsible for the issuance of the summary report which will identify the grounds and advocacy information as in A32-A34 of this document and MDHHS-ORR Appeal Committee as the committee for any appeal.

### 4.0 References

- PA 258 of 1974, "Michigan's Mental Health Code", as amended
- 330.1774--Recipient Rights Appeals Committee
  - 330.1780—Remedial Action

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- 330.1782—Summary Report
- 330.1784--Summary report; appeal
- 330.1786--Notice of decision; appeal

CEI CMH Policy 3.6.17, "Appeals/Grievances"

DCH Recipient Rights Appeal Process Technical Advisor

Written correspondence from David G. Stoker, Cohl, Stoker, and Toskey, P.C., 6/7/00.

Kerry Possehn, Chief Executive Officer	Date		