

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	<input checked="" type="checkbox"/> Persons Served		

POLICY:

Lapeer County Community Mental Health (LCCMH) has established an Office of Recipient Rights to ensure the protection of recipient's rights and serve as a consultant to the agency on rights related matters.

STANDARDS:

- A. LCCMH complies with the Michigan Mental Health Code.
- B. LCCMH has established procedures concerning activities surrounding recipient rights. These procedures include:
 1. Reporting and investigating alleged violations of recipient rights
 2. Monitoring of unusual incidents
 3. Training

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4. Ensure remedial action when allegations are substantiated, so persons served are protected from rights violations while they are receiving services
- C. The Recipient Rights Office staff does not have direct service responsibilities and any duties in addition to recipient rights are not in conflict with the purposes of the Recipient Rights Office.
- D. All employees and contract staff must cooperate in recipient rights investigations.
1. The Recipient Rights Office has unimpeded access to all programs, employees and services operated or under contract with LCCMH.
 2. The Recipient Rights Office has 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:

- A. Within one year of the effective date of employment, the CEO is required to attend those sections of the Basic Skills Training Program designated by the Michigan Department of Health and Human Services (MDHHS). This is only relevant if the CEO is hired after January 1, 2008.
- B. Ensures the Recipient Rights Officer has the authority to directly intervene in rights-related issues in direct operated programs or contract agencies.
- C. Ensures the Office of Recipient Rights is protected from pressures that could interfere with the impartial, even-handed, and thorough performance of their duties.
- D. Selects a Recipient Rights Officer who has the education, training, and experience necessary to fulfill the responsibilities of the office. They must possess the following education requirements: Bachelor's degree in human services, education, criminal justice, or a law degree, or equivalent combination

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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 designates a temporary replacement who has the education, training, and experience to fulfill the responsibilities of the office or contracts with another community mental health rights office to provide rights protection.
- F. Does not select, replace, or dismiss the Recipient Rights Officer without first consulting the Recipient Rights Advisory Committee regarding such proposed action.
- G. Submits to the Recipient Rights Advisory Committee, to the governing board, and to the MDHHS, 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 must be submitted no 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.

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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. Submits a semi-annual report consistent with the annual report including a summary of remedial action taken on substantiated complaints by category to MDHHS and to the Recipient Rights Advisory Committee.
- I. Ensures each contract site/CMH program requires all of the following:
1. Complainants or staff who are acting on behalf of a person served are protected from harassment or retaliation resulting from recipient rights activities and ensure appropriate disciplinary action is taken if there is evidence of harassment or retaliation.
 2. Ensures fair and disciplinary action is taken on all substantiated rights violations.
 3. Ensures 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 is 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:

- A. Receives training each year in rights protection. Within the first three months of employment, the Rights Officer attends and successfully completes the Basic Skills Training programs offered by MDHHS's Office of Recipient Rights. In addition, all staff employed to provide Recipient Rights services must complete a minimum of 8 hours of training annually. Training topics must be relevant to directly providing rights protection, in topics that assist in the effective operation

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of the Rights Office, or in areas that enhance the rights staff's knowledge of the delivery of behavioral health services.

- B. Is subordinate only to the CEO and has no direct clinical service responsibilities.
- C. Ensures persons served are notified of their rights. At the time services are first requested, persons served, their guardian, or other legal representative or the parent with legal custody of a minor person served, is 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, LCCMH staff 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. Ensures 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), are being notified by LCCMH of the rights guaranteed by the Mental Health Code. Notice shall be accomplished by providing an accurate summary of Chapter 7 and 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. Ensures all staff of LCCMH programs, services, and facilities operated by or under contract with LCCMH receive a refresher training in rights related issues on an annual basis.
- F. Ensures education and training is provided in recipient rights policies and procedures to the Recipient Rights Advisory Committee and the Appeals Committee.
- G. Provides or coordinate the protection of recipient rights for all directly operated or contracted services.
- H. Reviews rights policies and procedures on an annual basis and ensure compliance with the Mental Health Code and MDHHS Administrative Rules.

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- I. Reviews trends in recipient rights complaints and trends with incident reports and submits it to the Recipient Rights Advisory Committee. This review is completed at least annually, or more often as needed.
- J. Ensures 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. Serves as a consultant to the CEO and is accessible to the CEO, staff, person served or concerned relatives in matters related to Recipient Rights.
- L. Supervises the Recipient Rights Advisor.
- M. Ensures 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 records those reports that do not warrant investigation.
- N. Semi-annually provides 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 MDHHS and to the Recipient Rights Advisory Committee of the Community Mental Health Service Program.
- O. Submits a monthly report to the Recipient Rights Advisory Committee. The report includes rights-related data.
- P. Reviews all incident reports submitted and provides follow up as needed, which includes but is not limited, to opening a rights investigation if a rights violation is noted.
- Q. Maintains 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.

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- R. Reviews 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. Conducts 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 keeps a record of all contracted service site annual reviews. If any violations are found, the Recipient Rights Officer gives 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 Recipient Rights Officer 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 Recipient Rights Officer sends 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.
 3. The Recipient Rights Officer keeps record of all violations found at contracted service sites and corrective action plans that were submitted.
 4. The Recipient Rights Officer prepares and submits a monthly report for presentation to the Recipient Rights Advisory Committee and CEO. This report includes information on all conducted site assessments of contracted providers.
- T. Ensures 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

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rights protection before or within 30 days after being employed and annually thereafter.

2. Persons served are protected from rights violations while they are receiving services under contract.
3. Complainants or staff who are acting on behalf of a person served are 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 is taken to resolve violations of rights. Notification is 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 requires 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:

- A. Within the first three months of employment, the Rights Advisor and/or their alternate attends and successfully completes the Basic Skills Training programs offered by MDHHS's Office of Recipient Rights. In addition, all staff employed to provide Recipient Rights services must complete a minimum of 8 hours of training annually. Training topics must be relevant to directly providing rights protection, in topics that assist in the effective operation of the Rights Office, or in areas that enhance the rights staff's knowledge of the delivery of behavioral health services.

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- B. Receive training each year in rights protection.
- C. Is not involved in direct service responsibilities/treatment or other responsibilities that are in conflict with recipient rights activities.
- D. Has 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 their 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.

REFERENCES:

Mental Health Code
Mental Health Administrative Rules
MDHHS/CMHSP Contract Attachment C6.3.2.3

LKJ

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