

HEALTHWEST

Policy and Procedure

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The Office of Recipient Rights

Approved By:

Subject: Complaint Process and Appeals

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Appeals Process

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I. POLICY

The Office of Recipient Rights of HealthWest will ensure that all rights complaints are responded to within 5 business days, investigated when appropriate and that all those with a right to appeal will be notified of the right to appeal or choose mediation.

II. PURPOSE

To ensure that rights complaints and appeals are responded to in accordance with the requirements of the Mental Health Code and Administrative Rules.

III. APPLICATION

All mental health programs, services and facilities operated by or under contract with HealthWest.

IV. DEFINITIONS

- A. **Allegation:** An assertion of fact made by an individual that has not yet been proved or supported with evidence.
- B. **Appeals Committee:** The Recipient Rights Advisory Committee as appointed by the Board of HealthWest to hear appeals.
- C. **Appellant:** The recipient, complainant, parent or guardian who appeals a recipient rights finding or a respondent's action to the Appeals Committee.
- D. **Complainant:** An individual who files a rights complaint.
- E. **Intervention:** To act on behalf of a recipient to obtain resolution of an allegation of a rights violation contained in a complaint, through processes other than investigation, as defined by

the Mental Health Code. Interventions are not allowed in allegations of abuse, neglect, serious injury, or death of a recipient involving an apparent or suspected rights violation.

- F. **Investigation:** A detailed inquiry into and systematic examination of an allegation raised in a rights complaint.
- G. **Mediation:** A private, informal dispute resolution process in which an impartial, neutral individual, in a confidential setting, assists parties in reaching their own settlement of issues in a dispute and has no authoritative decision-making power.
- H. **Not Substantiated:** A determination by the Recipient Rights Officer/Advisor that an allegation was not able to be proved based on the preponderance of evidence.
- I. **Preponderance of Evidence:** The greater weight of evidence, not as to quantity but as to quality.
- J. **Remedial Action:** If, through investigation, a right has been determined to have been violated, the respondent shall take appropriate remedial action that corrects or provides a remedy for the rights violation, is implemented in a timely manner and attempts to prevent a recurrence of the rights violation.
- K. **Rights Complaint:** A written or oral statement that contains all of the following information: A statement of allegations that give rise to the dispute; A statement of the right or rights that may have been violated; the outcome that the complainant is seeking as a resolution to the complaint.
- L. **Substantiated:** A determination by the Recipient Rights Officer/Advisor that an alleged violation of a right was proven to have occurred by the preponderance of the evidence.

V. COMPLAINT PROCEDURES

- A. The Recipient Rights Officer/Advisor will ensure that recipients, parents of minors, guardians and others have ready access to complaint forms.
- B. Each rights complaint shall be recorded upon receipt by the Office of Recipient Rights on a complaint log and each rights complaint shall be date stamped.
- C. An acknowledgment of the recording in V.B. shall be sent along with a copy of the complaint to the complainant within five (5) business days.
- D. Within five (5) business days after the Office of Recipient Rights receives a complaint, it shall notify the complainant if it determines that no investigation of the rights complaint is warranted.
- E. The Office of Recipient Rights shall assist the recipient or other individual with the complaint process as necessary.
 - 1. The Office of Recipient Rights shall advise the recipient or other individual that there are advocacy organizations available to assist in preparation of a written rights complaint and shall offer to refer the recipient or other individual to those organizations.

2. In the absence of assistance from an advocacy organization, the Office of Recipient Rights shall assist in preparing a written rights complaint, which will contain a statement of the allegation, the right allegedly violated, and the outcome desired by the complainant.
 3. The Office of Recipient Rights shall inform the recipient or other individual of the option of mediation and that it is available at any time after the Office of Recipient Rights completes the investigative report.
- F. If a rights complaint has been filed regarding the conduct of the Executive Director, the rights investigation shall be conducted by the Recipient Rights Office of another community mental health services program or by the state office of recipient rights as decided by the Board.
- G. The Office of Recipient Rights shall initiate investigation of apparent or suspected rights violations in a timely and efficient manner.
1. Subject to delays involving pending action by external agencies (law enforcement, MDHHS), The Office of Recipient Rights shall complete the investigation not later than ninety (90) days after it receives the rights complaint.
 2. Investigation shall be initiated immediately in cases involving alleged abuse, neglect, serious injury, or the death of a recipient involving an apparent or suspected rights violation.
- H. Investigation activities for each rights complaint shall be accurately recorded by the Office of Recipient Rights on the complaint log.
- I. The Office of Recipient Rights shall determine whether a right was violated by using the preponderance of the evidence as its standard of proof.
- J. The Office of Recipient Rights shall issue a written report every thirty (30) calendar days during the course of the investigation. The report shall be submitted to the complainant, the respondent, and the Executive Director. A status report shall include all of the following:
1. Statement of the allegations.
 2. Statement of the issues involved.
 3. Citations to relevant provisions of the Mental Health Code, rules, policies, and guidelines.
 4. Investigative progress to date.
 5. Expected date for completion of the investigation.
- K. Upon completion of the investigation, the Office of Recipient Rights shall submit a written investigative report to the respondent and to the Executive Director. Issuance of the written investigative report may be delayed pending completion of investigations that involve external agencies (law enforcement, DHHS). The report shall include all of the following:
1. Statement of the allegations.
 2. Statement of the issues involved.

3. Citations to relevant provisions of the Mental Health Code, rules, policies, and guidelines.
 4. Investigative Findings.
 5. Conclusions.
 6. Recommendations, if any.
- L. On substantiated rights violations, the respondent shall 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.
- M. The remedial action shall be documented and made a part of the record maintained by the Office of Recipient Rights.
- N. The Executive Director or her designee shall submit a written summary report to the complainant and recipient, if different than the complainant, or his/her legal representative within 10 business days after the Executive Director receives a copy of the investigative report. The summary report shall include all of the following:
1. Statement of allegations.
 2. Statement of issues involved.
 3. Citations to relevant provisions of the Mental Health Code, rules policies, and guidelines.
 4. Summary of investigative findings.
 5. Conclusions.
 6. Recommendations made by the Office of Recipient Rights.
 7. Action taken, or plan of action proposed, proposed by the respondent.
 8. A statement describing the complainant's, the recipient's if different than the complainant, or his/her legal representative's right to appeal and the grounds for appeal.
- O. Information in the summary report shall be provided within the constraints of the confidentiality/privileged communications sections (748, 750) of the Mental Health Code.
- P. Information in the summary report shall not violate the rights of any employee (ex. Bullard-Plawecki Employee Right To Know Act).
- Q. HealthWest and each service provider under contact with it shall ensure that appropriate disciplinary action is taken against those who have engaged in abuse or neglect.

- R. Administrative action will be taken if either HealthWest or provider personnel fail to report suspected violations of rights.
- S. The Office of Recipient Rights shall comply with Muskegon County Personnel Rules and contracts to assure that investigations are conducted in a manner that did not violate employee rights.
- T. The Office of Recipient Rights will ensure that rights complaints filed by recipients or anyone on their behalf were received in a timely manner.

VI. APPEAL/DISPUTE RESOLUTION PROCEDURES

- A. The Recipient Rights Advisory Committee has been appointed by the Board to act as the Appeals Committee.
- B. A member of the Appeals Committee who has a personal or professional relationship with an individual involved in an appeal shall abstain from participating in that appeal as a member of the committee.
- C. The complainant, the recipient if different than the complainant, or her/his legal representative in the summary report from the Executive Director/designee, will be informed of the following:
 - 1. The complainant, recipient if different than the complainant, or her/his legal representative may file a written appeal with the Appeals Committee not later than forty-five (45) days after the receipt of the summary report.
 - 2. An appeal shall be based on one of the following grounds:
 - a. The investigative findings of the Office of Recipient Rights are not consistent with the facts or with law, 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 on a timely basis.
- D. The Office of Recipient Rights shall advise the appellant there are advocacy organizations available to assist the appellant in preparing the written appeal and shall offer to refer the complainant to those organizations.
- E. In the absence of assistance from an advocacy organization, the Office of Recipient Rights shall assist the appellant in meeting the procedural requirements of a written appeal.
- F. The Office of Recipient Rights shall inform the appellant of the option of mediation.
- G. Within five (5) business days after the receipt of the written appeal, members of the Appeals Committee shall review the appeal to determine whether it meets the criteria described above.
- H. If the appeal is denied because the criteria were not met, the appellant shall be notified in writing within the five (5) business day period.

- I. If the appeal is accepted, written notice shall be provided to the appellant within the five (5) business day period.
- J. If the appeal is accepted, a copy of the appeal shall be provided to the respondent and the Director within the five (5) business day period.
- K. Within thirty (30) days after receipt of a written appeal, the Appeals Committee shall meet and review the facts as stated in all complaint investigation documents and shall do one of the following:
 - 1. Uphold the investigative findings of the Office of Recipient Rights and the action taken or plan of action proposed by the respondent.
 - 2. Return the investigation to the Office of Recipient Rights and request that it be reopened or reinvestigated.
 - 3. Uphold the investigative findings of the Office of Recipient Rights but recommend that the respondent take additional or different action to remedy the violation.
 - 4. Recommend that the Board request an external investigation by the State Office of Recipient Rights.
- L. The Appeals Committee shall document its decision in writing.
- M. Within ten (10) working days after reaching its decision, it shall provide copies of the decision to the respondent, appellant, recipient if different than the appellant, or his/her legal representative the Executive Director and the Office of Recipient Rights.
- N. Copies of the Appeals Committee's decision shall include a notice of the appellant's right to appeal to MDHHS within forty-five (45) days from the receipt of their decision and include the grounds for further appeal, which consist of the investigative findings of the Office of Recipient Rights are not consistent with the facts or with law, rules, policies, or guidelines.

VII. REFERENCES

M.C.L. 330.1722, 330.1752, 330.1774, 330.1776, 330.1782, 330.1788 and 330.1788.
Bullard-Plawecki Employee Right to Know Act, Act No. 397 of the Public Acts of 1978, M.C.L. 423.501 et.seq.

LS/jec