

**WEST MICHIGAN COMMUNITY MENTAL HEALTH  
ADMINISTRATIVE MANUAL**

		Chapter: 5	Section: 1	Subject: 1
CHAPTER: Recipient Rights				
SECTION: Office of Recipient Rights				
SUBJECT: General Policy				
Administrative Approval:		Date of Governing Board Action:		Page 1 of 14
		2/20/96		

- I. **PURPOSE:** To establish policy and procedures that guide the operation of the Recipient Rights office, the reporting and investigating of alleged recipient rights violations, and for recommending remedial action when such allegations are substantiated.
  
- II. **APPLICATION:** All mental health services operated by the West Michigan Community Mental Health Governing Body.
  
- III. **REQUIRED BY:** Act 258, Public Acts of 1974, as amended, being MCL 330.1722, 1752, 1755, 1776-1782, 1788.
  
- IV. **DEFINITIONS:**
  1. Code Protected Rights: A right that is guaranteed by the Michigan Mental Health Code (Act 258 of 1974), Administrative Rules of the Department of Community Health, or other applicable law.
  2. Complainant: A mental health recipient or any other person who files a complaint indicating that a right has been violated.
  3. ORR: Office of Recipient Rights.
  4. Preponderance of Evidence: It is more likely that a right was violated than it was not, based upon the greater weight of the evidence not as to quantity (number of witnesses) but as to quality (information possessed and greater weight of important facts provided).
  5. Provider: Services operated by or under contract with the West Michigan Community Mental Health.
  6. Recipient: A person who receives mental health services operated by or under contract with the West Michigan Community Mental Health.
  7. Recipient Rights Advisory Committee: An advisory committee appointed by the CMH Board of Directors to review policies, procedures and other rights related issues and information in order to safeguard the Recipient Rights program. The Committee shall consist of at least six (6) members who represent the various perspectives of the CMHSP geographical area. At least one third of the

**WEST MICHIGAN COMMUNITY MENTAL HEALTH  
ADMINISTRATIVE MANUAL**

		Chapter: 5	Section: 1	Subject: 1
CHAPTER: Recipient Rights				
SECTION: Office of Recipient Rights				
SUBJECT: General Policy				
Administrative Approval:		Date of Governing Board Action:		Page 2 of 14
		2/20/96		

membership are primary consumers or family members, and at least one half of the above-mentioned one third are primary consumers.

8. Recipient Rights Officer: An employee of CMH who assumes responsibility for safeguarding the rights of service recipients.
  9. Remedial Action: Action taken by the Executive Director to prevent a violation from reoccurring and/or remove contributing conditions.
  10. Rights Advisor: An employee of CMH designated to provide recipient rights services.
  11. Substantiated: A determination made by the Recipient Rights Officer that the recipient rights complaint was a rights violation.
  12. Unsubstantiated: A determination made by the Recipient Rights Officer that the recipient rights complaint was unable to be substantiated.
- V. **POLICY**: It is the policy of West Michigan Community Mental Health to implement a Recipient Rights Program that upholds the standards set forth by the Michigan Mental Health Code and DCH Administrative Rules.
- VI. **PROCEDURES**:
1. The Recipient Rights Advisory Committee (RRAC) shall:
    - 1.1 Meet at least two (2) times annually to protect the Recipient Rights program from pressures that could interfere with the impartial, evenhanded and thorough performance of its duties.
    - 1.2 Advise the CMH Board of Directors on the development of rights-related policies and procedures in order to safeguard the rights of service recipients.
    - 1.3 Recommend Recipient Rights Officer candidates to the Executive Director, and consult with the Executive Director regarding any proposed dismissal of the Recipient Rights Officer.

**WEST MICHIGAN COMMUNITY MENTAL HEALTH  
ADMINISTRATIVE MANUAL**

		Chapter: 5	Section: 1	Subject: 1
CHAPTER: Recipient Rights				
SECTION: Office of Recipient Rights				
SUBJECT: General Policy				
Administrative Approval:		Date of Governing Board Action:		Page 3 of 14
		2/20/96		

- 1.4 Review the activities of the Recipient Rights program annually and report to the CMH Board of Directors whether staff and other resources are adequate to protect the Recipient Rights program.
- 1.5 Meetings shall comply with the Open Meetings Act of 1976 and minutes shall be maintained.
2. The provider (Executive Director) shall:
  - 2.1 Not select, replace or dismiss the Recipient Rights Officer without first consulting the Recipient Rights Advisory Committee. Dismissal shall be done in accordance with the West Michigan Community Mental Health disciplinary policy.
  - 2.2 Ensure that all new employees receive Recipient Rights training within 30 days of employment.
  - 2.3 Establish applicable recipient rights policies and procedures consistent with chapter 7 and chapter 7a of the Michigan Mental Health Code.
  - 2.4 Develop and implement, in consultation with the Recipient Rights Officer, recipient rights policies and procedures suited to the organization's situation.
  - 2.5 Establish and maintain required records and reports, maintain and protect Recipient Rights activity files on a permanent basis.
  - 2.6 Consult with the Recipient Rights Officer and a Human Resources representative, if necessary, to discuss substantiated allegations, and recommended remedial actions. This consultation will take place before the final investigative summary report is written.
  - 2.7 Ensure appropriate remedial action is taken when a right has been violated. This will be accomplished by way of a follow-up consult with the Recipient Rights Office and a Human Resources representative, if necessary. The Recipient Rights Office shall ensure coordination of the consultation.
  - 2.8 Use the preponderance of evidence standard of proof in deciding when a right has been violated. Disciplinary action shall be taken in accordance with

**WEST MICHIGAN COMMUNITY MENTAL HEALTH  
ADMINISTRATIVE MANUAL**

		Chapter: 5	Section: 1	Subject: 1
CHAPTER: Recipient Rights				
SECTION: Office of Recipient Rights				
SUBJECT: General Policy				
Administrative Approval:		Date of Governing Board Action:		Page 4 of 14
		2/20/96		

WMCMH sanction procedures and in compliance with the Bullard-Plawecki Employee Right to Know Act, 397 of 1978.

- 2.9 Cooperate in the prosecution of appropriate criminal charges against those who have engaged in abuse.
- 2.10 Ensure that any staff members and/or complainants involved in reporting a complaint, or acting on behalf of a recipient by reporting a complaint, are protected from harassment or retaliation resulting from recipient rights activities. MHC 755(3)(a) Whistleblower's Protection Act.
- 2.11 Take appropriate disciplinary action if there is evidence of harassment or retaliation as a result of recipient rights activities.
- 2.12 Support and assist the Recipient Rights Officer in planning and implementing in-service training for staff members regarding recipient rights issues.
- 2.13 Ensure that one or more of the Recipient Rights Advisors provide coverage in the absence of the Recipient Rights Officer.
- 2.14 Ensure that there is adequate funding and resources to support the Recipient Rights Program.
- 2.15 Beginning October 1, 2007, within one (1) year of the effective date of employment, as training slots are available, the Executive Director shall be required to attend a Recipient Rights training focused on the role of the Executive Director relative to the Recipient Rights protection and investigation system, when such a training is developed and made available by MDHHS.
3. The Office of Recipient Rights shall:
  - 3.1 Be subordinate only to the Executive Director.
  - 3.2 Not be involved in direct service responsibilities or treatment.
  - 3.3 Have no other responsibilities in conflict with Recipient Rights activities.
  - 3.4 Have a personal commitment to safeguarding the Recipient Rights program.

**WEST MICHIGAN COMMUNITY MENTAL HEALTH  
ADMINISTRATIVE MANUAL**

	Chapter: 5	Section: 1	Subject: 1
CHAPTER: Recipient Rights			
SECTION: Office of Recipient Rights			
SUBJECT: General Policy			
Administrative Approval:	Date of Governing Board Action:		Page 5 of 14
	2/20/96		

- 3.5 Ensure the phone number and address of the Rights Office and names of Rights Officers/Advisors are conspicuously posted in all service sites. Be regularly accessible to service recipients and staff members of the agency.
- 3.6 Maintain an impartial attitude and credibility with service recipients, concerned relatives, and staff members.
- 3.7 Have the education, training and experience to fulfill the responsibilities of the Office. The Rights Officer, Advisor and alternate(s) shall attend and successfully complete the MDHHS ORR Basic Skills Training and Creative Training Techniques workshops within the first 3 months or 90 days of hire. In addition, every three (3) years during their employment, the Rights Officer/Advisor and any alternate(s) must complete Recipient Rights Update training as specified by the Department. The Rights Office shall ensure that the rights officer, advisor and alternate(s) of those service providers allowed/required by contract to establish their own rights system attend and successfully complete the Basic Skills Training and Creative Training Techniques programs offered by the MDHHS ORR within 3 months of hire and every 3 years during their employment complete a RR update training as specified by MDHHS-ORR.
- 3.8 Have authority to directly intervene in rights-related issues within the organization or with contracted providers of services.
- 3.9 Become familiar with the Mental Health Code (especially Chapters 7 and 7A) Administrative Rules (especially part 7), and related agency policies and procedures.
- 3.10 Participate in the development of recipient rights policies and review them on an annual basis or more frequently if necessary.
- 3.11 Participate in annual training regarding the Recipient Rights program.
- 3.12 Maintain a monitoring system of the recipient rights program.
- 3.13 Provide uniform recipient rights protection.
- 3.14 Ensure that each recipient, his/her guardian, or other legal representative or the parent with legal custody of a minor receives notification of the rights of

**WEST MICHIGAN COMMUNITY MENTAL HEALTH  
ADMINISTRATIVE MANUAL**

		Chapter: 5	Section: 1	Subject: 1
CHAPTER: Recipient Rights				
SECTION: Office of Recipient Rights				
SUBJECT: General Policy				
Administrative Approval:		Date of Governing Board Action:		Page 6 of 14
		2/20/96		

mental health recipients in an understandable manner, both at the time services are initiated and periodically during the time services are provided to the recipient

- 3.15 Ensure that a special explanation of the Recipient Rights program is given to the service recipient if he/she is:
  - 3.151 Illiterate--enter into the service recipient's clinical record the explanation given and by whom.
  - 3.152 Non-English speaking--the verbal explanation shall be made in a language that the service recipient understands and may be delayed for a reasonable period until a translator is available, but not later than two weeks from initial date of service. If there is a delay, the reason for it shall be entered into the service recipient's clinical record.
  - 3.153 Deaf or other perceptual deficiencies--the explanation shall be communicated by a means that is understandable to the service recipient and may be delayed for a reasonable period until a qualified translator is available, but not later than two week from initial date of service. If there is a delay, the reason for it shall be entered into the service recipient's clinical record.
  - 3.154 Emotionally Upset--the verbal explanation may be delayed until a more clinically suitable time if the service recipient is unable to comprehend the explanation at the time of admission, but not later than two weeks from the initial date of service. If there is a delay, the reason for it shall be entered into the service recipient's record.
- 3.16 The Recipient Rights Office shall ensure that copies of rights booklets are posted in appropriate places on the agency premises.
- 3.17 Ensure that service recipients, parents of minors, guardians and others have access to Recipient Rights Complaint Forms (MDHHS-2500).
- 3.18 Ensure the recording of each rights complaint upon receipt. Ensure that the complainant is notified within five business days after the complaint has been received and whether or not an investigation will occur. Include a copy of the

**WEST MICHIGAN COMMUNITY MENTAL HEALTH  
ADMINISTRATIVE MANUAL**

		Chapter: 5	Section: 1	Subject: 1
CHAPTER: Recipient Rights				
SECTION: Office of Recipient Rights				
SUBJECT: General Policy				
Administrative Approval:		Date of Governing Board Action:		Page 7 of 14
		2/20/96		

complaint. Advise the recipient or other individual that there are also advocacy organizations available to assist in preparation of a written rights complaint and offer to make the referral.

In the absence of assistance from an advocacy organization, the Rights Office shall assist in preparing a written complaint that contains a statement of the allegation, the right allegedly violated, and the outcome desired by the complainant. The Rights Office shall inform the recipient or other individual of the option of mediation and under what circumstances and when it may be exercised.

- 3.19 At the discretion of the Rights Office, inform applicable staff person when the allegation accuses him/her of an alleged RR violation.
- 3.20 Investigate all allegations of rights violation, with assistance from other staff members, if necessary.
- 3.21 Use the preponderance of evidence standard to make an independent determination of whether each allegation is substantiated or not substantiated.
- 3.22 Recommend disciplinary or other remedial action to the Executive Director when an allegation is substantiated. The Recipient Rights Office will consult with the Executive Director and a Human Resources representative, if necessary, to discuss recommendations. Following any disciplinary action, the Recipient Rights Office will consult with the Executive Director and the Human Resources representative, if necessary, to discuss the outcome of the discipline.
- 3.23 Ensure that the recommended remedy for a specific complaint includes action, when applicable, for all service recipients in similar situations.
- 3.24 Ensure that information in the summary report was provided within constraints of the confidentiality/privileged communications sections of the Mental Health Code.
- 3.25 Subject to delays involving pending action by external agencies (Child Protective Services, Law Enforcement, etc.), the Rights Office shall file a Recipient Rights Investigative Report within ninety (90) days after receipt of

**WEST MICHIGAN COMMUNITY MENTAL HEALTH  
ADMINISTRATIVE MANUAL**

		Chapter: 5	Section: 1	Subject: 1
CHAPTER: Recipient Rights				
SECTION: Office of Recipient Rights				
SUBJECT: General Policy				
Administrative Approval:		Date of Governing Board Action:		Page 8 of 14
		2/20/96		

the complaint to the respondent and Executive Director. A written status report shall be issued every 30-calendar days. This report shall include statement of allegations, issues, citations, progress to date and expected date of completion.

- 3.26 Assist the service recipient who has been physically, sexually, or otherwise abused in finding legal assistance to pursue an injunctive and other appropriate civil relief. If sexual assault is believed to have taken place, under the Michigan Sexual Misconduct Act, the police shall be notified.
- 3.27 Notify other appropriate agencies of complaints as required by law (MDHHS Protective Services and Licensing).
- 3.28 Inform the complainant when an allegation refers to a right for which remedial action is available only in the jurisdiction of another agency, and assist the complainant in contacting the appropriate agency.
- 3.29 Ensure that the people who file complaints, and recipients and guardians when applicable, are informed of:
  - 3.291 The progress and results of the investigation regarding the complaint.
  - 3.292 Any subsequent modification or reversal of disciplinary or other action taken as a result of the complaint; and
  - 3.293 The opportunity to appeal to the CMH Recipient Rights Appeals Committee if dissatisfied with action taken as a result of the complaint. The complainant shall be advised of this option in writing.
- 3.30 Compile and maintain records of all alleged rights violations and action taken.
- 3.31 Submit a semi-annual summary report to the CMH Recipient Rights Advisory Committee outlining rights protection activities.
- 3.32 Prepare an annual report on West Michigan Community Mental Health recipient rights activities.



**WEST MICHIGAN COMMUNITY MENTAL HEALTH  
ADMINISTRATIVE MANUAL**

		Chapter: 5	Section: 1	Subject: 1
CHAPTER: Recipient Rights				
SECTION: Office of Recipient Rights				
SUBJECT: General Policy				
Administrative Approval:		Date of Governing Board Action:		Page 9 of 14
		2/20/96		

- 3.33 Communicate, coordinate joint activities with, and provide liaison to MDHHS Office of Recipient Right to ensure that local interpretations of the Mental Health Code, Administrative Rules, and MDHHS policies, procedures and standards in relation to Recipient Rights are compatible with MDHHS efforts (required by Code Rule 330.116(g)) to develop a unified statewide system for the provision of mental health care. This includes submitting policies and procedures periodically for review and comment.
- 3.34 Provide public information on matters concerning the Recipient Rights system.
- 3.35 Provide consultation services to the Executive Director, services coordinators, and program managers/leaders.
- 3.36 Ensure that each service site is visited with the frequency necessary for protection of rights, but in no case less than annually; and, if necessary, visit service sites after a formal recipient rights compliant has been filed.
4. CMH staff members/employees, contracted service providers and their employees and volunteers must immediately report all apparent or suspected recipient rights violations to the Recipient Rights Office. If the report is made verbally an Unusual Incident Report shall also be completed before the end of the staff member/employee's, volunteers or agent of a provider's work day.
5. The Recipient Rights Office shall implement the following when a recipient rights complaint is received.
- 5.1 Each rights complaint shall be recorded upon receipt by the office, and acknowledgment of the recording shall be sent along with a copy of the complaint to the complainant within five business days.

The Rights Office shall advise the recipient or other individual that there are advocacy organizations available to assist in preparation of a written rights complaint and offer to make the referral.

In the absence of assistance from an advocacy organization, the Rights Office shall assist in preparing a written complaint containing a statement of the allegation, the right allegedly violated, and the outcome desired by the complainant.

**WEST MICHIGAN COMMUNITY MENTAL HEALTH  
ADMINISTRATIVE MANUAL**

	Chapter: 5	Section: 1	Subject: 1
CHAPTER: Recipient Rights			
SECTION: Office of Recipient Rights			
SUBJECT: General Policy			
Administrative Approval:	Date of Governing Board Action:		Page 10 of 14
	2/20/96		

The Rights Office shall inform the recipient or other individual of the option of mediation and under what circumstances and when it may be exercised.

5.11 If the allegation involves abuse or neglect, the Recipient Rights Office shall conduct an investigation as follows:

- 5.111 Investigate each separate allegation with priority assigned to the allegation concerning safety or personal injury.
- 5.112 At the discretion of the Rights Office, inform the staff person accused of the alleged recipient rights violation if he/she has not already been informed by the provider.
- 5.113 Interview the complainant and service recipient, if appropriate.
- 5.114 Identify persons who may have information about the allegation.
- 5.115 Interview persons identified, if appropriate, and summarize the necessary information in writing and/or have each person interviewed submit a written statement in regard to the recipient rights allegation.
- 5.116 Review all pertinent records and applicable MDHHS and CMH Board policies.
- 5.117 Make an independent determination of whether or not the available facts lead to a conclusion that the allegation can be substantiated or not substantiated.
- 5.118 Before writing the investigative summary report, the Recipient Rights Office will consult with the Executive Director and a Human Resources representative, if necessary, to discuss recommended disciplinary action.

5.2 Within five (5) business days after the office receives and records a complaint, it shall notify the complainant if it determines that no investigation is warranted.

**WEST MICHIGAN COMMUNITY MENTAL HEALTH  
ADMINISTRATIVE MANUAL**

		Chapter: 5	Section: 1	Subject: 1
CHAPTER: Recipient Rights				
SECTION: Office of Recipient Rights				
SUBJECT: General Policy				
Administrative Approval:		Date of Governing Board Action:		Page 11 of 14
		2/20/96		

- 5.3 If an allegation refers to a right or an issue that is outside the jurisdiction of the agency, the Recipient Rights Office shall notify the appropriate agency or suggest other agencies to the service recipient that may be of assistance (e.g. Legal Aid, Protection and Advocacy Services, MDHHS, Department of Civil Rights, etc.) (With consent to contact the above.)
6. The office shall initiate investigation of apparent or suspected rights violations in a timely and efficient manner. Subject to delays involving pending action by external agencies (including law enforcement and MDHHS), the office shall complete the investigation not later than 90 days after it receives the complaint. Investigation shall be initiated immediately in cases involving alleged abuse, neglect, serious injury or death of a recipient involving an apparent or suspected rights violation.
- 6.1 The office shall issue a written status report every 30-calendar days during the course of the investigation. The report shall be submitted to the complainant, the respondent(s) and responsible mental health agency. The status report shall contain the following:
- 6.11 Statement of the allegations
  - 6.12 Statement of the issues involved
  - 6.13 Citations to relevant provisions of the Mental Health Code, rules, policies, and guidelines
  - 6.14 Investigative process to date
  - 6.15 Expected date for completion of investigation.
- 6.2 Upon completion of the investigation, the office shall submit a written investigative report to the respondent and to the responsible mental health agency. (Issuance of the report may be delayed pending completion of investigations that involve external agencies). The report shall include all of the following:
- 6.21 Statement of the allegations
  - 6.22 Statement of the issues involved
  - 6.23 Citations to relevant provisions of the Mental Health Code, rules, policies and guidelines.
  - 6.24 Investigative findings
  - 6.25 Conclusions
  - 6.26 Recommendations, if any.

**WEST MICHIGAN COMMUNITY MENTAL HEALTH  
ADMINISTRATIVE MANUAL**

		Chapter: 5	Section: 1	Subject: 1
CHAPTER: Recipient Rights				
SECTION: Office of Recipient Rights				
SUBJECT: General Policy				
Administrative Approval:		Date of Governing Board Action:		Page 12 of 14
		2/20/96		

- 6.3 If it is determined through investigation that a right has been violated, the respondent shall take appropriate remedial action that meets all of the following requirements:
- 6.31 Corrects or provides remedy for the rights violation
  - 6.32 Is implemented in a timely manner
  - 6.33 Attempts to prevent a recurrence of the rights violation
  - 6.34 The action shall be documented and made part of the record maintained by the Office.
- 6.4 The executive director or his/her designee shall submit a written summary report to the complainant and recipient (if different from the complainant), guardian or parent of a minor, if applicable, within 10 business days after the executive director receives a copy of the investigative report from the rights office. The summary report shall contain all of the following:
- 6.41 Statement of the allegations
  - 6.42 Statement of the issues involved
  - 6.43 Citations to relevant provisions of the Mental Health Code, rules policies, and guidelines
  - 6.44 Summary of investigation findings of the rights office
  - 6.45 Conclusions
  - 6.46 Recommendations made by the rights office
  - 6.47 Action taken, or plan of action proposed by the respondent
  - 6.48 A statement describing the complainant's right to appeal and the grounds for appeal.
- 6.5 Information in the summary report shall be provided within the constraints of the confidentiality/privileged communications sections 748 and 750 of the Mental Health Code and shall not violate the rights of any employee (ex. Bullard-Plawecki Employee Right to Know, Act 397 of 1978).
- 6.6 The West Michigan Community Mental Health and, as applicable, the network provider that had responsibility at the time of an alleged rights violation for the services, shall ensure that appropriate disciplinary action is taken against those who have engaged in abuse or neglect.

**WEST MICHIGAN COMMUNITY MENTAL HEALTH  
ADMINISTRATIVE MANUAL**

	Chapter: 5	Section: 1	Subject: 1
CHAPTER: Recipient Rights			
SECTION: Office of Recipient Rights			
SUBJECT: General Policy			
Administrative Approval:	Date of Governing Board Action:		Page 13 of 14
	2/20/96		

- 6.7 If either West Michigan Community Mental Health or provider personnel fail to report suspected violations of rights, appropriate administrative action shall be taken.
7. If the Recipient Rights Office receives an anonymous complaint verbally or in writing, the anonymous complainant's copy of the Intervention or Recipient Rights Investigative Summary Report shall be filed with the Recipient Rights Office.
  8. If the Department of Community Health Office of Recipient Rights receives a recipient complaint involving the West Michigan Community Mental Health, it shall be forwarded to the West Michigan Community Mental Health Recipient Rights Officer.
  9. If a rights complaint is filed regarding the conduct of the executive director, the rights investigation shall be conducted by the recipient rights office of another CMHSP, or by the State Office of Recipient Rights, as decided by the WMCMH Board of Directors.
  10. Records compiled in the course of investigating an alleged recipient rights violation shall be retained by the Recipient Rights Officer, maintained independent of the client's case record, or an employee's personnel record, and shall be subject to confidentiality safeguards of Public Act of 258, Section 748.

**VII. SUPPORTING DOCUMENTS:**

Appendix 5-1-1A: Recipient Rights Complaint Form (MDHHS-2500)

**Appendix 5-1-1A**



Complaint Number	Category
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MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES  
**RECIPIENT RIGHTS COMPLAINT**

<b>INSTRUCTIONS:</b> If you believe that one of your rights has been violated you (or someone on your behalf) may use this form to make a complaint. A rights officer/advisor will review the complaint and may conduct an investigation. Keep a copy for your records and send the original to the right office at the CMH agency or the hospital where you are receiving (or received) services, or to: MDHHS - Office of Recipient Rights, Lewis Cass Building, Lansing, Michigan 48933		
Complainant's Name:	Recipient's Name (if different from complainant):	
Complainant's Address:	Where did the alleged violation occur?	
Complainant's Phone Number:	When did the alleged violation happen? (date and time):	
What right was violated?		
Describe what happened:		
What would you like to have happen in order to correct the violation?		
Complainant's Signature	Date	Name Of Person Assisting Complainant
DCH 0030 Replaces DCH-2500		
Distribution: ORIGINAL TO ORR		
Authority: P.A. 258 of 1974 as amended		
COPY to Complainant (with acknowledgement letter)		