

COMMUNITY MENTAL HEALTH AUTHORITY

ADMINISTRATIVE POLICY AND PROCEDURES MANUAL				
Chapter Program Quality	Section Recipient Rights	Chapter 05	Section 01	Subject 01
Subject Rights System	Authorization	<i>Melissa Hall</i>		Approved: 11/26/19 Replaces: 03/26/19

Updated: February 2022; Reviewed/No Update: October 2022

- I. **PURPOSE:** To establish the office of Recipient Rights and to delineate its duties.

- II. **APPLICATION:** All programs under the governance of the Community Mental Health Authority (CMHA).

- III. **DEFINITIONS:**
 - A. Family member: A parent, stepparent, spouse, sibling, child, or grandparent of a primary recipient, or an individual upon whom a primary recipient is dependent for at least 50% of his or her financial support.
 - B. Primary recipient: An individual who has received or is receiving services from the Department of Health and Human Services (DHHS), CMHA or its contract agencies, or services from the private sector equivalent to those offered by DHHS, CMHA, or its contract agencies.
 - C. Substantial changes to the rights system: Alterations to levels of funding, staffing, or to functions required by the Office.

- IV. **POLICY:**
 - A. CMHA will protect the rights of recipients in accordance with the Mental Health Code.
 - B. An Office of Recipient Rights shall be established which is subordinate only to the Chief Executive Officer (CEO); which is protected from pressures that could interfere with the impartial, even-handed, and thorough performance of its duties, and whose staff have the education, training, and experience to fulfill the responsibilities of the Office.
 - C. A Recipient Rights Advisory Committee (RRAC), which also functions as the Appeals Committee, be appointed by the CMHA Board.
 - 1. The CEO shall ensure that:
 - a) The Recipient Rights Officer (RRO) does not have direct service responsibilities and that any duties in addition to recipient rights are not in conflict with the basic purpose of the Office of Recipient Rights (Office).
 - b) Within the first three months (90 days) of employment, the RRO and all Rights Office staff (excluding clerical staff) shall attend and successfully complete the Basic Skills Training programs offered by the Department’s Office of Recipient Rights. In addition, within every three (3) year period subsequent to their completion of Basic Skills, the RRO and all Rights Office staff (excluding clerical staff) must comply with the requirements specified in Attachment C6.3.2.3A “Continuing Education Requirements for Recipient Rights Staff.”

Definitions:

1. Continuing Education Unit (CEU): One CEU is defined as one clock hour (60 minutes) of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction. The primary purpose of the CEU is to provide a permanent record of the educational accomplishments of an individual who has completed one or more significant educational experiences.
 2. Category I Credits: Operations: This category includes programs that support and enhance the fundamental scope of responsibilities and effective work of recipient rights staff. These may be directly related to prevention, complaint resolution, and monitoring and education that support the fundamental scope of a Rights Office's operations. Examples include: Rights Office Operations Techniques; Enhancing Investigative Skills; Inpatient Rights; Out-of-catchment rights protection; Writing effective rights-related contract language; Conducting effective site visits; How to protect rights in a dual rights protection system.
 3. Category II Credits: Legal Foundations: This category includes programs that enhance the understanding and application of the Mental Health Code, Administrative Rules, Disability and Human Rights Laws, HIPAA and the MHC, Federal Laws and regulations and any other laws addressing the legal rights of a mental health recipient.
 4. Category III Credits: Leadership: This category includes programs that support and enhance the leadership abilities of rights staff. Examples include: Community Mental Health Services Program (CMHSP) issues; How to establish a rights presence in an organization; Understanding rights data and how to use it to trigger systemic organizational changes; What goes on in a Failure Mode Event Analysis (FMEA)/Adverse Event Review; Working with key individuals in your organization – Customer Services, Contracts Unit, and how it can enhance rights.
 5. Category IV Credits: Augmented Training: This category includes training sessions that contains information that would help rights staff have a better understanding of the people they serve, their disabilities, their families, or training indirectly related to rights but affecting rights. These may include trainings in mental health conditions and disabilities, treatment and support modalities, recovery, and self-determination as long as these topics can be ascertained to have a component that relates to assisting the attendee in the protection of rights. Examples include: Understanding MI/SUD Co-occurring disorders; How to communicate with people with disabilities; Ethics; HIPAA and the MHC; Recipients from different cultures (including deaf, deafblind, and hard of hearing community); Diversity Issues.
- c) Continuing Education Requirements
- 1) All staff employed or contracted to provide recipient rights services shall receive education and training oriented toward maintenance, improvement, or enhancement of the skills required to effectively perform the functions as rights staff.
 - 2) A minimum of 36 contact hours of education or training shall be required over a three (3) year period subsequent to the completion of the Basic Skills requirements, and in every three (3) year period thereafter.

- 3) The 36 contact hours obtained must be in rights-related activities and must fall within one or more of the categories identified in the definitions above.
 - 4) A minimum of 12 contact hours must be obtained in programs classified as Category I or II.
 - 5) No more than 12 credits in a three (3) year period may be earned through the use of online learning resources and three (3) CEU's must be obtained in a calendar year
 - 6) CEU's may be received by attending programs or conferences developed by the Department, other rights-related organizations, organizations that have applied to the Office of Recipient Rights Education, Training and Compliance Unit for approval of their programs, or through online training.
 - 7) Rights staff may request approval for other educational programs by utilizing the established approval process.
 - 8) Recipient rights staff should retain documentation of meeting the CEU requirements for a period of four (4) years from the date of attendance. It is suggested that the following information be kept on file:
 - a) The title of the course or program and any identification number assigned to it by the education provider. The number of CEU hours completed.
 - b) The provider's name and identifying number.
 - c) Verification of your attendance by the provider.
 - d) The date and location of the course.
 - 9) Reviews will be conducted by the MDHHS Office of Recipient Rights staff at each assessment of a recipient rights program to determine if all rights staff have met both the basic and continuing education requirements.
 - 10) CMHSPs who contract with Licensed Private Hospitals/Units shall mandate compliance with the standards as listed in the Technical Advisory (MDHHS/CMHSP Contract Attachment C6.3.2.3A) by the RRO staff of those entities.
- d) Procedures for Training Approval
- 1) Training that is automatically approved for CEU credits include:
 - a) MDHHS ORR training *excluding Basic Skills*.
 - b) All sessions at the MDHHS-ORR Annual Conference, including the Pre-Conference session.
 - c) Training provided by, or sponsored by, MDHHS Office of Recipient Rights.
 - 2) Training that may be approved for CEU credits, if meeting the criteria above and with the submission of the necessary documents by the applicant:
 - a) RROAM sponsored training.
 - b) CMH/LPH/U sponsored training.
 - c) Training provided by other agencies, entities, professionals, accreditation bodies, risk management, corporation counsel/lawyer, etc.
 - d) Training provided to the Rights Officer/Advisor for their own profession's licensure.
 - e) Other training in the community at large, including on-line training, if requirements as detailed above are met.
 - 3) CEU Documentation and Notification:

- a) **Application:** To apply for CEU credits for training, complete the MDHHS ORR Continuing Education Course Summary form (see Exhibit) and send by email, mail, or FAX within 30 calendar days prior to the date of the event to:
 - MDHHS ORR Education, Training, and Compliance Unit
 - 18471 Haggerty Road
 - Northville, MI 48168
 - FAX: 248-348-9963
 - Email: MDHHS-ORR-Training@michigan.gov
- b) **Verification of Attendance:** Attendance can be verified through provision of a Certificate of Attendance, copies of a training record, copy of an attendance/sign in sheet, a copy of the training agenda or outline with a self-attestation statement that the applicant did attend the training. Verification of attendance shall be kept on file with the applicant and be readily available for review by MDHHS ORR, if requested.
- c) **Notification:** Applicants will receive notification of approval determination for CEU credits no later than 30 business days following receipt of the required documents. Approved courses, credit and category information will be posted on the ORR web site.
- d) **Application Review, Approval, and Appeal:** Applications from organizations outside the Department, or applications from individuals who have attended or plan to attend training programs shall be reviewed and approved or rejected by the Continuing Education Committee. If an application is rejected by the Continuing Education Committee, it may be appealed to the director of the Office of Recipient Rights. The decision of the Director of the ORR is the final MDHHS position on the application.
- e) The process for funding the Office of Recipient Rights includes a review of the funding by the RRAC.
- f) The Office will have unimpeded access to all of the following:
 - 1) All programs and services operated by or under contract with the agency.
 - 2) All staff employed by or under contract with the agency.
 - 3) All evidence necessary to conduct a thorough investigation or to fulfill its monitoring function.
- g) Employees and recipients have unimpeded access to the Office.
- h) Each contract between the agency requires all of the following:
 - 1) The provider and all individuals employed by the provider receive recipient rights training before or within 30 days after being employed.
 - 2) The RRO, advisor and alternate of those service providers allowed/required by contract to establish their own rights system attend DHHS-ORR Basic Skills I and II within the first 90 days of employment.
 - 3) Recipients will be protected from rights violations while they are receiving services under the contract.
 - 4) Prior to the renewal of an existing contract or implementation of a new contract, the Recipient Rights Officer will review contract for accurate and sufficient rights language.

- i)** Complainants, staff of the Office, and any staff acting on behalf of a recipient will be protected from harassment or retaliation resulting from recipient rights activities in accordance with agency policies and procedures, and that appropriate disciplinary action will be taken if there is evidence of harassment or retaliation.
 - j)** Education and training in recipient rights policies and procedures are provided to its RRAC.
 - k)** Staff of the Office receive training each year in recipient rights protection.
 - l)** Appropriate remedial action is taken to resolve violations of rights and notify the complainants of substantiated violations in a manner that does not violate employee rights.

- 2.** The Office of Recipient Rights shall ensure that:
 - a)** Recipients, parents of minor recipients, and guardians or other legal representatives have access to summaries of the rights guaranteed by Chapters 7 and 7a of the Mental Health Code and are notified of those rights in an understandable manner, both at the time services are requested and/or initiated, and annually during the time services are provided to the recipient.
 - b)** A complete copy of Chapters 7 and 7a of the Mental Health Code is readily available for review by applicants and recipients.
 - c)** The telephone number and address of the Office and the names of rights staff are conspicuously posted in all service sites.
 - d)** Per MDHHS/CMHSP Contract Attachment C6.3.2.3B, all individuals employed by the agency, or a contract agency, receive training related to recipient rights protection including training regarding the appeal process and the employee and recipient grievance procedure before or within 30 days after being employed which shall include receiving an accurate written summary of rights during the agency's orientation training. In addition, see the "Standards", below, as a part of same Contract Attachment.

STANDARDS:

1. Training for newly hired agency and provider staff shall encompass the entirety of the core learning areas identified in Exhibit A.
2. If provided or required, annual rights training may focus on any or all of the learning areas.
3. Agencies may require documentation of competency in these areas through testing.

Exhibit A – Areas to be covered in Training

This chart represents the topics that minimally must be covered for the specific groups listed.

	Board of Directors	Administration	Clinical Staff - Non-Residential	Clinical Staff - Specialized Residential	Direct Care Staff - Specialized Residential	Direct Care Staff - Residential	Outpatient Clinic - All Staff	Volunteers	Advisory Committee	Appeals Committee
Abuse and Neglect	*	*	*	*	*	*	*	*	*	*
Civil Rights			*	*	*	*	*	*	*	*
Communications and Visits			*	*	*	*	*			
Confidentiality	*	*	*	*	*	*	*	*	*	*
Consent/Informed Consent		*	*	*	*	*	*	*	*	
Dignity & Respect	*	*	*	*	*	*	*	*	*	
Entertainment, Information, and News		*	*	*	*	*	*			
Fingerprints, Photographs, Recording		*	*	*	*	*	*			
Freedom of Movement		*	*	*	*	*	*			
Limitations/Restrictions		*	*	*	*	*	*	*	*	
Psychotropic Medication		*	*	*	*	*	*			
Person Centered Planning		*	*	*	*	*	*	*	*	
Personal Property		*	*	*	*	*	*			
Rights of Family Members	*	*	*	*	*	*	*	*	*	
Safe, Sanitary, Humane Environment		*	*	*	*	*	*	*	*	
Seclusion/Restraint		*	*	*	*	*	*			
Suitable Services - Family Planning		*	*	*	*	*	*	*	*	
Suitable Services - Svcs Suited to Condition		*	*	*	*	*	*	*	*	
Suitable Services - Choice of Physician		*	*	*	*	*	*	*	*	
Suitable Services - Notice of Clinical Status		*	*	*	*	*	*	*	*	
THE RECIPIENT RIGHTS SYSTEM										
Role of the Advisory Committee	*	*			*				*	*
Appeals Process	*	*			*				*	*
Employee Rights		*	*	*	*	*	*			
ORR Investigative Process	*	*	*	*	*	*	*	*	*	*
Overview of the Rights System	*	*	*	*	*	*	*	*	*	*
Reporting Requirements	*	*	*	*	*	*	*	*	*	*
Responsibilities of the Agency Director	*	*			*				*	*
Responsibilities of the Board of Directors	*	*			*				*	*

- e) Each service site:
- 1) Is visited with the frequency necessary for protection of rights but in no case less than annually.
 - 2) The Rights Office is responsible for assuring rights protection is provided to recipients of services in **ALL** service settings, contracted or CMHA run (residential, CMHA offices, vocational, day program, etc.). The requirement for visiting service sites is once each year (not to exceed 395 days from the previous visit). A service site where there is a contract but no placements **does not have to be visited**; however, once a placement occurs, the Rights Office **must** be notified. In order to assure adequate rights protection is available, it will be the responsibility of the Office of Recipient Rights to visit or to assure that a visit is conducted at that site **within 10 business days**.
 - 3) Has an adequate supply of all of the following:
 - Recipient rights booklets
 - Complaint forms
 - Incident Report forms
 - MDHHS-ORR Summary of Abuse and Neglect Reporting Requirements chart
 - Summary of the Whistleblowers' Protection Act
 - Poster with the name, address, and telephone number of rights staff

V. PROCEDURE:

A. General Responsibilities - the Office shall:

1. Provide or coordinate the protection of recipient rights for all directly operated or contracted services.
2. Participate in the development and annual review of policies and procedures pertinent to the rights of recipients.
3. Review the recipient right's policies and the rights system of each provider of mental health services under contract with the agency to determine that the rights protection system of each provider is in compliance with the Mental Health Code and is of a uniformly high standard.
4. Serve as consultant to the CEO, staff, and recipients of the agency in matters related to recipient rights.

B. Staffing - the CEO shall:

1. Select a director of the Office, known as the Recipient Rights Officer, who has the education, training, and experience to fulfill the responsibilities of the Office.
2. Consult the RRAC prior to selecting, replacing, or dismissing the Recipient Rights Officer and prior to any substantial changes to the rights system.

C. Funding - the CEO shall consult with the RRAC prior to any alterations to levels of funding for the Office.

D. Investigation - the Office shall:

1. Maintain a record system for all reports of apparent or suspected rights violations received by the Office, including a mechanism for logging all complaints and a mechanism for secure storage of all investigative documents and evidence.

2. Investigate all reports of apparent or suspected violations of rights within the agency in accordance with Section 778 of the Mental Health Code and record those that do not warrant investigation.
3. Semiannually provide summary complaint data consistent with the annual report required in subsection (6) of 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 agency's RRAC.

E. Annual Report

1. The CEO shall submit to the Board and to MDHHS an annual report prepared by the Office on the current status of recipient rights in the agency and a review of the operations of the Office. The report shall be submitted to DHHS no later than December 30th of each for the preceding fiscal year or period specified in the contract with the Department.
2. The RRAC shall review and provide comments on the report.
3. The annual report shall include, at a minimum, all of the following:
 - a) Summary data by category regarding the rights of recipients receiving services from the agency including complaints received, the number of reports filed, and the number of reports investigated by the Office.
 - b) The number of substantiated rights violations by category and provider.
 - c) The remedial actions taken on substantiated violations by category and provider.
 - d) Training received by staff of the Office of Recipient Rights.
 - e) Training provided by the Office to employees and contract providers.
 - f) Desired outcomes established for the Office and progress toward these outcomes.
 - g) Recommendations to the Board.

F. Recipient Rights Advisory Committee (RRAC)

1. The Board shall appoint an RRAC as a committee of the Board. The membership of the RRAC shall be broadly based so as to best represent the varied perspectives of the agency's geographic area. At least 1/3 of the membership shall be primary recipients or family members, and of that 1/3, at least 1/2 shall be primary recipients. One Board member shall be a member of the RRAC.
2. The RRAC shall:
 - a) Meet at least quarterly or as necessary to carry out its responsibilities.
 - b) Maintain a current list of members' names to be made available to individuals upon request.
 - c) Maintain a separate current list of categories represented to be made available to individuals upon request. The identity of specific recipients may not be disclosed without informed consent or such disclosure.
 - d) Protect the Office from pressures that could interfere with the impartial, even-handed, and thorough performance of its functions.
 - e) Review applications of candidates for Recipient Rights Officer and make recommendations to the CEO and consult with the CEO regarding any proposed dismissal or replacement of the Officer and prior to any substantial changes to the rights system.
 - f) Serve in an advisory capacity to the Board, the CEO and the Recipient Rights Officer.

- g) Inform the Board of the Committee's position when there is disagreement between the Committee and the CEO.
 - h) Report directly to the Board when necessary to carry out its responsibilities in an effective and efficient manner.
 - i) Review the semiannual summary of complaint data prepared by the Office.
 - j) Review and provide comments on the annual report submitted by the CEO to the Board under Section 755 of the Mental Health Code.
 - k) Annually review the funding of the Recipient Rights Office.
3. Meetings of the RRAC are subject to the open meetings act, Act No. 267 of the Public Acts of 1976. Minutes shall be maintained and made available to individuals upon request.

VI. REFERENCES AND LEGAL AUTHORITY: Act 258 of the Public Acts of 1974, as amended (Mental Health Code) Sections 100a, 100b, 100c, 722, 755, 757, 778; Act 267 of the Public Acts of 1976, Open Meetings Act; MDHHS/CMHSP FY 17 Contract Attachment C6.3.2.3A

VII. EXHIBITS: Acknowledgement of Recipient Rights Training; Application for Recipient Rights CEU Credit