

(was MCCMH Policy 9-01-030)

Chapter: **RECIPIENT RIGHTS**
Title: **RECIPIENT RIGHTS DIRECTOR**

Prior Approval Date: 8/05/09
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Approved by: BOARD ACTION



Executive Director

08/29/12

Date

I. Abstract

This policy establishes the authority and responsibility of the Recipient Rights Director for the Macomb County Community Mental Health (MCCMH) Board.

II. Application

This policy shall apply to the MCCMH Office of Recipient Rights (ORR) whose authority and responsibilities, as provided herein, shall be applicable to all network providers of the MCCMH Board, including foster care and other residential services.

III. Policy

It is the policy of the MCCMH Board that the Recipient Rights Director shall be responsible for the administration, investigation, advocacy, monitoring and training functions of the MCCMH ORR. The Recipient Rights Director shall be subordinate only to the MCCMH Executive Director, and have no direct clinical responsibility. The Recipient Rights Director shall ensure the investigation of alleged violations of the rights of recipients and to provide system wide rights training intended to remove or prevent the violation of the rights of recipients.

IV. Definitions

- A. **Appropriate Action**
That measure which fits the offense, which remedies or prevents a violation, and is consistent with successful measures previously taken in identical or similar cases.
- B. **Complainant**
A recipient or any other person who files an allegation that a right has been violated or who otherwise complains that a right has been violated.
- C. **Preponderance of Evidence**
A standard by which the greater weight or convincing nature of evidence indicates that it is more probable something is true than untrue.
- D. **Recipient Rights Director**
An individual employed by the MCCMH Board for the purpose of supervising the MCCMH ORR who coordinates the receiving, investigating and responding to reports of alleged violations of code-protected rights, as well as providing system wide training intended to remove or prevent violation of the rights of recipients.
- E. **Remedial Action**
Action taken after it has been determined through investigation that a right has been violated, that meets all of the following requirements:
1. Corrects or provides a remedy for the rights violations;
 2. Is implemented in a timely manner;
 3. Attempts to prevent a recurrence of the rights violation.
- The action shall be documented and made part of the record maintained by MCCMH ORR.
- F. **Substantiated**
A determination by the MCCMH ORR that an alleged violation of a right was in fact a violation.
- G. **Not Substantiated**
A determination by the MCCMH ORR that an alleged violation of a right was not a violation or was not able to be proved by a preponderance of the evidence.

V. Standards

- A. The Recipient Rights Director shall be subordinate only to the MCCMH Executive Director. The Recipient Rights Director shall not have direct involvement in the

treatment of recipients or in the direct provision of care.

- B. Under the supervision of the Recipient Rights Director, the MCCMH ORR shall take action as outlined in approved MCCMH MCO Manual, Chapter 9 policies whenever a report of an alleged or suspected recipient rights violation is received.
- C. The Recipient Rights Director shall coordinate the activities of the MCCMH ORR for prevention of violations and protection of the rights of recipients by:
 - 1. Assuring that all providers receive and maintain appropriate resource materials including:
 - a. Copies of the Michigan Mental Health Code;
 - b. Copies of the Michigan Department of Community Health (MDCH) Administrative Rules;
 - c. Copies of the MCCMH MCO policies and procedures pertaining to the protection of the rights of recipients; and
 - d. Adequate supplies of current versions of summaries of recipient rights complaint forms and Consumer Incident, Accident, Illness, Death or Arrest Reports, MCCMH #190.
 - 2. Conducting or coordinating in-service training for provider staff members regarding recipient rights issues and rights protection.
 - 3. Coordinating annual monitoring assessments of providers regarding Recipient Rights Advisory Plan compliance.
 - 4. Attending periodic meetings on recipient rights issues, especially dealing with review, evaluation, and development of the recipient rights system.
 - 5. Working with the Recipient Rights Advisory Committee of the MCCMH Board on the development and recommendations of policies and procedures which are necessary and appropriate for safeguarding the code-protected rights of recipients.
 - 6. Attending meetings of providers where clarification of rights related issues may prevent violation of code-protected rights of recipients.
- D. The Recipient Rights Director shall coordinate the investigation, evaluation, and (as appropriate) remediation of alleged or suspected violations of code-protected rights through:

1. Investigating all allegations of recipient rights violations, with assistance and cooperation from other staff when deemed necessary by the Recipient Rights Director.
 2. Reviewing all Consumer Incident, Accident, Illness, Death or Arrest Reports and Incident Reports to determine if there are any possible violations of recipient rights.
 3. Making an independent determination of whether each allegation is either substantiated or not substantiated, based on the preponderance of evidence standard.
 4. Recommending appropriate remedial action to the MCCMH Executive Director when the allegation is substantiated or when appropriate to protect a code-protected recipient right.
 5. Assuring that the recommended remedy to a specific complaint includes action, where applicable, for all recipients in similar situations.
 6. Filing a rights report on each complaint with notification to the complainant, the MCCMH Executive Director, the specific provider's manager, supervisor and/or director (as appropriate), and keeping a copy for the MCCMH ORR.
 7. Informing the complainant when an allegation refers to a right for which remedial action is outside the jurisdiction of the MCCMH Board and assisting the complainant in contacting the appropriate agency.
- E. The Recipient Rights Director shall ensure that the information in the summary report shall be provided within the constraints of MCL 330.1748 and 330.1750.
- F. The Recipient Rights Director shall ensure that the MCCMH ORR regularly visits each provider with the frequency necessary for protection of rights but in no case less than annually.
- G. The Recipient Rights Director shall meet regularly with the MCCMH Executive Director, submit monthly reports to the MCCMH Policy Management Division, quarterly reports to the MCCMH Quality Assurance Committee, quarterly/annual reports to the MCCMH Board Recipient Rights Advisory Committee, and annual reports to the MDCH ORR concerning activities of the MCCMH ORR following the guidelines set forth in MCL 330.1755(5)(j) and MCL 330.1755(6).
- H. The Recipient Rights Director shall develop policies, procedures, and standards required to implement statutes and policies which affect the protection and safeguarding of recipient rights. Developed policies, procedures, and standards shall be approved by

MCCMH Board action.

- I. The Recipient Rights Director shall review and make recommendations on provider policies, procedures, and standards as they affect any of the MCCMH Board's MCO policies and programs for safeguarding the rights of recipients.
- J. The MCCMH ORR shall have unimpeded access to all directly-operated, contract, foster care, and other residential services, including personnel records and clinical/administrative documentation.

VI. Procedures

See Recipient Rights investigation procedures and notification standards set forth in MCCMH MCO Policy 9-510, "Recipient Rights Investigation," and MCCMH MCO Policy 9-110, "Authorizations and Functions," respectively.

VII. References / Legal Authority

- A. MCL 330.1752
- B. MCL 330.1755(5), (6)
- C. 2007 MDCH Administrative Rules, R 330.7011.

VIII. Exhibits

- A. None.