

SHIAWASSEE COUNTY COMMUNITY MENTAL HEALTH AUTHORITY
POLICY AND PROCEDURE MANUAL

Section: Recipient Rights
Policy Number: 1
Subject: **Recipient Rights System**

Effective Date: 10/27/97
Last Revision Date: 5/9/16
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Policy

It is the policy of the Shiawassee County Community Mental Health Authority (SCCMHA) that it protect the rights of recipients in compliance with the Michigan Mental Health Code and the Michigan Department of Health and Human Services Administrative Rules, and promote and protect the dignity and respect to which a recipient is entitled.

It is the policy of SCCMHA to establish measures to prevent and correct a possible violation of civil rights related to the service provision. A violation of civil rights shall be regarded as a violation of recipient rights and shall be subject to remedies established for recipient rights violations

Purpose

To establish policy and standards for the structure and operation of the Recipient Rights System of the SCCMHA and the protection of rights of recipients of the agency, and

To recognize and respect each recipient in the provision of care in accordance with fundamental human, civil, constitutional, and statutory rights.

Application

This policy applies to all employees, independent contractors, contract agencies, volunteers, and the Board of Directors of the SCCMHA.

Definitions

Complaint: An allegation either verbal, written, or otherwise communicated by a recipient or anyone acting on the behalf of a recipient that a violation of a right guaranteed to the recipient has occurred.

Intervention: To act on behalf of a recipient to resolve a complaint alleging a violation of a code protected right when the facts are clear and the remedy, if applicable, is clear, easily obtainable and does not involve statutorily required disciplinary action.

Preponderance of the Evidence: A standard of proof which is met when, based upon all the available evidence, it is more likely that a right was violated than not; greater weight of

- d. Policies and procedures required by the Michigan Mental Health Code, Chapter Seven and Seven A, and Michigan Department of Health and Human Services Administrative Rules, Part Seven; and
 - e. Policies and procedures to ensure that the Office of Recipient Rights shall be protected from pressures which could interfere with impartial, even handed, objective, and thorough performance of its duties. Such policies and procedures address funding, hiring, and dismissal of the Recipient Rights Director.
 - f. Work rules requiring employee cooperation in recipient rights investigations.
2. The SCCMHA shall assure that contracts and agreements for the provision of mental health services shall specify that the provider is in compliance with the Michigan Mental Health Code and that the rights of recipients shall be protected when they are receiving the services specified in the contract or agreement and have written policies in place.
 3. The organization's policies and procedures for the operation of the local rights system shall specify how rights services shall be provided, including circumstances in which the Recipient Rights Director may be absent.
 4. The organization's policies and procedures shall require that clients be informed in writing that information and consultation may be obtained regarding their rights, including appeal rights, as a recipient of community mental health services.
 5. The SCCMHA Board of Directors shall appoint a Recipient Rights Advisory Committee of at least six (6) members who shall be selected from a group of candidates which may include but is not limited to board members and staff, government officials, attorneys, mental health professionals, mental health service recipients, family members, and advocacy groups. At least 1/3 of the membership shall be primary recipients or family members and 1/2 of these shall be primary recipients.
 6. The SCCMHA shall ensure that the job description for the Recipient Rights Director and Rights Advisor includes his/her qualifications and responsibilities. The job description for the Recipient Rights Director shall be developed by the CEO. The SCCMHA shall ensure that the Rights Director and Rights Advisor will attend DCH-ORR Basic Skills I & II and Developing Effective Rights Training within three (3) months of hire.

evidence, not as to quantity, but as to quality, i.e. believability and greater weight of important facts.

Recipient Rights Director : The person selected by the Chief Executive Officer (CEO) of SCCMHA in consultation with the Recipient Rights Advisory Committee to head the SCCMHA Office of Recipient Rights. This officer provides or coordinates rights services for recipients of all services directly operated by or under contract to the SCCMHA.

Standards

It is understood that protection of the rights of recipients is a process and a philosophy which must permeate all aspects of the SCCMHA operations. This process and philosophy is based on a framework which recognizes the interdependence of care delivery and organizational ethical issues and includes mechanisms to support ethical decision-making. These mechanisms are designed to 1) respect the rights of the recipient to treatment or services within the organization's capability, mission, and applicable law and regulations; 2) address the involvement of the recipient in all aspects of care and service; 3) allow the recipient to express spiritual beliefs and cultural practices which do not harm others or interfere with the planned course of patient services; and 4) provide for consideration of other needs of the recipient/family.

The preferred approach to rights protection is proactive and preventive in nature. Rights protection activities are inextricably linked to quality assurance and continuous quality improvement processes.

A. Board Responsibilities

1. The SCCMHA shall have written policies and procedures concerning the rights of recipients, protection of those rights and for the operation of the local rights protection system including:
 - a. A mechanism for prompt reporting and investigating suspected violations of rights;
 - b. A grievance procedure for complaints concerning Section 504, Rehabilitation Act of 1973 P.L. 93-112; and grievances related to the Americans with Disabilities Act of 1990;
 - c. Policies and procedures which provide for non-retaliation and protection from harassment of complainants and rights staff. Rule 7037 (1); MCLA 15.361 et seq., the Whistleblowers Protection Act;

7. The SCCMHA shall ensure that the job description for the Recipient Rights Director and the Recipient Rights Advisor specify that the Director be subordinate only to the CEO and shall have no direct service responsibilities.
8. The SCCMHA shall consider the recommendation of the Recipient Rights Advisory Committee prior to appointing a Recipient Rights Director.
9. The SCCMHA shall ensure that consultation from the Recipient Rights Advisory Committee be obtained prior to the termination of the Recipient Rights Director.

B. Recipient Rights Advisory Committee Responsibilities

1. The Recipient Rights Advisory Committee shall hold open public meetings with reasonable notice at least quarterly or with the frequency necessary to carry out the responsibilities required by Michigan Department of Health and Human Services Administrative Rules in accordance with the Open Meetings Act.
2. Minutes of the RRAC meetings are maintained and available to individuals upon request. (MHC 757[2][i])
2. A current list of committee member's names and the categories they represent is maintained by the SCCMHA which are available to individuals upon request.
3. The Recipient Rights Advisory Committee shall serve in an advisory capacity to the Rights Director and recommend candidates with the education, training, and experience necessary to head the local Office of Recipient Rights of the SCCMHA.
4. The Recipient Rights Advisory Committee shall at least annually review the local rights protection system including funding of the office and recommend improvements, when necessary, to the CEO.
5. The Recipient Rights Advisory Committee shall assure the preparation of an annual report on the rights protection system of the organization and provide comments on the annual rights report submitted by the executive director for presentation to the SCCMHA Board of Directors and submission to the Michigan Department of Health and Human Services..

6. The Recipient Rights Advisory Committee shall protect the Recipient Rights Director from pressures which could interfere with the impartial, even-handed and thorough performance of her/his duties.
7. The Recipient Rights Advisory Committee is designated to act as the Recipient Rights Appeals Committee.

C. Chief Executive Officer (CEO) Responsibilities

1. The CEO shall ensure that rights staff have specific training on the rights of recipients as guaranteed by the Michigan Mental Health Code and Michigan Department of Health and Human Services Administrative Rules. Training for the Rights Director and Rights Advisor shall occur annually.
2. The CEO shall take appropriate disciplinary action to ensure protection for complainants and rights staff if there is evidence of harassment concerning an alleged violation of rights or a rights complaint.
3. The CEO or his/her designee shall take appropriate administrative action to resolve or prevent violations of rights. Such actions shall be noted in reports to complainants when an alleged violation of rights is substantiated. Actions shall be noted in a manner which does not violate employee rights.
4. The CEO shall arrange a meeting of the Recipient Rights Appeals Committee to hear all appeals of complainants who are not satisfied with the outcome of the investigation of their alleged rights violation and/or the administrative action taken. Requests for such appeals shall be made in writing to the Appeals Committee within forty-five (45) days of receipt of the Summary Report. The appeal shall be completed and a written response to the complainant shall be completed within ten (10) days of the committee reaching the decisions.
5. The CEO shall ensure that the Office of Recipient Rights will have unimpeded access to all programs and staff employed by or under contract to the SCCMHA.
6. The CEO shall ensure that all staff have Recipient Rights training within thirty (30) days of employment.

D. Recipient Rights Director Responsibilities

1. The Recipient Rights Director shall provide or coordinate rights activities and

functions for all services operated by or under contract with the SCCMHA consistent with the master contract with the Michigan Department of Health and Human Services and contracts with providers.

2. The Recipient Rights Director shall ensure that information regarding rights is available in all service locations. This shall include information regarding how to contact the Recipient Rights Director and the availability of the Department of Health and Human Services, Office of Recipient Rights regarding rights and/or appeals.
3. The Recipient Rights Director shall ensure that recipients, parents of minors, guardians, and others have ready access to recipient rights summaries and complaint forms at the time services are initiated and periodically thereafter.
4. The Recipient Rights Director shall ensure that all SCCMHA service locations are visited by rights staff at least annually or with the frequency necessary for protection of rights guaranteed by the Michigan Mental Health Code and Michigan Department of Health and Human Services, Administrative Rules. The frequency of these visits and methods for determining compliance with rights requirements shall be specified in the organization's policies and procedures for the operation of the rights system.
5. The Recipient Rights Director shall serve as a consultant to the CEO and staff in rights matters and participates in developing and reviewing policies impacting on the rights of recipients.
6. The Recipient Rights Director shall ensure that all reports of suspected or apparent violations of rights and rights complaints within the Board's service system are investigated in a timely manner and according to the requirements of the Michigan Mental Health Code Chapter 7A, and completed within 90 days subject to delays involving pending action by external agencies (Department of Human Services, Adult Protective Services, Children's Protective Services, law enforcement, licensing, etc.)
7. The Recipient Rights Director shall ensure that investigations are conducted in a manner which does not violate employee rights.
8. The Recipient Rights Director shall use the "preponderance of the evidence" as the standard of proof in determining if a right has been violated.
9. The Recipient Rights Director shall maintain a records system of all training received/given and for all complaints received within the rights system of the

SCCMHA.

10. The Recipient Rights Director shall inform complainants of their appeal rights and the process for the appeal. The Recipient Rights Director shall notify the complainant of advocacy organizations available to assist in preparing the appeal or the Recipient Rights Director's availability to make the referral to an advocacy group. In the absence of an advocacy organization, the Recipient Rights Director shall inform the complainant of the Recipient Rights Director's availability in assisting the complainant in meeting the procedural requirements of a written appeal.
11. The Recipient Rights Director shall receive and acknowledge all reports and may investigate suspected or apparent violations of rights. A copy of the complaint will be sent to the Complainant with a letter acknowledging receipt of the complaint within five (5) business days of when the complaint was received by the Recipient Rights Office. The Recipient Rights Office will notify the complainant within five (5) business days after it received the complaint if it determined that no investigation of the complaint was warranted. The Recipient Rights Office will assist the recipient or other individual with the complaint process as necessary. The Recipient Rights Office will 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 Recipient Rights Office will assist the recipient in preparing a written complaint which contains a statement of the allegation, the right allegedly violated, and the outcome desired by the complainant.
12. The Recipient Rights Director may act on behalf of recipients to obtain a remedy for any substantiated violations.
13. The Recipient Rights Director shall otherwise endeavor to safeguard the rights guaranteed by the Michigan Mental Health Code.
14. The Recipient Rights Director shall attend meetings which have an impact on the rights of recipients.
15. The Recipient Rights Director will assure rights training is available to all staff within thirty (30) days of employment.
16. The Recipient Rights Director shall have training and education to fulfill the responsibilities of the office and shall be credentialed for this position. Requirements for education, training, and experience shall be specified in the

job description and competencies for the position.

17. The Recipient Rights Director shall receive annual training about Recipient Rights, the Recipient Rights System and in carrying out the responsibilities of the Recipient Rights Director.
18. The Recipient Rights Director shall review all contracts annually and any new contracts approved during the fiscal year prior to their submission to the provider to ensure that the terms of the contract comply with requirements of the Michigan Mental Health Code and agency policies as they pertain to the rights of recipients. Confirmation of this review shall be submitted in writing to the staff person responsible for administering the contract with any recommended changes noted.

E. Appeals Procedure

1. In the event that a complainant is not satisfied with the findings of an investigation of an alleged rights violation and should the complainant remain unsatisfied with the decision, the complainant may appeal the decision in writing to the Recipient Rights Appeals Committee.
2. The Recipient Rights Appeals Committee shall review the appeal and notify the complainant within five (5) business days whether the appeal is denied or accepted.
3. The Recipient Rights Appeals Committee shall conduct an appropriate review of the facts within thirty (30) business days of receipt of the appeal.
4. Written notification of the decision of the Recipient Rights Appeals Committee shall be provided to the complainant within a maximum of ten (10) days of the committee reaching its decision.
5. Any party may seek alternate resolution through exercise of legal remedy or mediation.
6. The confidentiality provisions of the Michigan Mental Health Code in Sec. 330.748 shall be strictly adhered to in every step of the review process.
7. Every effort should be made to resolve disputes at the lowest administrative level possible. The language contained herein with regard to a formal appeals process should not be construed to prohibit the use of mediation at the local level, if the use of same is agreed to by both parties.

8. In the event that SCCMHA does not receive an appeal, the Recipient Rights Advisory/Appeals Committee will conduct a mock appeal to ensure proficiency in handling appeals. In addition the SCCMHA Recipient Rights Appeal Committee will have the opportunity to attend the MDHHS Recipient Rights Advisory/Appeals Committee training. The Recipient Rights Advisory Committee services as the Recipient Rights Appeals Committee.

F. Compliance

1. The SCCMHA shall have written policies and procedures for the operation of the rights system on file with the Michigan Department of Health and Human Services, Office of Recipient Rights.
2. The SCCMHA shall develop and approve written policies concerning the rights of recipients, as required by the Michigan Mental Health Code and the Michigan Department of Health and Human Services, Administrative Rules of each directly operated and contract service.
3. The CEO shall submit to the Michigan Department of Health and Human Services, Office of Recipient Rights for review and comment copies of the organization's policies and procedures and revisions of policies and procedures, concerning the rights of recipients as specified in the Michigan Mental Health Code and Michigan Department of Health and Human Services, Administrative Rules listed in Exhibit A.
4. The CEO shall provide the Director of the Michigan Department of Health and Human Services and Recipient Rights Committee with a semi-annual report which includes a review of the operation of the Office of Recipient Rights and an assessment of rights protection throughout the organization's services system on June 30 and annual report on December 30 for each year. This report shall include:
 - a. Aggregate data by category regarding all reports of alleged violations of rights including the number received, the number of reports received, and the number of reports investigated, and resolved.
 - b. Number of substantiated violations of rights by category and provider and recipient population.
 - c. Source of complaint.
 - d. Remedial actions taken by type of action

on substantiated violations by category, provider and recipient population..

- e. Copies of minutes of the Recipient Rights Advisory Committee.
 - f. Names of the members of the committee. In the case of members of the CMH Recipient Rights Committee who are recipients, identification of them as recipients shall not be made without their written and informed consent.
 - g. A summary of training received by staff of the rights office, and training provided by rights office to staff and to staff of contract providers.
 - a. Desired outcomes established for the rights office and progress toward these outcomes.
 - b. Recommendations regarding the office to the CMH Board.
 - j. Other significant rights activities.
- G. Availability of Recipient Rights Services: In the event of a temporary absence of the Recipient Rights Director, the Recipient Rights Advisor of the agency shall assume the functions of the Recipient Rights Director under the condition that the person holding the position of Recipient Rights Director is credentialed to perform said functions. In the event that no staff person is so credentialed, the agency will contract with another community mental health agency for ancillary Recipient Rights services.

References and Legal Authority

- A. Michigan Mental Health Code, Public Act 258 of 1974, as amended.
- B. Michigan Department of Health and Human Services Administrative Rules.
- C. Michigan Whistleblowers' Protection Act P.A. 469 of 1980.
- D. Section 504, Rehabilitation Act of 1973, Public Law 93-112.
- E. Public Act P.L. 101-336 of 1990, The Americans with Disabilities Act.

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Approved by: 
Board Chairperson

9-26-2016
Date


Chief Executive Officer

9/28/16
Date

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8/27/07	New formatting
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7/27/09	Revised by Becke Browne
7/26/10	Revised by Becke Browne
7/21/11	Reviewed by Recipient Rights Advisory Committee
7/19/12	Reviewed by Recipient Rights Advisory Committee
10/17/13	Reviewed by Recipient Rights Advisory Committee
12/11/14	Reviewed by Recipient Rights Advisory Committee
01/21/16	Annual Review by Recipient Rights Advisory Committee
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