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**Owner:** Kip Kliber: Director, Recipient Rights  
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**References:**

## Recipient Rights Complaint Resolution

### POLICY

It is the policy of the Detroit Wayne Mental Health Authority (DWMHA) that enrollee/members receiving behavioral health services have access to the recipient rights complaint resolution process consistent with the Michigan Mental Health Code and Administrative Rules requirements, contracts, policy guidelines and technical advisories.

### PURPOSE

The purpose of this policy is to provide procedural and operational guidance to DWMHA, MCPNs, the Access Center, Service Providers, Mobile Crisis Response Unit, and the Crisis Line for the development and consistent processing of member grievances

### APPLICATION

1. The following groups are required to implement and adhere to this policy: DWMHA Board, DWMHA Staff, Contractual Staff, Access Center, MCPN Staff, Network Providers, Mobile Crisis Response Unit, and the Crisis Line
2. This policy serves the following populations: Adults, Children, I/DD, SMI/SEI, SED, Autism
3. This policy impacts the following contracts/service lines: Medicaid, Autism, Grants, General Fund

### KEYWORDS

1. Allegation
2. Class Action
3. Complainant
4. Disciplinary
5. LPH/U
6. MCPN
7. MDHHS
8. Office of Recipient Rights (ORR)
9. Preponderance of the Evidence

10. Recipient
11. Recipient Rights Investigator (RRI)
12. Remedial Action
13. Report of Investigative Findings (RIF)
14. Respondent
15. Responsible Mental Health Authority (RMHA)
16. Rights Complaint
17. Status Report
18. Substantiate
19. Unsubstantiated

## STANDARDS

1. Each rights complaint shall:
  - a. Be date stamped and logged upon receipt by DWMHA Office of Recipient Rights (ORR).
  - b. Be acknowledged with an acknowledgment letter along with a copy of the complaint, to the complainant within 5 business days. The ORR shall also inform the complainant at that time if it determines that no investigation of the rights complaint is warranted. The ORR shall inform the complainant and recipient, if different, of the option of mediation.
2. A copy of all complaints, as appropriate, shall be forwarded to:
  - a. The ORR for investigation and action if the allegation is within the jurisdiction of DWMHA; and
  - b. MDHHS Adult Protective Services, MDHHS Child Protective Services, local law enforcement authority, and/or Michigan Department of Licensing and Regulatory Affairs Children and Adult Licensing division.
  - c. DWMHA Grievance and Appeals Coordinator.
3. Rights staff shall:
  - a. Ensure that recipients, parents of minors, guardians and others have ready access to complaint forms.
  - b. Assist the complainant with the complaint process, including assistance in the preparation of a written complaint which contained a statement of the allegation, the right allegedly violated and the outcome desired by complainant.
  - c. Advise of advocacy organizations available to assist in the preparation of a written rights complaint and refer the complainant to those organizations.
4. Complaints may be initiated in any of the following ways:
  - a. Apparent or suspected allegations observed by the RRI.
  - b. Verbal reports of recipient rights violations received from recipient, guardian, parents of minor, staff, or others on behalf of the recipient.
  - c. Allegations generated from incident reports or monitoring activities.
  - d. Allegations written on documents other than Recipient Rights complaint forms. A copy of the

document that the allegation was written on shall be attached to the complaint form.

5. Rights complaints filed by recipients or anyone on their behalf shall be sent or given to the ORR in a timely manner
6. When a rights complaint is filed regarding the conduct of the President/CEO of DWMHA, the rights investigation will be conducted by the Office of Recipient Rights of another community mental health service provider or by the MDHHS Office of Recipient Rights as decided by the DWMHA's Board of Directors.
7. The ORR shall initiate investigation of apparent or suspected rights violations in a timely and efficient manner. Investigation shall be initiated immediately in cases involving alleged abuse, neglect, serious injury, or death of a recipient involving an apparent or suspected rights violation.
8. ORR shall assure that investigations are conducted in a manner that does not violate employee rights.
9. Subject to delays involving pending action by external agencies, the office shall complete the investigation not later than 90 calendar days after it receives the rights complaint.
10. The service site that is the subject of an investigation shall allow the RRI access to premises, staff, recipients and records as necessary in order to conduct a thorough and effective investigation.
  - a. In cases where, in the reasonable judgment of the RRI, the integrity of the record may be at risk, MCPN/contractor staff should immediately assure that the record is secured and review pertinent documentation contained therein as soon as practical.
  - b. Upon request, the service site shall prepare and provide a copy of documentation requested or allow the RRI to make necessary copies of relevant documentation.
11. At a minimum, each investigation by the ORR shall consist of:
  - a. Interview with the complainant, when circumstances allow, preferably face-to-face;
  - b. Interview with recipient(s) if other than complainant, when circumstances allow, preferably face-to-face;
  - c. Interview with all witnesses and others who may provide relevant information, when circumstances allow, preferably face-to-face;
  - d. Interview with the individual(s) alleged to have violated a recipient's right(s), preferably face-to-face;
  - e. Obtaining written statements from staff, recipients, or relevant others when such a statement is necessary to support oral interviews, to obtain additional information, or to provide findings relevant to the investigation;
  - f. Review of the case records of recipient(s) involved when pertinent to the complaint;
  - g. Review of investigation into the same allegation conducted by law enforcement, Michigan Department of Licensing and Regulatory Affairs Children and Adult Licensing division, or the facility when available;
  - h. Visit to the site of the alleged violation when appropriate;
  - i. Review of pertinent statutes, administrative rules, policies and procedures;
  - j. Assuring that law enforcement agencies/authorities were notified, if applicable.
12. Investigation activities for each rights complaint shall be accurately recorded in ORR.
13. When, in the course of investigation, it becomes apparent that additional right(s) may have been violated, the RRI shall:

- a. Create additional Recipient Rights complaint(s) and submit it to ORR for processing.
  - b. Prepare a separate written investigative report for each alleged violation.
14. The ORR shall issue a written status report every 30-calendar days until the investigation is closed. The report shall be submitted to the complainant, respondent, and RMHA. A copy of the status report shall be placed in the individual case file. A status report shall include:
  - a. Statement of allegations.
  - b. Citations to relevant provisions of the Mental Health Code, Administrative rules, policies (including DWMHA and service provider policies), and guidelines.
  - c. Statement of the issues involved.
  - d. Investigative progress to date.
  - e. Expected date for completion of the investigation.
15. The *preponderance of the evidence* standard of proof shall be used to determine whether a right was violated.
16. Upon completion of the investigation, ORR shall submit a RIF to the respondent, MCPN, and DWMHA President/CEO for both substantiated and non-substantiated cases. Issuance of the written investigative report may be delayed pending completion of investigations that involve external agencies, including MDHHS Adult Protective Services, MDHHS Child Protective Services, law enforcement agencies, and/or Michigan Department of Licensing and Regulatory Affairs Children and Adult Licensing division. The report shall include all of the following:
  - a. Statement of the allegations;
  - b. Citations to relevant provisions of the Mental Health Code, Administrative Rules, policies (including DWMHA and service provider policies), and guidelines;
  - c. Statement of the issues involved;
  - d. Investigative findings;
  - e. Conclusions;
  - f. Recommendations, if any;
  - g. Notifications made to complainant and others as required;
  - h. A list of staff interviewed;
  - i. A list of documents reviewed; and
  - j. The signature of the person that completed the report and the date.
17. A rights investigation may be reopened or re-investigated by the ORR when:
  - a. New evidence becomes available;
  - b. The DWMHA's Appeals Committee determines the case was not thoroughly investigated based on the results of an Appeals Hearing.
18. If it has been determined through investigation that a right has been violated, the respondent shall take appropriate remedial action that:
  - a. Corrects or provides a remedy for the rights violations;
  - b. Implemented in a timely manner;

- c. Attempts to prevent a recurrence of the rights violation;
  - d. Ensures that appropriate disciplinary action shall be taken against those who have engaged in abuse, neglect, retaliation, or harassment;
  - e. Ensures that appropriate disciplinary action shall be taken against those who failed to report suspected violations of rights.
19. The remedial action taken on substantiated violations shall be documented and made part of the ORR record.
  20. The DWMHA President/CEO shall submit a written Summary Report to the complainant; recipient, if different than the complainant; and guardian or parent of minor recipient within 10 business days after receiving a copy of the investigative report.
  21. The summary report shall include all of the following:
    - a. Statement of allegations;
    - b. Citations to relevant provisions of the Mental Health Code, Administrative Rules, policies (including DWMHA and service provider policies), guidelines, and directives;
    - c. Statement of issues involved;
    - d. Summary of the investigative findings of the rights office;
    - e. Conclusions of the report of the rights office;
    - f. Recommendations made by the rights office;
    - g. Remedial action taken, or plan of action proposed, by the respondent;
    - h. A statement describing the complainant's right to appeal and the grounds for an appeal; and
    - i. A statement describing the complainant's right to mediation and under what circumstances and when it may be exercised.
  22. Information in the summary report shall be provided within the constraints of Sections 748 and 750 of the Mental Health Code and shall not violate the rights of any employee (i.e., Bullard-Plawecki Employee Right to Know Act, Act No. 397 of the Public Acts of 1978, MCL 423.501 et. seq).
  23. If the Summary Report indicates a plan of action to be completed on a future date, the respondent shall submit written documentation when the remedial action has been completed. Written documentation shall be submitted to the complainant, recipient if different than the complainant, guardian, and parent of a minor recipient.
  24. At any time after completion of the RIF, the parties may agree to mediate the dispute. A mediator shall be jointly selected to facilitate a mutually acceptable settlement between the parties. The mediator shall be an individual who has received training in mediation and who is not involved in any manner with the dispute or with the provision of services to the recipient.
  25. If the parties agree to mediation and reach agreement through the mediation process, the mediator shall prepare a report summarizing the agreement, which shall be signed by the parties. The signed agreement shall be binding on both parties.
  26. If the parties fail to reach agreement through the mediation process, the mediator shall document that fact in writing and provide a copy of the documentation to both parties and the ORR within 10 days after the end of the mediation process.
  27. If the parties engage in mediation, all appeal and response times required under this policy are

suspended while mediation is taking place. The suspension of the time periods begins on the day the parties agree to mediate and expires 5 days after the day the mediator provides the written documentation to the parties and ORR that mediation was not successful.

28. Not later than 45 days after receipt of the summary report or notice of a completed corrective action plan, the Complainant may file a written appeal with the DWMHA's Recipient Rights Appeals Committee.
29. Not later than 45 days after receiving written notice of the decision of the appeals committee, the appellant may file a written appeal with the MDHHS.

### **Licensed Psychiatric Hospital/Unit only**

The Intervention Complaint Process is a method used 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 retaliation/harassment, abuse, neglect, serious injury, or death of a recipient involving an apparent or suspected rights violation.

1. "Intervention" is not part of Chapter 7A of the Mental Health Code complaint resolution process. Use of the intervention process is suggested, **NOT** mandated.
2. The LPH/U Recipient Rights Advisor (RA) **MAY** use the Intervention Complaint Process under the following conditions:
  - a. The recipient agrees to have the complaint managed through the Intervention Process
  - b. The allegation impacts only one recipient
  - c. Contact must be made with the complainant in person or by phone
  - d. The RA must obtain a resolution from a person in authority who was involved in the resolution
  - e. A written summary of resolution shall be sent to the complainant
  - f. The complaint resolution shall be written on the Intervention Report form. A copy shall be:
    1. Placed in the individual case file
    2. Forwarded to the LPH/U Executive Director
  - g. If the RA cannot resolve the complaint within 30 days or if complainant does not agree with the resolution, another notification letter shall be sent informing the complainant that the case will be investigated.
  - h. The RA shall document, in an Individual Case File:
    1. How the complaint was resolved, including a written statement from the involved administrator summarizing the resolution. This statement shall be placed in the Individual Case File
    2. Steps established to prevent the recurrence
    3. Name and title of persons involved in the resolution of the complaint (an administrator's signature must be secured)

## **QUALITY ASSURANCE/IMPROVEMENT**

DWMHA shall review and monitor contractor adherence to this policy as one element in its network management program, and as one element of the QAPIP Goals and Objectives.

The quality improvement programs of MCPNs, their subcontractors, and direct contractors must include measures for both the monitoring of and the continuous improvement of the programs or processes described

in this policy.

## COMPLIANCE WITH ALL APPLICABLE LAWS

DWMHA staff, MCPNs, contractors, and subcontractors are bound by all applicable local, state and federal laws, rules, regulations and policies, all federal waiver requirements, state and county contractual requirements, policies, and administrative directives, as amended.

## LEGAL AUTHORITY

1. Michigan Mental Health Code, PA 258 of 1974, as amended
2. MDHHS/Community Mental Health Services Program contract

## RELATED POLICIES

1. Abuse and Neglect
2. Recipient Rights Appeals

## RELATED DEPARTMENTS

1. Administration
2. Clinical Practice Improvement
3. Customer Service
4. Integrated Health Care
5. Managed Care Operations
6. Quality Improvement
7. Recipient Rights

## CLINICAL POLICY

NO

## INTERNAL/EXTERNAL POLICY

EXTERNAL

### Attachments:

No Attachments

### Approval Signatures

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<b>Approver</b>	<b>Date</b>
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