

The Right Door for Hope, Recovery, and Wellness

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| Chapter Title                             | Section # |              | Subject #   |
| Recipient Rights                          | RR        |              | 101.1   |
| Subject Title                             | Adopted   | Last Revised | Reviewed  |
| <b>Recipient Rights Complaint Process</b> | 08/26/96  | 2/12/24      | 03/25/05; 04/22/99;<br>12/10/07; 3/14/08;<br>2/24/10; 2/26/14;<br>1/4/17; 2/14/2020;<br>7/30/21; 7/26/22;<br>7/14/23; 2/12/24 |

**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. Complaint Process**

- 1.1. The Rights Office assures that recipients, parents of minors, guardians, and others have ready access to complaint forms.
- 1.2. Each rights complaint is recorded upon receipt by the Recipient Rights Office.
- 1.3. Acknowledgement of the recording along with a copy of the complaint is sent to the complainant within 5 business days. In the acknowledgement, the Recipient Rights Office notifies the complainant if it has been determined that no investigation of the complaint is warranted or if the complaint is not within the jurisdiction of the rights office.
- 1.4. The Recipient Rights Office will assist the recipient or other individual with the complaint process as necessary.
- 1.5. The Recipient Rights Office will advise the recipient or other individual that there are advocacy organizations available to assist in preparation of a written recipient rights complaint and offers to make the referral.
- 1.6. In the absence of assistance from an advocacy organization, the recipient rights office will assist in preparing a written complaint that contains a statement of the allegation, the rights allegedly violated, and the outcome desired by the complainant.
- 1.7. If a recipient rights complaint is filed regarding the conduct of the Chief Executive Officer (CEO), the rights investigation will be conducted by the Recipient Rights

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Office of another CMHSP or by the state office of recipient rights as decided by the Board.

- 1.8. The recipient rights office will initiate an investigation of apparent or suspected recipient rights violations in a timely and efficient manner.
- 1.9. The Recipient Rights Office shall have unimpeded access to all programs, services, staff, and evidence in order to conduct a thorough investigation.
- 1.10. In cases not warranting an investigation, the Recipient Rights Office will conduct an intervention of an apparent or suspected recipient rights violation in compliance with the standards established by MDHHS-
  - 1.10.1. An intervention will be completed, and its findings communicated in writing to the complainant within 30 days.
  - 1.10.2. Complainants of an intervention will be made aware that they can pursue a full investigation should they not be satisfied with the results of the intervention.
  - 1.10.3. The results of the intervention shall indicate whether a rights violation was substantiated.
  - 1.10.4. Correspondence providing information on the results of an intervention shall contain all required elements.
  - 1.10.5. Correspondence shall clearly indicate a process for requesting an investigation if the complainant was not satisfied with the result of the intervention.
- 1.11. Subject to delays involving pending action by external agencies (Department of Health and Human Services, law enforcement, etc.), the office completes investigation no later than 90 calendar days following receipt.
- 1.12. Investigation will be immediately initiated in cases involving alleged abuse, neglect, serious injury, or death of a recipient when a recipient rights violation is apparent or suspected.

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- 1.13. The Recipient Rights Office will accurately record investigation activities for each recipient rights complaint.
- 1.14. The Recipient Rights Office will use a preponderance of the evidence as the standard of proof in determining whether a right was violated.
- 1.15. A written status report will be issued every 30 calendar days during the course of the investigation to the complainant, respondent, and the responsible mental health agency (RMHA). The status report will contain:
- 1.15.1. Statement of allegations,
  - 1.15.2. Citation to relevant provisions to the mental health code, rules, policies and guidelines,
  - 1.15.3. Statement of the issues involved,
  - 1.15.4. Investigative progress to date, and
  - 1.15.5. Expected date for completion.
- 1.16. Upon completion of the investigation, the Recipient Rights Office will submit a written investigative report to the respondent and to the Chief Executive Officer of the CMHSP. The report may be delayed pending completion of investigations that involve external agencies. The written investigative report contains:
- 1.16.1. Statement of the allegations,
  - 1.16.2. Investigative findings,
  - 1.16.3. Conclusions, and
  - 1.16.4. Recommendations, if any.
- 1.17. If, in the course of the investigation, a staff, including a staff from the Rights Office, alleges that he or she has been the victim of retaliation or harassment by another staff person, the following requirements apply:
- 1.17.1. The Rights Office will refer to this allegation in its report of investigative findings.
  - 1.17.2. The allegation will be referred to the Respondent’s Director and Human Resources Office for investigation and resolution.

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1.17.3. The Recommendation section of the report of investigative findings will include a statement that the Respondent's Director is required to submit in writing, the results of the investigation, and what disciplinary action was taken in the event that retaliation or harassment is substantiated.

1.18. On substantiated recipient rights violations, the respondent will take appropriate remedial action that meets all of the following requirements:

- 1.18.1. Correct or provide remedy for the recipient rights violation,
- 1.18.2. Is implemented in a timely manner, and
- 1.18.3. Attempts to prevent a recurrence of the rights violation.

1.19. The remedial action taken on a substantiated recipient rights violation is documented and made part of the record and is maintained by the Recipient Rights Office.

1.20. The CEO will submit a written summary report to the complainant and recipient, if different than the complainant, guardian or parent of a minor, within ten (10) business days after the CEO receives a copy of the Report of Investigative Findings (RIF) from the Recipient Rights Office. The written summary report will contain:

- 1.20.1. Statement of the allegations,
- 1.20.2. Citations to relevant provisions of the Mental Health Code, rules, policies and guidelines, and other applicable laws,
- 1.20.3. Statement of the issues involved,
- 1.20.4. Summary of the investigative findings of the Recipient Rights Office,
- 1.20.5. Conclusions of the Recipient Rights Office,
- 1.20.6. Recommendations made by the Office of Recipient Rights,
- 1.20.7. Action taken, or plan of action proposed, by the respondent, and
- 1.20.8. A statement describing the complainant's right to appeal and the grounds for appeal.

1.20.9. If the summary report includes a plan of action, written notice will be issued to the potential appellants upon completion of the plan.

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- 1.20.10. If the action taken is different than the plan, the notice detailed the action that was taken and the date it occurred as well as informs potential appellants of the right to appeal on action only.
- 1.21. Information in the summary report does not violate the rights of any employee (ex. Bullard-Plawecki Employee Right to Know Act).
- 1.22. The CMHSP and each service provider ensure that appropriate disciplinary action is taken against those who have engaged in abuse or neglect, or retaliation or harassment, which remediated the violation and included action to prevent recurrence.
- 1.23. When either CMHSP or provider personnel failed to report a suspected violation of recipient rights appropriate administrative action is taken.
- 1.24. The Recipient Rights Office complied with pertinent CMHSP policies to assure that investigations were conducted in a manner that does not violate employee rights.
- 1.25. Recipient Rights complains filed by recipient or anyone on their behalf are sent or given the designated Recipient Rights Officer in a timely manner.
- 1.26. Information in the summary report was provided within the constraints of the confidentiality/privileged communications section (748, 750) of the Mental Health Code [MHC 782 (2)].
- 1.27. The Recipient Rights Office has established a mechanism for secure storage of all investigative documents and evidence.
- 1.28. The policies and procedures provide a mechanism for prompt reporting, review, investigation and resolution of apparent or suspected rights violations and are designed to protect recipients from, and prevent repetition of, violations of rights guaranteed by Chapters 7 and 7A of the Michigan Mental Health Code.
- 1.29. Complaints identified as out of jurisdiction or no rights involved are categorized as such and responded to. Sufficient rationale shall be provided to the complainant.

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2. The Board shall appoint a Recipient Rights Advisory Committee consisting of at least 6 members.

2.1 Membership of the committee:

- 2.1.1. Shall be broadly based so as to best represent the varied-perspectives of the CMH geographic area.
- 2.1.2. At least one third (1/3) of the membership shall be primary recipients or family members.
- 2.1.3. Of that 1/3, at least one half (1/2) shall be primary recipients.

2.2. The committee shall:

- 2.2.1. Meet at least semiannually or as necessary to carry out its responsibilities.
- 2.2.2. Maintain a current list of members' names to be made available to individuals upon request.
- 2.2.3. Maintain a current list of categories represented to be made available to individuals upon request.
- 2.2.4. Protect the RRO from pressures that could interfere with the impartial, even-handed, and thorough performance of its functions.
- 2.2.5. Recommend candidates for officer of the RRO to the Chief Executive Officer, and consult with the Chief Executive Officer regarding any proposed dismissal of the director of the RRO.
- 2.2.6. Serve in an advisory capacity to the Chief Executive Officer and the director of the RRO.
- 2.2.7. Review and provide comments on annual report submitted by the Office of Recipient Rights to MDHHS.
- 2.2.8. Serve as the appeals committee for appeals of recipient rights investigations.
- 2.2.9. Review funding of the RRO.

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2.2.10. Be allowed to request consultation and technical assistance from the MDHHS-ORR.

2.3. Meetings of the Recipient Rights Advisory Committee are subject to the open meetings act (PA 267 of 1976, sections 15.261 to 15.275 of the Michigan Compiled Laws).

2.4. Minutes shall be maintained and made available to individuals upon request.

3. The Board shall appoint an Appeals Committee.

The Recipient Rights Advisory Committee is designated as the Appeals Committee

3.1. The Appeals Committee shall consist of 7 individuals to hear appeals of recipient rights matters.

3.2. None of the 7 persons shall be employed by MDHHS or the CMHSP.

3.3. At least 3 members are members of the RRAC.

3.4. At least 2 members are Board members

3.5. At least 2 are primary recipients

3.6. A member of the Appeals Committee may represent more than one category.

3.7. Education and training in Recipient Rights policies and procedures are provided to the recipient rights advisory committee and appeals committee.

4. Qualifications and Training for Rights Staff

4.1. Recipient Rights staff shall receive annual training in recipient Rights protection.

4.2. The Recipient Rights Officer shall have the education, training, and experience to fulfill the responsibilities of the office as defined in the position description.

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- 4.3. Recipient Rights Director, Officers, and Advisors will attend MDHHS-ORR Basic Skills Training Programs within 3 months of hire.
- 4.4. The Recipient Rights Officer shall have no direct clinical services responsibilities and serves as a consultant to the Chief Executive Officer and to CMHSP staff in recipient rights related matters. [MHC 1755(4)].
- 4.5. Service providers allowed/required by contract to establish their own rights system will require that their Rights Director, Officers, and Advisors will attend MDHHS-ORR Basic Skills Training Programs within 3 months of hire and complete a Recipient Rights Update training as specified by MDHHS-ORR
- 4.6. The Recipient Rights Officer/Advisors and any alternates will complete, every three years during their employment, Recipient Rights Update training as specified by MDHHS-ORR.
- 4.7. The Executive Director will complete the MDHHS CEO Rights training program within 180 days of hire.
- 4.8. The Recipient Rights Officer shall maintain a minimum of 12 of the required 36 hours of training are approved as Category I or II (MHC 1755[2][e], CMHSP 6.3.2.3.(A))
- 4.9. Office of Recipient Rights staff shall acquire at least 3 continuing education credits each calendar year (MHC 1755 [2][e], CMHSP 6.3.2.3 (A))

References:

- Public Act 258 of 1974, as amended, “Michigan’s Mental Health Code”
- Public Act 368 of 1978, “Public Health Code”, regarding Substance Abuse treatment services
- Department of Health and Human Services Administrative Rules; Parts 2, 4, 5, 6 and 7
- Department of Health and Human Services Policy, CMH Recipient Rights Systems (1996)
- Rehabilitation Act of 1983, PL 93-112, Section 504
- Michigan Handicappers Civil Rights Act, PA 121 of 1990



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- Americans With Disabilities Act of 1990, PL 101-336
- PA 368 of 1978, “Administrative Rules for Substance Abuse Services in Michigan”
- MHC 1755(4)

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| Kerry Possehn, Chief Executive Officer | Date |  |  |  |