COMMUNITY MENTAL HEALTH AUTHORITY

ADMINISTRATIVE POLICY AND PROCEDURES MANUAL				
Chapter **Program Quality**	**Section** **Recipient Rights**	**Chapter** **05**	**Section** **01**	**Subject** **23**
Subject **Complaints/Appeals**	**Authorization**		**Approved: 12/29/2020** **Replaces: 08/28/2018**	

Updated: October 2024; October 2025

I. PURPOSE: To provide an appeal process regarding suspected or apparent rights violations.

II. APPLICATION: All programs under the governance of the Gogebic Community Mental Health Authority (GCMHA) Board.

III. DEFINITIONS:

A. Appellant: The recipient, complainant, parent, or guardian who appeals a recipient rights-finding or a respondent's action to an Appeals Committee.

B. Preponderance of evidence: A standard of proof, which is met when, based upon all available evidence, it is more likely that something is true than untrue; greater weight of evidence, not as to quantity (number of witnesses), but as to quality (believability and greater weight of important facts); more than 50 percent.

C. Reasonable Cause: A suspicion founded upon circumstances sufficiently strong to warrant a reasonable person to believe that the suspicion is true.

D. 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 has been filed.

E. Rights complaint: A written or oral statement filed by a recipient, or another individual on behalf of a recipient, with the Office of Recipient Rights, alleging a violation of the Mental Health Code or Administrative Rules, and which contains the following information:

1. A statement of the allegations that give rise to the dispute;
2. A statement of the right or rights that may have been violated;
3. The outcome that the complainant is seeking as a resolution to the complaint.

IV. POLICY:

A. A mechanism shall be provided for prompt reporting, review, investigation, and resolution of apparent or suspected rights violations which includes an appeals process.

B. Firm and fair disciplinary action and adequate remedial action shall be taken in the event of a violation.

C. GCMHA and respondents shall ensure that:

1. Appropriate administrative action is taken for failure to report suspected rights violations;

2. Action is taken to protect the recipient during the investigation;

3. The Office of Recipient Rights (Office) has unimpeded access to all of the following:
   a. All programs and services;
   b. All employees, volunteers, trainees, and recipients;
   c. All evidence that the Office determines is necessary to conduct a thorough investigation or to fulfill its monitoring of remedial action;
4. Employees, volunteers, and trainees who may have knowledge pertinent to the investigation, cooperate fully with the Office and other authorized investigative bodies, respond to questions put forth, verbally or in writing, provide written statements when requested, and provide accurate and honest information. Appropriate disciplinary action shall be taken for any failure to cooperate;
5. All employees, volunteers, trainees, recipients, and others who file a complaint or cooperate in an investigation are protected from discrimination, harassment, or retaliation in accordance with applicable laws and agency policies/procedures, and appropriate disciplinary action is taken if this does occur;
6. The recipient's record and other documentary or physical evidence is immediately secured as necessary and protected from tampering, erasures, deletions, or any other type of falsification;
7. Copies of documentation requested by the Office are provided in a timely manner;
8. If GCMHA staff, contractual employees, or staff of contractual employee, fail to report apparent or suspected violations of rights, appropriate administrative action will be taken.

D. Office of Recipient Rights shall assure that recipients, parents, guardians, and others have ready access to complaint forms.

V. PROCEDURE:

A. Reporting Rights Violations

1. All employees, volunteers, and trainees who witness, discover, or have reasonable cause to suspect recipient rights violations shall report, verbally or in writing, to a designated supervisor and/or the Office of Recipient Rights within 24 hours.
2. Any supervisor who receives an allegation of a suspected rights violation shall contact the Office within 24 hours.

B. Filing Rights Complaints

1. The Office of Recipient Rights shall:
   a. Receive and document all complaints alleging violations of recipients' rights; including violations of Chapters 7 & 7-A of the Michigan Mental Health Code and grievances under section 504 of the Rehabilitation Act 1973, P.L. 93-112 and grievances related to the Americans with Disabilities Act of 1990 (ADA).
   b. Date, number, and record each rights complaint when it is received and send an acknowledgment, along with a copy of the complaint, to the complainant within 5 business days. If the Office determines that no investigation of the rights complaint is warranted, it shall notify the complainant within 5 business days; if an intervention is undertaken on the recipient's behalf, it will be completed within 30 days;
   c. Assist the recipient or other individual with the complaint process;

d. Advise the recipient or other individual that there are advocacy organizations such as Disability Rights Michigan available to assist in preparation of a written rights complaint and offer to refer the recipient or other individual to those organizations. In the absence of assistance from an advocacy organization, the Office shall assist in preparing a written rights complaint;

e. Accept complaints that are filed anonymously and protect any information that may lead to the identification of the anonymous complainant;

f. Route complaints involving alleged abuse, neglect, serious injury, or death to the Chief Executive Officer.

2. When the Office determines that no investigation of the rights complaint is warranted it may inform the complainant of other agencies he or she may contact for complaints outside the agency's jurisdiction and assist if requested by the complainant.

3. An employee who is aware that a recipient or other individual wants to file a rights complaint shall either assist that person or refer him or her to the Office.

C. Investigation

1. All employees, volunteers, and trainees shall cooperate fully with investigators from the Office of Recipient Rights and other authorized investigative bodies, respond to questions put forth, verbally or in writing, and provide accurate and honest information.

2. The Office of Recipient Rights shall:

a. Conduct investigations in a manner that does not violate employee rights.

b. Initiate investigation of apparent or suspected rights violations in a timely and efficient manner, subject to delays involving pending action by external agencies including law enforcement, protective services, or licensing entities. The determination of whether an investigation was initiated immediately when there is an allegation of abuse, neglect, serious injury, or the death of a recipient which involves an apparent or suspected rights violation, shall be based on the action taken by the rights office on receipt of the complaint. Steps to initiate an investigation in accordance with this standard shall be taken within 24 hours of the receipt of the complaint and shall be comprised of proactive rights activities. These actions may include contact with the recipient or complainant, phone calls, review of progress notes and case records, and scheduling of interviews. **Actions such as logging the complaint and issuing an acknowledgement letter do not constitute a proactive activity**. It is important to document the actions taken to immediately initiate, by describing those actions, and indicating when the action was taken, in the Investigative Findings section. **The review of an IR that contains an apparent or suspected rights violation does NOT constitute initiation**. The information in the IR should be written up in a complaint form, which can then serve as the basis to begin the activities that initiate the investigation. For complaints other than those which require immediate investigation, investigation activities must begin within 10 business days. Again, these must be proactive activities as described above. The investigation shall be completed no later than 90 days after receiving the rights complaint. Investigation shall be initiated immediately in cases involving alleged abuse,

neglect, serious injury, or the death of a recipient that involves an apparent or suspected rights violation.

c. Include as part of the investigative process the following when pertinent to the investigation:
- **(1)** An interview with the complainant when circumstances allow, preferably face to face;
- **(2)** An interview with the recipient if other than complainant when circumstances allow, preferably face to face;
- **(3)** Interviews with all witnesses and others who may provide relevant information, preferably face to face;
- **(4)** Interviews with employees, volunteers, and trainees who are alleged to have violated a right, preferably face to face;
- **(5)** Written statements from employees, volunteers, trainees, recipients, and relevant others when such a statement is necessary to support oral interviews, to obtain additional information, or to provide findings relevant to the investigation;
- **(6)** Review of recipient records and appropriate other documentation;
- **(7)** Review of investigations into the same allegation conducted by law enforcement, licensing entities, or others when available;
- **(8)** Visit to the site of the alleged violation;
- **(9)** Review of pertinent laws, rules, policies and procedures.

d. Maintain accurate records of investigative activities and findings.

e. Store all investigative documents and evidence in a secure manner in a locked cabinet in the Office, separate from clinical or personnel records and within the constraints of confidentiality and privileged communications in Sections 748 and 750 of the Mental Health Code.

f. Determine whether a right was violated by using a preponderance of evidence as the standard of proof.

g. Monitor progress toward remediation of all substantiated violations of rights.

3. The Office may:
- **a.** File additional rights complaints when it becomes apparent that other rights may have been violated;
- **b.** Consult with the respondent to determine appropriate remedial action.

4. If a rights complaint has been filed regarding the conduct of the Chief Executive Officer, the GCMHA Board shall be notified of the allegation through the Board Chair and the matter shall be referred for investigation to the State Office of Recipient Rights or to another CMHSP, as decided by the Board. Recipient Rights staff cannot conduct investigations when an allegation is made against the CEO of the CMHSP or the director of the hospital they work for or are under contract with. The following outlines the steps that should be taken when an external investigation is necessary.
- **a.** The Rights Office will notify the chair of the Board of Directors/Governing Board when a complaint is received which involves an allegation of a rights violation by the CEO or Hospital Director.
- **b.** The Rights Office will log this complaint on their case log. It does not get logged on the case log of the Office doing the investigation.

c. The Board chair will have 3 business days to secure the recommendation of the Board as to which option will be taken: request another CMH or LPH Rights office to do the investigation or make a request to MDHHS-ORR to conduct the investigation. Any discussion and voting in connection with this request shall be reflected in the minutes of the Board.

d. The investigating office or MDHHS-ORR will follow all investigative protocols and timeframes as indicated in MHC §330.1778. 5.

e. When the Report of Investigative Findings has been completed, the investigating Rights Office will forward that report to the Chair of the Board/Governing Body.

f. The Chair is responsible for issuing the Summary Report as required by MHC §330.1782

D. Status Report: The Office of Recipient Rights shall:

1. 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, and GCMHA;

2. Include all of the following in the Status Report:
- **a.** Statement of the allegations;
- **b.** Statement of the issues involved;
- **c.** Citations to relevant provisions of the Mental Health Code, Administrative Rules, guidelines, and GCMHA policies and procedures;
- **d.** Investigative progress to date;
- **e.** Expected date for completion of the investigation.

E. Investigative Report

1. The Office of Recipient Rights shall:
- **a.** Submit a written Investigative Report to the respondent and GCMHA upon completion of the investigation. Issuance of the written Investigative Report may be delayed pending completion of investigations that involve external agencies, including law enforcement, protective services, or licensing entities;
- **b.** Include all of following in the Investigative Report:
  - **(1)** Statement of the allegations;
  - **(2)** Statement of the issues involved;
  - **(3)** Citations to relevant provisions of the Mental Health Code, Administrative Rules, guidelines, and GCMHA policies and procedures;
  - **(4)** Investigative findings;
  - **(5)** Conclusions;
  - **(6)** Recommendations, if any.

2. The Office may reopen or reinvestigate a complaint if there is new evidence that was not presented at the time of the original investigation.

F. Remedial Action: If it has been determined through investigation that a right has been violated:

1. The respondent shall:
- **a.** Take appropriate remedial action that meets all of the following requirements:
  - **(1)** Corrects or provides a remedy for the rights violation;

(2) Is implemented in a timely manner;
(3) Attempts to prevent a recurrence of the rights violation;
(4) The Program Director of the staff involved will decide an appropriate remedial and/or disciplinary action and have another supervisor/ department director review and confirm that it is an appropriate remedial and/or disciplinary action.

b. Provide the Office with written documentation of the remedial action for its record.

2. GCMHA and respondents shall:
a. Ensure that appropriate disciplinary action is taken against those who have engaged in abuse or neglect, or retaliation and harassment.
b. Apply remedial action for a specific complaint to all recipients in similar situations, when applicable.

G. Summary Report

1. The Chief Executive Officer shall:
a. Submit a written Summary Report to the complainant and recipient and parent or guardian if different than the complainant, and the Office within 10 business days after receiving a copy of the Office's Investigative Report;
b. Include all of the following in the Summary Report:
(1) Statement of the allegations;
(2) Statement of the issues involved;
(3) Citations to relevant provisions of the Mental Health Code, Administrative Rules, guidelines, and OCCMH policies and procedures;
(4) Investigative findings;
(5) Conclusions;
(6) Recommendations if any made by the Office;
(7) Action taken, or plan of action proposed, by the respondent;
(8) Information describing potential appellants' right to appeal, time frames and grounds in making an appeal, and process for making an appeal;
c. Provide information in the Summary Report within the constraints of confidentiality and privileged communications in Sections 748 and 750 of the Mental Health Code;
d. Provide information in the Summary Report in a manner that does not violate the rights of any employee.

2. The Chief Executive Officer may designate the Office to prepare a draft of the Summary Report for review and approval by the Chief Executive Officer

H. GCMHA Appeals Committee

1. The GCMHA Board has appointed the Recipient Rights Advisory Committee of the Board plus one additional board member (to equal 7 members) to serve as the Appeals Committee. None of the members shall be employed by GCMHA or MDHHS.

2. The Appeals Committee shall:
a. Appoint one member to serve as chair;
b. Receive training about recipient rights, investigations, and appeals;

c. Ensure that a member who has a personal or professional relationship with an individual involved in an appeal abstains from participating in that appeal as a member of the committee;

d. Conduct appeals proceedings within the constraints of confidentiality and privileged communications in Sections 748 and 750 of the Mental Health Code. Such meetings are not subject to the Open Meetings Act;

e. Write reports within the constraints of confidentiality and privileged communications in Sections 748 and 750 of the Mental Health Code and in a manner that does not violate the rights of any employee.

3. The Appeals Committee may:

a. Reschedule the appeal if a quorum is not present, providing the rescheduled date is within the 30-day required time frame;

b. Request consultation and technical assistance from the Michigan Department of Health and Human Services (MDHHS).

c. By contract, be designated and act as the Appeals Committee for any licensed Private Hospital providing inpatient services under contract with GCMHA.

I. Appeal of a Summary Report

1. Not later than 45 days after receipt of the Summary Report, or 45 days from the mailing of a notice regarding the action taken when the Summary Report provided only a plan of action, the complainant may file a written appeal with the Appeals Committee.

2. An appeal shall be based on one of the following grounds:

a. The investigative findings of the rights office are not consistent with the facts, laws, rules, policies or guidelines;

b. The action taken, or plan of action proposed, by the respondent does not provide an adequate remedy;

c. An investigation was not initiated or completed on a timely basis.

3. The Office shall:

a. Advise the complainant that there are advocacy organizations such as Disability Rights Michigan available to assist in preparing the written appeal and offer to refer the complainant to those organizations;

b. In the absence of assistance from an advocacy organization, assist the complainant in meeting the procedural requirements of a written appeal;

4. The Appeals Committee shall:

a. Within five (5) business days of the receipt of the appeal, members of the Appeals Committee shall review the appeal to determine if the appellant has standing to appeal and if the appeal meets the criteria found in the definition. This review may be conducted by the full Committee, or by a subcommittee consisting of at least two committee members designated by the full Committee to fulfill this responsibility. The Committee shall maintain a log of all appeals received and the disposition of each;

b. Notify the complainant in writing within five business days if the appeal is denied because the criteria were not met;

c. Within five business days, provide written notice to the complainant and provide a copy of the appeal to the respondent and GCMHA if the appeal is accepted;

d. Within 30 days after receipt of a written appeal, meet and review the facts as stated in all complaint investigation documents and do one of the following:

(1) Uphold the investigative findings of the Office and the action taken or plan of action proposed by the respondent;

(2) Return the investigation to the Office and request that it be reopened or reinvestigated. If an investigation is returned to GCMHA by the appeals committee for reinvestigation, upon receipt of the RIF, the CEO will take appropriate remedial action and will submit a written Summary Report to the complainant, recipient, if different from the complainant, parent or guardian, and the appeals committee within 10 business days.

(3) Uphold the investigative findings of the Office but recommend that the respondent take additional or different action to remedy the violation;

(4) Recommend that the GCMHA Board requests an external investigation by the MDHHS's Office of Recipient Rights. If this occurs, the Board must send a letter of request to the director of MDHHS-ORR within 5 business days of receipt of the request from the appeals committee. The CEO of GCMHA will be responsible for the issuance of the Summary Report, which identifies the grounds and advocacy information.

(5) Document its decision in writing. Within seven (7) business days after reaching its decision, provide copies of the decision to the respondent, appellant, recipient if different than the appellant, the recipient's guardian if a guardian has been appointed, GCMHA, and the Office. Copies shall include a statement of the appellant's right to appeal to the Department and grounds for appeal.

5. Notification when the Summary Report contains a Plan of Action:

a. Violation Summary Report which contains a Plan of Action shall indicate the action is to be taken. The MDHHS facility director or the CMHSP Chief Executive Officer shall assure that the complainant, recipient (if different than the complainant), the recipient's legal guardian (if any), and the Office of Recipient Rights are provided written notice that the action described in the plan has been completed. If the action differs from the original plan, a description of that action shall be provided.

J. Appeal of a GCMHA Appeals Committee Decision

1. Within 45 days after receiving written notice of the decision of the GCMHA Appeals Committee, the appellant may file a written appeal with MDHHS. The appeal shall be based on the record established in the previous appeal, and on the allegation that the investigative findings of the Office are not consistent with the facts or with law, rules, policies, or guidelines.

2. The Department shall give written notice of receipt of the appeal to the appellant, respondent, local Office of Recipient Rights, and GCMHA. The respondent, local Office of Recipient Rights and GCMHA shall ensure that the Department has access to all necessary documentation and other evidence cited in the complaint.

3. The Department shall review the record based on the reason for the appeal and shall not consider additional evidence or information that was not available during the local appeal process, although the Department may return the matter to GCMHA requesting an additional investigation.
4. Within 30 days after receiving the appeal, the Department shall review the appeal and do 1 of the following:
   a. Affirm the decision of the local appeals committee;
   b. Return the matter to GCMHA with instructions for additional investigation and consideration.
5. The Department shall provide copies of its action to the respondent, appellant, recipient if different than the appellant, the recipient's guardian, GCMHA, and the local Office of Recipient Rights.

K. Appeal to Circuit Court: A person aggrieved by a decision of the Director of the Department may appeal to the circuit court, requesting an order reversing the decision. The appeal shall be based upon the whole record, and the circuit court shall consider whether the decision is authorized by law and supported by competent evidence.

VI. REFERENCES AND LEGAL AUTHORITY: Act 258 of the Public Acts of 1974, as amended (Mental Health Code), Sections l00a, 146, 722, 755, 772, 774, 776, 778, 780, 782, 784, 786, 788; and Michigan Department of Health and Human Services Administrative Rule 7035

VII. EXHIBITS: Flow Chart for the Complaint Process; Flow Chart for the Appeal Process