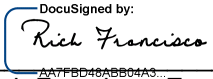




|                                                                                                                                                                                                                |                                                                                                                                                                                                                 |                                         |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|--|
| <b>Policy and Procedure Title:</b><br>Recipient Rights Complaint Process and Appeals                                                                                                                           | <b>Policy and Procedure #:</b> 04-022                                                                                                                                                                           | <b><u>Review Dates</u></b>              |  |
| <b>Category:</b> Recipient Rights<br><br><b>Subject:</b> To ensure that rights complaints and appeals are responded to in accordance with the requirements of the Mental Health Code and Administrative Rules. | <b>Prepared by:</b><br><br>The Office of Recipient Rights<br><br><b>Approved by:</b><br><br>Rich Francisco, Executive Director |                                         |  |
|                                                                                                                                                                                                                |                                                                                                                                                                                                                 |                                         |  |
|                                                                                                                                                                                                                |                                                                                                                                                                                                                 |                                         |  |
|                                                                                                                                                                                                                |                                                                                                                                                                                                                 |                                         |  |
|                                                                                                                                                                                                                |                                                                                                                                                                                                                 |                                         |  |
|                                                                                                                                                                                                                |                                                                                                                                                                                                                 |                                         |  |
|                                                                                                                                                                                                                | <b>Effective Date:</b> 02/02/1988                                                                                                                                                                               | <b>Last Revised Date:</b><br>10/16/2025 |  |

## 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 received, investigated, and resolved in full compliance with the Michigan Mental Health Code (1974 PA 258) and the MDHHS/CMHSP Managed Specialty Supports and Services Contract FY26, Attachment C6.3.2.4

## 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. **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.
- H. **Preponderance of Evidence:** The greater weight of evidence, not as to quantity but as to quality.
- I. **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.
- J. **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.
- K. **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.

- 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) calendar 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.
- 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 report of investigative findings (RIF) 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, recipient, parent of a minor, or guardian within 10 business days after the Executive Director receives a copy of the report of investigative findings. 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 (if any).
  7. Action taken, or plan of action proposed by the respondent.
  8. A Summary Report which contains a plan of action must indicate a date the action is expected to be completed. Once the action has been completed the executive director must send an amended summary report with a notice to appeal.
  9. A statement describing the complainant's, the recipient's if different than the complainant, parent of a minor, or guardian 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. HealthWest and all providers of service will ensure that appropriate action is taken in

regard to Substantiated abuse or neglect of a recipient by an employee, volunteer, or agent of a provider and will subject the employee, volunteer, or agent of a provider to an appropriate penalty, including official reprimand, demotion, suspension, reassignment, or dismissal.

- 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. Complainants, staff of the office of recipient rights, and any staff acting on behalf of a recipient will be protected from harassment or retaliation resulting from recipient rights activities and that appropriate disciplinary action will be taken if there is evidence of harassment or retaliation.
- 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.
- U. A rights investigation may be reopened or reinvestigated by the Office of Recipient Rights if there is new evidence that was not presented at the time of the investigation.

#### VI. APPEAL/DISPUTE RESOLUTION PROCEDURES

- A. The Recipient Rights Advisory Committee (RRAC) has been appointed by the Board to act as the Appeals Committee and shall include a minimum of six (6) members, broadly representative of the community; at least one-third are primary recipients or family members and at least half of those are primary recipients.
- B. An appeals committee may request consultation and technical assistance from the MDHHS rights office.
- C. Members receive annual training per MCL 330.1755 (2)(a) and any 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.
- D. 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 or completed on a timely basis.

- E. 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.
- F. 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.
- G. The Office of Recipient Rights shall inform the appellant of the option of mediation.
- H. Within five (5) business days after the receipt of the written appeal, at least 2 members of the Appeals Committee shall review the appeal to determine whether it meets the criteria described above.
- I. 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.
- J. If the appeal is accepted, written notice shall be provided to the appellant within the five (5) business day period.
- K. If the appeal is accepted, a copy of the appeal shall be provided to the respondent and the Executive Director within the five (5) business day period.
- L. 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.
- M. The Appeals Committee shall document its decision in writing and justification for the decision in writing.
- N. Within ten (10) business days after reaching its decision, it shall provide copies of the decision to the respondent, appellant, recipient if different than the appellant, (parent of a minor recipient), and recipient's guardian if one has been appointed, the Executive Director and the Office of Recipient Rights.
- O. The written decision will include a statement of appellant's right to appeal to MDHHS within 45 days from receipt of decision and the ground for appeal (investigative findings of the rights office are inconsistent with facts, or with law, rules, policies, or guidelines).

- P. If the appeals committee returns the investigation to the office of recipient rights to be reopened or reinvestigated, documentation must include justification for the decision made by the appeals committee and recommendations for reinvestigation. The office must complete the reinvestigation within 45 calendar days of receipt of the written decision of the appeals committee and submit to the Executive Director.
- Q. If an investigation is returned to the appeals committee for reinvestigation, upon receipt of the Report of Investigative Findings (RIF), the Executive Director will take appropriate remedial action and will submit a written summary report to the complainant, recipient, if different than the complainant, parent or guardian, and the appeals committee within 10 business days.
- R. Within 10 business days of receipt of the reinvestigation report, the executive director must issue a new Summary Report in compliance with section 782 of the Code. The Summary Report must include level 2 appeal contact information, grounds for appeal as stated in section 786(1) of the Code, the time frame for submission of the appeal, advocacy organizations that may assist with filing the written appeal, and an offer of assistance by the office of recipient rights in the absence of assistance from an advocacy organization.
- S. If the appeal concerns the timeliness of the investigation and the appeals committee confirms that the investigation was not initiated or completed in a timely manner, It is recommend that HealthWest's Executive Director take remedial action to address the lack of timeliness with the rights office.
- T. If a request for additional or different action is sent to the Executive Director, a response will be sent within 30 days as to the action taken or justification as to why it was not taken. The written notice must be sent to the appellant, recipient, if different than the appellant, legal guardian, and the appeals committee.
- U. If the appeal concerns the action taken and recommends the respondent take additional or different action to remedy the violation, the appeals committee must base its determination upon remedial action as defined in section 780 of the Code. Written notice of this recommendation for additional or different action to be taken by the respondent must also be provided to the RMHA, if different than the respondent, and the office of recipient rights.
- V. If the appeals committee recommends that the appeals committee request an external investigation by MDHHS rights office, the board of directors must make the request to the director of MDHHS rights office in writing within 5 business days of receipt of the request from the appeals committee. An external investigation must be conducted within the timeframes outlined under Sec. 778. The MDHHS right office must submit an amended investigative report to the executive director and board of the CMHSP. Within 10 business days of receipt of the amended report the CMHSP executive director must issue an amended summary report in compliance with Sec. 782. The amended summary report must be submitted to the appellant, recipient if different than the appellant, the recipient's legal guardian, if any, the parent of a minor recipient, rights office and the appeals committee. If the appellant still disagrees with the conclusion of the rights investigation or asserts that the investigative findings of the rights office are not consistent with the facts or with law, rules, policies, or guidelines they may file an appeal under Sec. 786.

VII. REFERENCES

M.C.L. 330.1722, 330.1752, 330.1774, 330.1776, 330.1780, 330.1782, 330.1784 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.

Michigan Mental Health Code, Chapter 7 & &A

MDHHS/CMHSP Managed Specialty Supports and Services Contract FY26, Attachment C6.3.2.4

Authors Initials LS/lkw