

HEALTHWEST

Policy and Procedure

No. 04-006

Prepared by:

Effective Date: April 22, 1983

Reviewed: April 8, 2019

The Office of Recipient Rights

Approved by:

Subject: Safeguarding the Rights of Recipients

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Julia B. Rupp, Executive Director

I. POLICY:

The Board and staff of HealthWest will safeguard the rights of recipients receiving mental health services in accordance with applicable state and federal law, rules and guidelines.

II. PURPOSE:

To establish a Recipient Rights Advisory Committee and provide for an Office of Recipient Rights to include a Recipient Rights Officer and a Recipient Rights Advisor.

III. APPLICATION:

All mental health programs, services and facilities operated by HealthWest.

IV. DEFINITIONS:

- A. **Office of Recipient Rights:** Consists of Recipient Rights Officer and Recipient Rights Advisor, and is subordinate only to the Executive Director.
- B. **Recipient:** An individual who receives mental health services from the department, a community mental health services program or a facility, or from a provider that is under contract with the department or a community mental health services program.
- C. **Recipient Rights Advisory Committee:** A committee of a community mental health services program board appointed under Section 757 of PA258 as amended.
- D. **Recipient Rights Officer:** The director of the Office of Recipient Rights appointed by the Executive Director with the consultation of the Recipient Rights Advisory Committee and subordinate only to the Executive Director.
- E. **Recipient Rights Advisor:** The employee designated by the Executive Director with the consultation of the Recipient Rights Advisory Committee, to work in conjunction with the Recipient Rights Officer.

## V. PROCEDURES:

### A. The Board shall:

1. Appoint a Recipient Rights Advisory Committee.
2. Approve and adopt policies and procedures that safeguard the rights of recipients of mental health services, but in a manner that does not violate employee rights.
3. Approve an annual budget that assures adequate provision of recipient rights service to recipients.
4. Require as a condition of licensing, placement, payment or reimbursement that a contract agency afford recipients protection of their rights and that a Rights Protection System be implemented, and that the provider and his/her employees receive recipient rights training within 30 days of hire.
5. Assure the Director follows Personnel Rules of the County of Muskegon and/or Union Contract and abides by the Whistleblowers Act to protect recipient rights staff and other staff who act as rights complainants from any type of retaliation and/or harassment and assure appropriate disciplinary action will be taken if there is evidence of harassment or retaliation.
6. Ensure adequate recipient rights coverage. In the absence of both the Recipient Rights Officer and Advisor, the Director shall appoint a designee with non-clinical responsibilities to receive and initiate investigating of alleged recipient rights violations.

### B. The Recipient Rights Advisory Committee shall:

1. Consist of at least six members. The membership of the committee shall be broadly based so as best to represent the varied perspectives of HealthWest's geographic area. At least one-third of the membership shall be primary consumers or family members, and of that one-third, at least one-half shall be primary consumers.
2. Meet at least semi-annually or as necessary to carry out its responsibilities.
3. Maintain a current list of member's names to be made available to individuals upon request.
4. Maintain a current list of categories represented to be made available to individuals upon request.
5. Protect the Office of Recipient Rights from pressures that could interfere with the impartial, even-handed and thorough performance of its functions.
6. Recommend candidates for Recipient Rights Officer to the Director and consult with the Director regarding any proposed dismissal of the Recipient Rights Officer.
7. Serve in an advisory capacity to the Director and the Recipient Rights Officer.
8. Review and provide comments on the annual report and semi-annual reports submitted by the Director to the Board.
9. Review the funding of the Office of Recipient Rights annually.
10. Serve as the Appeals Committee for a recipient's appeal.
11. Meetings of the Recipient Rights Advisory Committee are subject to the open meetings act.

### C. The Director shall:

1. Adopt and implement applicable MDHHS and HealthWest recipient rights policies and procedures.
2. Appoint one employee of the Board to be the Recipient Rights Officer for the Board who has the education, training and experience to fulfill the responsibilities of the office. The Director shall not select, replace or dismiss the Recipient Rights Officer without first

consulting the Recipient Rights Advisory Committee. See Attachment A Muskegon County Recipient Rights Officer classification.

3. Assure the Office of Recipient Rights has unimpeded access to:
    - a. All programs and services operated by or under contract with HealthWest
    - b. All staff employed by or under contract with HealthWest
    - c. All evidence necessary to conduct a thorough investigation or to fulfill its monitoring function
  4. Designate an individual to be the Rights Advisor for the Board; see Attachment B; Muskegon County Recipient Rights Advisor classification.
  5. Meet with the Recipient Rights Officer of the Board to discuss substantiated allegations, recommended remedial actions, prevention of rights violations and other systems issues.
  6. Take appropriate firm and fair disciplinary action when a violation has been substantiated.
  7. Cooperate in the pursuit of appropriate criminal charges against those who have engaged in abuse.
  8. Support the Recipient Rights Officer in planning and carrying out in-service training for all appropriate staff on recipient rights issues.
  9. Ensure that the rights protection procedure is explained to each recipient. Rights summaries may be mailed to parents or guardians who reside outside the county. The rights explanation includes the name and location of the person designated to receive and investigate recipient rights complaints, a brief description of this function, and directions on how to contact the person. When first accepted for service, each recipient (parent or guardian) shall sign a document indicating that the rights summary was received and the rights protection procedure was understood. This document will be placed in each recipient's case record.
  10. Assure that copies of the appropriate rights summaries are posted in appropriate places on the premises of all service locations.
  11. Assure that all recipients of service, parents, guardians, friends and others have ready access to Recipient Rights Complaint forms, as well as information on who Recipient Rights staff are and how to locate them, including names, phone numbers and addresses of Recipient Rights staff.
- D. The Recipient Rights Officer and the Recipient Rights Advisor shall:
1. Not be involved in direct service responsibilities or treatment.
  2. Have a personal commitment to safeguarding recipient rights.
  3. Be regularly accessible to recipients and staff of the HealthWest.
  4. Maintain an impartial attitude and credibility with recipients, concerned relatives and staff.
  5. Have no other responsibilities in conflict with Recipient Rights activities.
  6. Become knowledgeable of the Mental Health Code (especially Chapter 7 and 7A) and the Administrative Rules (especially Part 7), and related HealthWest policies and procedures.
  7. Develop and provide in-service training about recipient rights.
  8. Investigate all allegations of rights violation, with assistance from other staff, when necessary.
  9. Use the preponderance of evidence standard to make an independent determination of whether each allegation is substantiated, not substantiated.
  10. Ensure that the remedial action for a specific complaint includes action, when applicable, for all recipients in a similar situation.
  11. Assist the recipient who has been physically, sexually or otherwise abused in finding legal assistance to pursue injunctive and other appropriate civil relief. If an assault is believed to have taken place, the police must be notified.

12. Inform the complainant when an allegation refers to a right for which remedial action is available only outside the jurisdiction of HealthWest, and assist complainant in contacting the appropriate agency.
  13. Ensure complaints are processed in accordance with Chapter 7 and 7A of the Mental Health Code and HealthWest Policy No. 4-020.
  14. Compile and maintain records of all alleged rights violations and actions taken and keep a log of interventions and investigations.
  15. Review all contracts with contract agencies to ensure compliance with Board Recipient Rights policies. Recommend changes needed in such contracts to the Director.
  16. Assist the complainant in filing an appeal if the complainant is dissatisfied with action taken by the Director, or with the findings of the investigations.
  17. Communicate, coordinate joint activities with, and provide liaison to MDHHS Office of Recipient Rights to ensure that local interpretations of the Mental Health Code, Administrative Rules, and MDHHS policies, procedures and standards (as these relate to recipient rights) are compatible with MDHHS efforts to develop a unified statewide system of the provision of mental health care.
  18. Provide public information on matters concerning the recipient rights program.
  19. Receive and investigate complaints concerning Sec. 504, Rehabilitation Act of 1973, and the Americans with Disabilities Act, making appropriate referrals to the Equal Employment Opportunity Commission (EEOC) Office of Muskegon County.
  20. Ensure that all HealthWest sites and contracted service sites where HealthWest has the responsibility to provide recipient rights services are visited by Recipient Rights staff on a minimum of an annual basis.
  21. Participate in development of policy and procedures pertinent to recipient rights, and review HealthWest policies pertinent to recipient rights.
  22. Participate in training each year in recipient rights protection sponsored by MDHHS and Recipient Rights Officers Association of Michigan (RROAM).
  23. Ensure that the Rights Officer, Advisor and alternate of those service providers allowed/required by contract to establish their own Rights protection system attend the Michigan Department of Health and Human Services ORR Basic Skills I & II, Developing Effective Training, and other trainings they may require within three months of hire.
  24. Ensure that the Rights Officer, Advisor and alternate of those service providers allowed/required by contract to establish their own Rights protection system every three years during their employment complete a Recipient Rights Update Training as specified by Michigan Department of Health and Human Services ORR.
    - a. A minimum of 12 of the required 36 hours were approved as either Category I or II.
    - b. Rights Staff acquire at least 3 continuing education credits each calendar year.
- E. Records compiled in the course of investigating an alleged rights violation shall be retained by recipient rights staff, maintained independent of the client's case record, or an employee's personnel record, and shall be subject to confidentiality safeguards of Public Act 258, Section 748.
- F. Recipients shall be informed in writing that information and consultation may be obtained from MDHHS Office of Recipient Rights regarding their rights, including appeal rights.

## VI. REFERENCES:

Act 258, Public Acts of 1974, as amended, being MCL 330.1001 through 330.2106.  
Administrative Rule 330.7001 through 330.7254

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