

## **Attachment C**

### **FY 2020-2021 Recipient Rights Protection Requirements**

#### **I. PROTECTION REQUIREMENTS**

- A. The Agency agrees to fully comply with all Recipient Rights provisions as stipulated in MCCMHS MCO Policy 9-100 et seq., the Michigan Mental Health Code (MHC) and Administrative Rules (AR) and will post, in a conspicuous location, a copy of the Board supplied Summary of Rights as guaranteed by the MHC and AR.
- B. Agency staff will receive face to face Recipient Rights training. The training may be provided by the Board Office of Recipient Rights (ORR) or a face to face training curriculum by another Office of Recipient Rights that has been reviewed and approved by the MCCMH ORR. Recipient Rights training will occur within not later than 30 days after being employed by the Agency.
- C. Agency staff will complete a face to face Recipient Rights Update training every two (2) years. The training may be provided by the Board Office of Recipient Rights (ORR) or a face to face training curriculum by another Office of Recipient Rights that has been reviewed and approved by the ORR.
- D. Those Agencies who by contract have their own established rights protection system, shall assure its rights officers/advisors and alternates have attended the following: DCH-ORR Basic Skills Curricula established by MDCH within 3 months of hire.
- E. The Agency will monitor the safety/welfare of recipients and provide recipients protection from rights violations while they are under its service supervision pursuant to the contract. The Agency will ensure that employees who become aware of or witness a recipient suffer a physical injury, illness, or other adverse event will provide immediate comfort and protection, and assure immediate medical treatment for the recipient.
- F. The Agency will post, in a conspicuous location at all service sites, the Board provided poster which identifies the ORR telephone number, address, and rights Advisors/Investigators, the Summary of Abuse and Neglect Reporting Requirements poster, the Michigan Whistleblowers' Protection Act and other notifications as required by the ORR.

- G. The Agency will ensure confidentiality of information regarding recipients in compliance with Sections 330.1748 Confidentiality and 330.1750 Privileged Communications as promulgated by the MHC and AR.
- H. The Agency will ensure that complainants or 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.
- H. The Agency will promulgate guidelines which detail procedures (progressive) concerning disciplinary action for Agency staff employed by or under contract to the Agency regarding violations/non-compliance with recipient rights provisions of the MHC, AR, Board MCO ORR policies.
- I. The Agency will comply with the requirements for contractors as provided for in Executive Directive 79-4, Civil Rights Compliance in State and Federal Contracts, incorporated herein by reference.

## **II JURISDICTIONAL REQUIREMENTS**

- A. The Agency agrees that the Board Office of Recipient Rights (ORR) will have unimpeded access to all of the following:
  - 1. All programs and services operated by or under contract to the Agency;
  - 2. all staff employed by or under contract with the Agency; and
  - 3. all evidence necessary to conduct a thorough investigation or to fulfill its monitoring functions including unimpeded access to individual served records in any form or medium, i.e. paper or electronic.
- B. The Agency will ensure that staff employed by or under contract will cooperate with ORR representatives during investigations or when fulfilling its monitoring/advocacy functions.
- C. The Agency, excluding licensed hospitals, agrees to comply with the mechanism established by the Board for protecting recipients' rights.
- D. The Agency agrees to accept the final jurisdiction of the Board ORR.

- E. The Agency agrees, if it has been determined by the ORR that remedial action is recommended as noted in the Recommendations section of the Report of Investigative Findings (RIF), to implement appropriate remedial action which meets all of the following requirements:
1. Corrects or provides a remedy;
  2. is implemented in a timely manner; and
  3. attempts to prevent a recurrence of the situation.

### **III REPORTING REQUIREMENTS**

- A. The Agency will utilize Board approved forms (Unusual Incident Report Forms - referred to as IR'S) for reporting situations to the ORR that encompass recipient death, serious recipient injuries, exploitation, and other serious unusual incidents involving recipients and will submit them to the ORR within three business days.
- B. The Agency will immediately report (fax or hand deliver a recipient rights complaint form to, or telephone the Office of Recipient Rights) all allegations of, apparent or suspected recipient rights violations in accordance with mandatory reporting requirements to the Department of Human Services Adult Foster Care Licensing, Adult, & Children's Protective Services, law enforcement, and other public agencies as applicable. Failure to report allegations of alleged rights violations is a violation of the Mental Health Code and Administrative Rules.
- C. The Agency shall not initiate or cause to be initiated a preliminary and/or full investigation of an allegation of, apparent or suspected recipient rights violation. Exceptions to assist or investigate in conjunction with ORR may be granted on a case by case basis with written approval from the Director of the Office of Recipient Rights.
- D. If the Agency is a licensed hospital (as defined in MCL 330.1137), the Agency will submit to the Board ORR a copy of all complaint documentation completed for an identified MCCMH Board recipient who filed and/or had filed on their behalf, a recipient rights complaint. The documentation shall include a copy of the complaint, acknowledgment letter, applicable status reports, report of investigative findings, summary reports, and appeals notice, and additionally, all documentation involving complaints that were handled by the intervention process. That documentation shall include a copy of the complaint, acknowledgment letter, and intervention response.

#### IV ACCESS

- A. The Agency shall assure that an identified employee from Children's Protective Services and Adult Protective Services (DHS) shall have access to recipients' records when conducting an investigation for reported allegations of abuse or neglect consistent with the Michigan Mental Health Code section 748a and the Social Welfare Act 280 of 1939 sections 400.11 - 400.11f.
- B. The Agency will agree to allow individuals who properly identify themselves as representatives of Michigan Protection and Advocacy Services access to premises, recipients and their service records in compliance with MCL 330.1748 (8) and MCL 330.1931.
- C. The Agency will agree to allow individuals who properly identify themselves as representatives of AMORC access to residential facilities so as to fulfill their monitoring/advocacy functions.