
	General Policy			
	Chapter:	Recipient Rights	Policy #	5-1-1
	Section:	Office of Recipient Rights	Revision #	1

- 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 Health and Human Services, 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 West Michigan Community Mental Health.
 6. **Recipient:** A person who receives mental health services operated by or under contract with 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 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.


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11. 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 was filed.
12. Formal complaint: A complaint made by the recipient and/or by someone on the recipient's behalf that alleges an apparent or suspected violation of the recipient's mental health rights.
13. Substantiated: A determination made by the Recipient Rights Officer that the recipient rights complaint was a rights violation.
14. 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's Mental Health Code and the Department of Licensing & Regulatory Affairs Office of Regulatory Reinvention for the MDHHS Administrative Rules Part 7, Recipient Rights.

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. Serve in an advisory capacity to the WMCMH Executive Director and the Recipient Rights Officer. Maintain a current list of members' names and categories represented to be made available to individuals upon request.
 - 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.
 - 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. Select a director of the rights office who has the education, training, and experience to fulfill the responsibilities of the office. Dismissal shall be done in accordance with the West Michigan Community Mental Health disciplinary policy.

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- 2.2 Ensure all individuals employed by WMCMH or its contract agencies receive training related to Recipient Rights protection that meets the criteria established in Attachment 6.3.2.3 (B) of the MDHHS/CMHSP Managed Mental Health Supports and Services Contract before or within 30 days after being employed. Ensure education and training in recipient rights policies and procedures are provided to the WMCMH Recipient Rights Advisory & Appeals Committee.
- 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 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 or neglect.
- 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.


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- 2.14 Ensure that there is adequate funding and resources to support the Recipient Rights Program including a review of the funding by the Recipient Rights Advisory Committee.
- 2.15 Within 180 days of hire, the Executive Director shall attend and complete the MDHHS/ORR Executive Rights training program focused on the role of the Executive Director relative to the Recipient Rights protection and investigation system.
- 3. The Office of Recipient Rights shall:
 - 3.1 Be subordinate only to the Executive Director.
 - 3.2 Not be involved in direct clinical 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.
 - 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; Building Blocks of Report Writing and Developing Effective Training Techniques workshops within 90 days of hire. As specified in Attachment 6.3.2.3 (A) of the MDHHS/CMHSP Managed Mental Health Supports and Services Contract, subsequent to the required Basic Skills Training programs offered by the MDHHS/ORR, the staff of the rights office shall receive a minimum of 36 contact hours of MDHHS/ORR approved continuing education or training in every 3 year period thereafter including a minimum of 12 of the required 36 hours as either Category I or II and acquire at least 3 continuing education credits each calendar year.
 - 3.8 Have authority to unimpeded access to all programs, services and staff operated by, or under contract to, WMCMH and all evidence necessary to conduct a thorough investigation or to fulfill its monitoring function.
 - 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 to ensure the rights

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protection system of each provider is in compliance with the Michigan's Mental Health Code Chapter 7 and 7A and is of a uniformly high standard.

- 3.11 Participate in annual training regarding the Recipient Rights program.
- 3.12 Maintain the record system and logging of each rights complaint upon receipt. Establish a mechanism for secure storage of all investigative documents and evidence.
- 3.13 Provide or coordinate uniform recipient rights protection in all directly operated or contracted services.
- 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 mental health recipients, guaranteed by Chapter 7 and 7A of the Michigan's Mental Health Code, in an understandable manner and provide access to summaries of the guaranteed rights, 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 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.
 - 3.154 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.

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3.17 Ensure that service recipients, parents of minors, guardians and others have access to Recipient Rights Complaint Forms (DCH-0030 Rev. 9-20).

3.18 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 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.

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 violations in accordance with Chapter 7A Section 330.1778 of the Mental Health Code 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 to the Executive Director and Respondent that disciplinary or other remedial action be taken 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 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

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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 Semi-annually provide summary complaint data consistent with the required annual report together with a summary of remedial action taken on substantiated complaints by category to MDHHS and to the WMCMH Recipient Rights Advisory Committee.
- 3.32 No later than 12/30 for the preceding fiscal year, submit to the WMCMH Governing Board and to the MDHHS an annual report on the current status of recipient rights activities. No later than 1/30 submit the MDHHS/ORR Annual Report Monitoring Form to MDHHS/ORR for the preceding year.
- 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 in rights related matters.

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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 complaint 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 applicable, a Critical Incident Report shall also be completed before the end of the staff member/employee's, volunteers, or agent of a provider's workday.
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.

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.

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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.

5.3 Respond to complaints that are either outside WMCMH jurisdiction or do not involve a code protected right in compliance with the standards established by MDHHS.


6. In compliance with the standards established by MDHHS, the office shall conduct an Intervention for complaints in which the facts are clear and the remedy, if applicable, is clear, easily obtainable and does not involve statutorily required disciplinary action. When the facts are not clear, the office shall initiate an Investigation involving the apparent or suspected rights violations in a timely and efficient manner. Intervention and Investigation activities for each complaint shall be accurately recorded by the rights office. 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

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- 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.
- 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, recipient's, if different, guardian or parent of a minor's right to appeal, the grounds for filing the appeal and where to send the 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 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. When the action is different than that proposed, WMCMH shall provide written notice to potential appellants and the rights office of the specific action taken and date of that action.
- 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.

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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 Health and Human Services Office of Recipient Rights receives a recipient complaint involving 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:**

Please refer to: Recipient Rights Complaint Form (DCH-0030 (Rev. 9-20))

VIII. **POLICY/PROCEDURE REVIEW:**

REV#	APPROVED BY	Policy/Procedure	DATE
NC	Unknown		09/2006
NC	Unknown		04/2008
NC	Unknown		08/2009
NC	Unknown		07/2012
NC	Unknown		06/2016
NC	Unknown		08/2017
NC	Unknown		11/2019
1	COC		11/2020
Board Approval Date: 02/20/1996			

IX. **CHIEF EXECUTIVE OFFICER ENDORSEMENT:**

I have reviewed and approved of policy # 5-1-1 Revision # 1.

CEO: Lisa A. Williams Approval Signature: _____