



Policy Title: Complaint Investigation, Reports and Remediation

Policy #: 05-001-0035

Effective Date: 06/5/2025

Approved by: Telly Delor, Chief Operating Officer

Functional Area: Recipient Rights

Responsible Leader: Telly Delor, Chief Operating Officer

Policy Owner: Sandy O'Neill, Recipient Rights Director

Applies to: Community Agency Contractor, Contracted Network Providers, Directly Operated Programs, Specialized Residential Providers, SCCCMH Staff

Purpose: To follow the Michigan Mental Health Code requirements for Chapter 7 and 7a.

I. Policy Statement

It is the policy of St. Clair County Community Mental Health (SCCCMH) to ensure the *Office of Recipient Rights* initiates *investigations* and completes investigations of apparent or suspected violations of *recipients'* rights guaranteed by Chapters 7 and 7A of the Michigan Mental Health Code (Public Act 258 of 1974 as amended) in accordance with the procedures delineated herein.

II. Standards

- A.** Investigations completed by the Office of Recipient Rights will be conducted in a manner that protects the rights of all parties involved. All investigative reports will meet minimum standards as outlined in the Michigan Mental Health Code.
- B.** The SCCCMH Chief Executive Officer and any involved *provider* shall allow the ORR unimpeded access to premises, staff, recipients, and records as necessary to conduct a thorough and effective investigation.
- C.** If a recipient rights complaint is filed regarding the conduct of the Chief Executive Officer, the recipient rights investigation shall be conducted by another Community Mental Health Services Program's Office of Recipient Rights or by the MDHHS-Office of Recipient Rights as determined by the SCCCMH Board of Directors/designee.

- D. When staff of either SCCCMH or a contract provider fail to report suspected violations of recipients' rights, appropriate administrative action will be taken by the SCCCMH Chief Executive Officer or the SCCCMH Board of Directors.
- E. A mental health professional, a person employed by or under contract with the MDHHS, a licensed facility, SCCCMH, or a person employed by a provider under contract with the MDHHS, a licensed facility, or SCCCMH who has reasonable cause to suspect the criminal *abuse* of a recipient shall *immediately* make or cause to be made, by telephone or otherwise, an oral report of the suspected criminal abuse to the law enforcement agency for the county or city in which the criminal abuse is suspected to have occurred or to the state police. Apparent or suspected abuse or *neglect* of a recipient must also be reported to the Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, if the alleged act occurred in a facility. In addition, apparent or suspected abuse or neglect of a recipient must be reported to Protective Services. For more information about this reporting requirement, see SCCCMH [Administrative Policy #05-001-0045, Reporting Suspected Abuse or Neglect](#).
- F. Recipient Rights complaints filed by recipients or anyone on their behalf must be sent to the Office of Recipient Rights in a timely manner.

III. Procedures, Definitions, and Other Resources

A. Procedures

Actions

Action Number	Responsible Stakeholder	Details
1.0	Complainant	1. Complete form #MDHHS-0030 Recipient Rights Complaint .
2.0	Office of Recipient Rights	2. Assist the complainant/recipient with the complaint process. Assure that recipients, parents of minors, guardians, and others have access to Recipient Rights Complaint Forms. Advise the complainant/recipient of advocacy organizations available to assist them in the preparation of a written Recipient Rights Complaint, and refer the complainant to those organizations, if requested. In the absence of assistance from an advocacy organization, the ORR will assist the complainant/recipient in the preparation of a written complaint. 3. Date and log each recipient rights complaint. Send acknowledgment of this recording, along with a summary of the complaint, to the complainant within five business

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		<p>days. Inform the complainant of the next step(s) in the complaint process.</p> <ol style="list-style-type: none"> 4. Refer complainants to the appropriate organization for resolution of their complaint, if their complaint is determined to be outside the jurisdiction of the ORR due to the fact that the person/provider alleged to have violated a recipient's rights does not work for or contract with SCCCMH. The referral shall be included in the acknowledgement letter issued to the complainant. 5. Initiate investigations of apparent or suspected recipient rights violations in a timely and efficient manner. Subject to delays involving pending action by external agencies, completes the investigation no later than 90 calendar days after it receives the complaint. Initiate investigations immediately in cases involving alleged abuse, neglect, serious injury, or death. 6. Assure that all pertinent records are secured and reviewed as soon as practicable in cases where, in the reasonable judgment of the ORR, the integrity of the record may be at risk.
3.0	Direct-Operated Staff or Contract Provider	<ol style="list-style-type: none"> 7. Prepare and provide copies of requested documentation to the ORR, as determined by the ORR, without delay.
4.0	Office of Recipient Rights	<ol style="list-style-type: none"> 8. Develop a formal investigative record that shall consist of: <ol style="list-style-type: none"> a. An interview with the complainant when circumstances allow. b. Protection of an employee when serving as a complainant under the Whistleblowers' Protection Act. c. An interview with a/the recipient(s), if other than the complainant, when circumstances allow. d. An interview with each potential witness and others who may provide relevant information. e. An interview with the staff member/volunteer who is alleged to have violated a recipient's rights. f. Written statements from staff members, volunteers, recipients, or other witnesses when such a statement is necessary to support oral interviews, to obtain additional information, or to provide findings relevant to the investigation. g. A review of the case records and incident reports of the recipient(s) involved, when pertinent to the complaint.

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		<ul style="list-style-type: none"> h. A review of the investigative reports conducted by law enforcement, Michigan Department of Licensing and Regulatory Affairs-Bureau of Community and Health Systems, Protective Services, or other officials and/or providers, when available, which pertain to the allegation under investigation. i. A visit to the service site where the alleged violation took place, when appropriate. j. A review of pertinent statutes, administrative rules, policies, procedures, standards, technical requirements, guidelines, etc. k. A determination as to whether or not a right was violated by applying the <i>preponderance of evidence</i> as the standard of proof. <p>9. Maintain an accurate record of investigative activities as the investigation progresses.</p> <p>10. Ensure that allegations are added to an existing complaint or opens a new complaint when it becomes apparent during the investigative process that additional rights may have been/have been violated.</p> <p>11. Prepare a written status report every 30 calendar days during the course of the investigation. The report shall be submitted to the complainant, the responsible provider agency, and the SCCCMH Chief Executive Officer. A status report shall include all of the following:</p> <ul style="list-style-type: none"> a. A statement of the allegation(s). b. A statement of the issues involved. c. All applicable citations relevant to the provisions of the Michigan Mental Health Code, MDHHS Administrative Rules, and any pertinent policies, procedures, standards, technical requirements, guidelines, etc. d. Documentation of the investigative progress to-date. e. The expected date for completion of the investigation. <p>12. Issues a Report of Investigative Findings to the SCCCMH Chief Executive Officer and the responsible provider agency (respondent) upon completion of the investigation. Issuance of the written investigative report may be delayed pending completion of investigations that involve external agencies, including law enforcement agencies, Michigan Department of Licensing and Regulatory Affairs, Protective Services, or other agencies. The Report of Investigative Findings shall include all of the following:</p>

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		<ul style="list-style-type: none"> a. A statement of the allegation(s). b. A statement of the issues involved. c. All applicable citations relevant to the provisions of the Michigan Mental Health Code, MDHHS Administrative Rules, and any pertinent policies, procedures, standards, technical requirements, guidelines, etc. d. The investigative findings of the complaint. e. The conclusion of the complaint. f. The recommendations made by the ORR, if any.
5.0	Responsible Provider Agency (Respondent)	<ul style="list-style-type: none"> 13. Ensure the Report of Investigative Findings is not shared with non-supervisory staff members and ensure the Report of Investigative Findings is secured in a confidential manner. 14. Issue appropriate action that meets all of the following requirements: <ul style="list-style-type: none"> a. Correct or provide a remedy for the substantiated recipient rights violation(s). b. Is implemented in a timely manner. c. Attempt to prevent recurrence of the recipient rights violation(s). 15. Submit their remedial action plan to the ORR to include evidence of the action taken to remedy the recipient rights violation. The remedial action plan must be received by the ORR on or before the due date listed on the Report of Investigative Findings. If the remedial action plan will be completed at a future date, the responsible provider agency must immediately submit notification and evidence to the ORR once the plan of action is completed.
6.0	Office of Recipient Rights	<ul style="list-style-type: none"> 16. Keep the Recipient Rights Complaint open until the responsible provider agency submit evidence that the remedial action plan is completed.
7.0	SCCCMH Chief Executive Officer/designee	<ul style="list-style-type: none"> 17. Notify the complainant, recipient, and court-appointed guardian, if applicable, in writing, that the investigation has been closed or remains open pending the completion of a remedial action plan. Mail the Summary Report to the complainant, recipient, and court-appointed guardian, if applicable. The Summary Report shall include all of the following: <ul style="list-style-type: none"> a. A statement of the allegation(s). b. A statement of the issues involved. c. All applicable citations relevant to the provisions of the Michigan Mental Health Code, MDHHS Administrative

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		<p>Rules, and any pertinent policies, procedures, standards, technical requirements, guidelines, etc.</p> <ul style="list-style-type: none"> d. A summary of the investigative findings determined by the ORR. e. The conclusion of the complaint. f. The recommendations made by the ORR, if any. g. The remedial action taken, and when the action was taken, or plan of action proposed, by the responsible provider agency. h. A statement describing the complainant's, recipients, and court-appointed guardian's rights to appeal the complaint and the grounds for an appeal. i. Ensure information in the Summary Report is provided within the constraints of sections 748 and 750 of the Michigan Mental Health Code and does not violate the rights of any employee.
8.0	Office of Recipient Rights	<p>18. Re-open or re-investigate an investigation if there is new evidence that was not presented at the time of the investigation.</p> <p>19. Inform the complainant, recipient, and court-appointed guardian, if applicable, that no later than 45 days after receipt of the Summary Report under Procedure 17, they may file a written appeal with the SCCCMH Appeals Committee appointed by the SCCCMH Board of Directors. To include that if the plan of action describes an action that differs from the plan presented in the Summary Report, the appeal on action must be made within 45 days. Appeals are filed with the SCCCMH-ORR, as support staff for the SCCCMH Appeals Committee. For more information about the appeals process, see SCCCMH Board Policy #05-001-0050, Appeals of Recipient Rights Findings and Dispute Resolution.</p>

B. Related Policies

[Administrative Policy #05-001-0045, Reporting Suspected Abuse or Neglect](#)
[Board Policy #05-001-0050, Appeals of Recipient Rights Findings and Dispute Resolution](#)

C. Definitions

1. *Abuse*: Means harm experienced by a recipient, *sexual contact* with a recipient, or *sexual penetration* of a recipient (as defined by Public Act 328 of 1931, being Section 750.520a) that is committed by or provoked by an employee of SCCCMH, a volunteer of SCCCMH, a contract provider of SCCCMH, or an agent of a provider under contract with SCCCMH.
2. *Abuse: Class I*: Means a non-accidental act or provocation of another to act by an employee, volunteer or agent of a provider that caused or contributed to the death, *sexual abuse* of, or *serious physical harm* to a recipient.
3. *Abuse: Class II*: Means any of the following:
 - a. A non-accidental act or provocation of another to act by an employee, volunteer, or agent of a provider that caused or contributed to *non-serious physical harm* to a recipient.
 - b. The use of *unreasonable force* on a recipient by an employee, volunteer, or agent of a provider with or without apparent harm.
 - c. Any action or provocation of another to act by an employee, volunteer, or agent of a provider that causes or contributes to *emotional harm* to a recipient.
 - d. An action taken on behalf of a recipient by a provider who assumes the recipient is incompetent, despite the fact that a guardian has not been appointed, that results in substantial economic, material, or emotional harm to a recipient.
 - e. *Exploitation* of a recipient by an employee, volunteer, or agent of a provider.
4. *Abuse: Class III*: Means the use of language or other means of communication by an employee, volunteer, or agent of a provider to degrade, threaten, or sexually harass a recipient.
5. *Act*: Means the Michigan Mental Health Code, Public Act 258 of 1974, as amended, and MDHHS Administrative Rules, Part 7.
6. *Anatomical support*: Means body positioning or a physical support ordered by a physical or occupational therapist for the purpose of maintaining or improving a recipient's physical functioning.
7. *Bodily function*: Means the usual action of any region or organ of the body.
8. *Dignity*: To be treated with esteem, honor, politeness; to be addressed in a manner that is not patronizing or condescending; to be treated as an equal; to be treated the way any individual would like to be treated.
9. *Emotional harm*: Means impaired psychological functioning, growth, or development of a significant nature as evidenced by observable physical

symptomatology or as determined by a mental health professional.

10. *Exploitation*: Means an action by an employee, volunteer, or agent of a provider that involves the misappropriation or misuse of a recipient's property or funds for the benefit of an individual or individuals other than the recipient.
11. *Immediately*: Means without delay; instantly.
12. *Investigation*: Means a detailed inquiry into and systematic examination of an allegation raised in a recipient rights complaint.
13. *Neglect*: Means an act or failure to act committed by an employee of SCCCMH, a volunteer of SCCCMH, a contract provider of SCCCMH, or an agent of a provider under contract with SCCCMH that denies a recipient the standard of care or treatment to which they are entitled under the Michigan Mental Health Code.
14. *Neglect Class I*: Means either of the following:
 - a. Acts of commission or omission by an employee, volunteer, or agent of a provider that result from non-compliance with a standard of care or treatment required by law and/or rules, policies, guidelines, written directives, procedures, or individual plan of service and causes or contributes to the death, or sexual abuse of, or serious physical harm to a recipient.
 - b. The failure to report apparent or suspected Abuse: Class I or Neglect: Class I of a recipient.
15. *Neglect Class II*: Means either of the following:
 - a. Acts of commission or omission by an employee, volunteer, or agent of a provider that result from non-compliance with a standard of care or treatment required by law, rules, policies, guidelines, written directives, procedures, or individual plan of service and that cause or contribute to non-serious physical harm or emotional harm to a recipient.
 - b. The failure to report apparent or suspected Abuse: Class II or Neglect: Class II of a recipient.
16. *Neglect Class III*: Means either of the following:
 - a. Acts of commission or omission by an employee, volunteer, or agent of a provider that result from non-compliance with a standard of care or treatment required by law and/or rules, policies, guidelines, written directives, procedures, or individual plan of service that either placed or could have placed a recipient at risk of physical harm or sexual abuse.
 - b. The failure to report apparent or suspected Abuse: Class III or Neglect: Class III of a recipient.

17. *Non-serious physical harm*: Means physical damage or what could reasonably be construed as pain suffered by a recipient that a physician or registered nurse determines could not have caused, or contributed to, the death of a recipient, the permanent disfigurement of a recipient, or an impairment of their bodily functions.
18. *Office of Recipient Rights (ORR)*: Means the office created by the Michigan Mental Health Code that is subordinate only to the Community Mental Health Services Program's Chief Executive Officer, and that is responsible for investigating apparent or suspected violations of recipient rights, resolving and assuring remediation of substantiated rights violations, and assuring that mental health services are provided in a manner that respects and promotes the rights of recipients as guaranteed by Chapters 7 and 7A of the Michigan Mental Health Code.
19. *Physical management*: Means a technique used by staff as an emergency intervention to restrict the movement of a recipient by direct physical contact to prevent the recipient from harming themselves, or others.
20. *Preponderance of Evidence*: Means a standard of proof which is met when it is more likely that a right was violated than not, based upon all of the available evidence. The available evidence shall be weighed, not as to the quantity of evidence or to the number of witnesses, but as to the quality of the evidence, and the believability of the witnesses.
21. *Protective device*: Means a device or physical barrier to prevent a recipient from causing serious self-injury associated with documented and frequent incidents of the behavior. A protective device as defined here and incorporated in the written individual plan of service shall not be considered a *restraint* as defined under "Restraint."
22. *Provider*: Means the MDHHS, SCCCMH, each licensed hospital, each psychiatric unit, and each psychiatric partial hospitalization program licensed under section 137 of the Mental Health Code, to include their employees, volunteers, and contractual agents.
23. *Psychotropic drug*: Means any medication administered for the treatment or amelioration of disorders of thought, mood, or behavior.
24. *Recipient*: Means an individual who receives mental health services, either in person or through telemedicine, from the Michigan Department of Health and Human Services, a community mental health services program, or a facility or from a provider that is under contract with the Michigan Department of Health and Human Services or a community mental health services program.
25. *Respect*: To show deferential regard for; to be treated with esteem, concern, consideration, or appreciation; to protect an individual's privacy; to be sensitive

to cultural differences; to allow an individual to make choices.

26. *Restraint*: Means the use of a physical device to restrict an individual's movement. Restraint does not include the use of a device primarily intended to provide anatomical support.
27. *Serious physical harm*: Means physical damage suffered by a recipient that a physician or registered nurse determines caused or could have caused the death of a recipient, caused the impairment of their bodily functions, or caused the permanent disfigurement of a recipient.
28. *Sexual abuse*: Means any of the following:
 - a. Criminal sexual conduct as defined by Public Act 328 of 1931, being sections 750.520b to 750.520e, involving an employee, volunteer, or agent of a provider and a recipient.
 - b. Any sexual contact or sexual penetration involving an employee, volunteer, or agent of a department operated hospital or center, a facility licensed by the department under MCL 330.1137, or an adult foster care facility and a recipient.
 - c. Any sexual contact or sexual penetration involving an employee, volunteer, or agent of a provider and a recipient for whom the employee, volunteer, or agent provides direct services.
29. *Sexual contact*: Means the intentional touching of the recipient's or employee's intimate parts or the touching of the clothing covering the immediate area of the recipient's or employee's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, done for a sexual purpose, or in a sexual manner for any of the following:
 - a. Revenge
 - b. To inflict humiliation
 - c. Out of anger
30. *Sexual harassment*: Means sexual advances to a recipient, requests for sexual favors from a recipient, or other conduct or communication of a sexual nature toward a recipient.
31. *Sexual penetration*: Means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required.
32. *Therapeutic de-escalation*: Means an intervention, the implementation of which is incorporated in the individualized written plan of service, wherein the recipient

is placed in an area or room, accompanied by staff who shall therapeutically engage the recipient in behavioral de-escalation techniques and debriefing as to the cause and future prevention of the target behavior.

33. *Time out*: Means a voluntary response to the therapeutic suggestion to a recipient to remove himself or herself from a stressful situation in order to prevent a potentially hazardous outcome.
34. *Treatment by spiritual means*: Means a spiritual discipline or school of thought that a recipient wishes to rely on to aid physical or mental recovery.
35. *Unreasonable force*: Means physical management or force that is applied by an employee, volunteer, or agent of a provider to a recipient in one or more of the following circumstances:
 - a. There is no imminent risk of serious or non-serious physical harm to the recipient, staff, or others.
 - b. The physical management used is not in compliance with techniques approved by SCCCMH.
 - c. The physical management used is not in compliance with the emergency interventions authorized in the recipient's individual plan of service.
 - d. The physical management or force is used when other less restrictive measures were possible but not attempted immediately before the use of physical management or force.

D. Forms

[#MDHHS-0030 Recipient Rights Complaint](#)

E. Other Resources (i.e., training, secondary contact information, exhibits, etc.)

[Exhibit A: Requirements for Reporting Abuse and Neglect Poster, MDHHS – 0727](#)

F. References

1. Michigan Mental Health Code, Public Act 258 of 1974, as amended, sections 330.1772, 330.1776, 330.1778, 330.1780, 330.1782, and 330.1784
2. Michigan Department of Health and Human Services (MDHHS) Administrative Rules 330.7001
3. Michigan Penal Code, Public Act 328 of 1931, sections 750.520a - 750.520e

IV. History

- Initial Approval Date: 03/1997
- Last Revision Date: 07/2024 BY: Sandy O'Neill
- Last Reviewed Date: 04/2025 BY: Sandy O'Neill
- Non-Substantive Revisions:
- Key Words: Investigation, Office of Recipient Rights, ORR Process, physical management, abuse, neglect, reporting, remedial action