

CHAPTER Recipient Rights	CHAPTER 04	SECTION 001	SUBJECT 05
SECTION Recipient Rights		DESCRIPTION Recipient Rights System	
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APPLICATION:

<input checked="" type="checkbox"/> CMH Staff	<input checked="" type="checkbox"/> Board Members	<input checked="" type="checkbox"/> Provider Network	<input checked="" type="checkbox"/> Employment Services Providers
<input checked="" type="checkbox"/> Employment Services Provider Agencies	<input checked="" type="checkbox"/> Independent Contractors	<input checked="" type="checkbox"/> Students	<input checked="" type="checkbox"/> Interns
<input checked="" type="checkbox"/> Volunteers			

POLICY:

The Lapeer County Community Mental Health Services Board, in compliance with the Michigan Mental Health Code, has established an Office of Recipient Rights. The Office of Recipient Rights shall ensure the protection of recipient's rights and also serve as a consultant to the agency on rights related matters.

This policy is written to establish procedures concerning activities surrounding recipient rights. These procedures include reporting and investigating alleged violations of recipient rights, monitoring of unusual incidents, and training; and to ensure remedial action when allegations are substantiated, so that persons served will be protected from rights violations while they are receiving services.

This policy applies to all Community Mental Health Programs, services, and facilities, operated by or under contract with the Lapeer County Community Mental Health Services Board.

STANDARDS:

The Recipient Rights Office staff shall not have direct service responsibilities, and any duties in addition to recipient rights shall not be in conflict with the purposes of the Recipient Rights Office.

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All employees and contract staff shall cooperate in recipient rights investigations. The Recipient Rights Office will have unimpeded access to all programs, employees and services operated or under contract with Lapeer County CMH. The Office will also have unimpeded access to all evidence necessary to conduct a thorough investigation or to fulfill its monitoring function.

PROCEDURES:

THE CHIEF EXECUTIVE OFFICER (CEO) OF COMMUNITY MENTAL HEALTH SHALL:

- A. Within one year of the effective date of employment, the CEO shall be required to attend those sections of the Basic Skills Training Program designated by the Michigan Department of Health and Human Services. This is only relevant if the CEO is hired after January 1, 2008.
- B. Ensure that the Recipient Rights Officer has the authority to directly intervene in rights-related issues in direct operated programs or contract agencies.
- C. Ensure that the Office of Recipient Rights will be protected from pressures that could interfere with the impartial, even-handed, and thorough performance of their duties.
- D. Select a Recipient Rights Officer who has the education, training, and experience necessary to fulfill the responsibilities of the office. They shall possess the following education requirements: Bachelor's degree in human services, education, criminal justice, or a law degree, or equivalent combination of education, experience and/or training; experience in advocacy, education, investigations, human services, mental health, law or other related area; experience with developmental disabilities or mental illness; experience in conducting training.
- E. In the absence of a Rights Officer, the CEO will designate a temporary replacement who has the education, training, and experience to fulfill the responsibilities of the office, or contract with another community mental health rights office to provide rights protection.
- F. Not select, replace, or dismiss the Recipient Rights Officer without first consulting the Recipient Rights Advisory Committee regarding such proposed action.

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- G. Submit to the Recipient Rights Advisory Committee and to the governing board and the Department, an annual report prepared by the Office of Recipient Rights on the current status of recipient rights in the community mental health system and a review of the operations of the Office of Recipient Rights. The report shall be submitted not later than December 30 of each year for the preceding fiscal year or period specified in the contract. The annual report shall include, at a minimum, the following information:
1. Summary data by category regarding the rights of recipients receiving services from the community mental health service program including complaints received, the number of reports filed, and the number of reports investigated by provider.
 2. The number of substantiated rights violations by category and provider.
 3. The remedial actions taken on substantiated rights violations by category and provider.
 4. Training received by staff of the Office of Recipient Rights.
 5. Training provided by the Office of Recipient Rights to contract providers.
 6. Desired outcomes established for the Office of Recipient Rights and progress toward these outcomes.
 7. Recommendations to the Community Mental Health services program governing board.
- H. Submit a semi-annual report consistent with the annual report including a summary of remedial action taken on substantiated complaints by category to DCH, and to the Recipient Rights Advisory Committee.
- I. Ensure that each contract site/CMH program requires all of the following:
1. Complainants or staff who are acting on behalf of a person served will be protected from harassment or retaliation resulting from recipient rights activities and ensure that appropriate disciplinary action will be taken if there is evidence of harassment or retaliation.

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2. Ensure that fair and disciplinary action is taken on all substantiated rights violations.
3. Ensure that staff members and/or persons served involved in reporting a complaint are not discriminated against or penalized as a result of such reporting.
4. Appropriate remedial action will be taken to resolve violations of rights. Notification of substantiated violations will be submitted to the complainants in a manner that does not violate employee rights.

THE RECIPIENT RIGHTS OFFICER SHALL:

- A. Receive training each year in rights protection. Within the first three months of employment, the Rights Officer shall attend and successfully complete the Basic Skills Training programs offered by the Department's Office of Recipient Rights. In addition, every three years during their employment, the RRO must complete 36 continuing Education Requirements identified in the MDHHS Master Contract. The Rights Officer should receive a minimum of 12 hours of the required 36 hours in category I or II as outlined in the Master Contract, in addition at least three credits must be earned each calendar year. No more than 12 credits in a three-year period may be earned through the use of online learning resources.
- B. Be subordinate only to the CEO and have no direct clinical service responsibilities.
- C. Ensure persons served are notified of their rights. At the time services are first requested, persons served, his or her guardian, or other legal representative or the parent with legal custody of a minor person served, shall be notified of the lawful rights of the person served in an understandable manner. If a person served is unable to read or understand the materials provided, CMH staff will make a reasonable attempt to assist the person served in understanding the materials. A note describing the explanation of the materials and who provided the explanation shall be entered in the record of the person served.
- D. Ensure that applicants for and persons served by the mental health services (and in the case of minors, the applicant's or parent or guardian of the person served), shall be notified by CMH of the rights guaranteed by the Mental Health Code. Notice shall be accomplished by providing an accurate summary of Chapter 7 and

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7a to the applicant or person served at the time services are first requested and by having a complete copy of Chapter 7 and 7a readily available for review by applicants, persons served, and staff.

- E. Ensure that all staff of CMH programs, services, and facilities operated by or under contract with Lapeer CMH receive a refresher training in rights related issues on an annual basis.
- F. Ensure that education and training is provided in recipient rights policies and procedures to the Recipient Rights Advisory Committee and the Appeals Committee.
- G. Provide or coordinate the protection of recipient rights for all directly operated or contracted services.
- H. Review rights policies and procedures on an annual basis and ensure compliance with the Mental Health Code and MDHHS Administrative Rules.
- I. Review trends in recipient rights complaints and trends with incident reports, and submit it to the Recipient Rights Advisory Committee. This review will be completed at least annually, or more often as needed.
- J. Ensure that the telephone number and address of the Office of Recipient Rights and the name of the Rights Officer is conspicuously posted in all service sites.
- K. Serve as a consultant to the CEO and be accessible to the CEO, staff, person served or concerned relatives in matters related to Recipient Rights.
- L. Supervise the Recipient Rights Advisor.
- M. Ensure that all reports of apparent or suspected violations of rights within the community mental health service program system are investigated in accordance with Section 778 of the Mental Health Code and record those reports that do not warrant investigation.
- N. Semi-annually provide summary complaint data consistent with the annual report required in Section 755 of the Mental Health Code, together with a summary of remedial action taken on substantiated complaints by category, to the Department

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and to the Recipient Rights Advisory Committee of the Community Mental Health Service Program.

- O. Submit a report to the Recipient Rights Advisory Committee on a monthly basis. The report shall include rights-related data.
- P. Review all incident reports submitted and provide follow up as needed which includes but is not limited to opening a rights investigation if a rights violation is noted.
- Q. Maintain a record system for all reports of apparent or suspected rights violations received within the community mental health services program system including a mechanism for logging in all complaints and a mechanism for storage of all investigative documents and evidence. These records should be stored in a locked file cabinet.
- R. Review the recipient rights policies and the rights system of each provider of mental health services under contract with the community mental health services program or licensed hospital to ensure that the rights protection system of each provider is in compliance with the Mental Health Code and is of uniformly high standard.
- S. Conduct site assessments of all CMH service locations, not less than one time per year for protection of rights guaranteed by the Mental Health Code and MDHHS Administrative Rules. This includes sites that are out-of-county.
 - 1. The Recipient Rights Officer (RRO) will keep a record of all contracted service site annual reviews. If any violations are found, the RRO will give the site a copy of the Office of Recipient Rights Corrective Action form which details the violations and indicate timelines for corrections to be completed. The RRO or Rights Monitor will re-visit the contracted site to ensure corrections were completed.
 - 2. If violations are still noted during second review, or continued non-compliance is noted by the Rights Office, the RRO will send a letter to the CEO and Contracts Manager for further contractual action. This contractual action includes but is not limited to sanctions and/or termination of a contract.

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3. The RRO will keep record of all violations found at contracted service sites and corrective action plans that were submitted.
 4. The RRO will prepare and submit a monthly report for presentation to the Recipient Rights Advisory Committee and CEO. This report shall include information on all conducted site assessments of contracted providers.
- T. Ensure that each contract site/CMH program has the following contract language:
1. All individuals employed by the community mental health service program, contract agency, or licensed hospital receive training related to recipient rights protection before or within 30 days after being employed, and annually thereafter.
 2. Persons served will be protected from rights violations while they are receiving services under contract.
 3. Complainants or staff who are acting on behalf of a person served will be protected from harassment or retaliation resulting from recipient rights activities, and appropriate disciplinary action will be taken if there is evidence of harassment or retaliation.
 4. Appropriate remedial action will be taken to resolve violations of rights. Notification will be submitted to the complainants of substantiated violations in a manner that does not violate employee rights.
 5. When a service provider establishes their own rights system, the contract will require that the Rights Officer, Advisor, and alternate will attend Basic Skills Training programs offered by the Department's Office of Recipient Rights within three months of hire. In addition, every three years during their employment, the Rights Officer, Rights Advisor, and alternate must complete 36 continuing Education Requirements identified in the MDHHS Master Contract. The Rights Advisor should receive a minimum of 12 hours of the required 36 hours in category I or II as outlined in the Master Contract, in addition at least three credits must be earned each calendar year. No more than 12 credits in a three-year period may be earned through the use of online learning resources.

THE RECIPIENT RIGHTS ADVISOR AND/OR ALTERNATE SHALL:

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- A. Within the first three months of employment, the Rights Advisor and/or their alternate shall attend and successfully complete the Basic Skills Training programs offered by the Department's Office of Recipient Rights. In addition, every three years during their employment, the Recipient Rights Advisor and/or their alternate must complete 36 continuing Education Requirements identified in the MDHHS Master Contract. The Rights Advisor should receive a minimum of 12 hours of the required 36 hours in category I or II as outlined in the Master Contract, in addition at least three credits must be earned each calendar year. No more than 12 credits in a three-year period may be earned through the use of online learning resources.
- B. Receive training each year in rights protection.
- C. Not be involved in direct service responsibilities/treatment or other responsibilities that are in conflict with recipient rights activities.
- D. Have unlimited access to all documentation and testimonial evidence needed to pursue rights complaints.

DEFINITIONS:

Allegation: an assertion of fact made by an individual that has not yet been proven or supported with evidence.

Complainant: person served or any other person who files a complaint indicating that a right has been violated.

Investigation: detailed inquiry into and systematic examination of an allegation of a rights violation contained in a complaint.

Provider: LCCMH or a mental health service facility operating under contract with LCCMH.

Remedial Action: action taken by the CEO (or his/her designee) to correct a violation or prevent a violation from reoccurring.

Substantiated: determination made by the Recipient Rights Office that the recipient rights complaint was a rights violation.

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REFERENCES:

Mental Health Code

Mental Health Administrative Rules

Questions regarding this policy and procedure may be addressed to the chief executive officer or to any member of the management team.

LKJ

Supersedes: #07/10011 dated 07/19/2010