

Community Mental Health of Ottawa County
Recipient Rights Advisory Committee
Fillmore Complex, West Olive, Michigan 49460
Friday, July 26, 2024 – 9:00 a.m.

1. Call to Order

2. Review/Approve Agenda: July 26, 2024

Suggested Motion: To approve the July 26, 2024, RRAC meeting agenda.

3. Review/Approve Minutes: March 22, 2024

Suggested Motion: To approve the March 22, 2024, RRAC meeting minutes.

4. Public Comment

5. New Business

a. CMHOC Recipient Rights Director's Report 03/24 – 06/24 (*Attachment A*)

No Suggested Motion Needed

b. CMHOC October 2023/March 2024 Semi-Annual Report (*Attachment B*)

No Suggested Motion Needed

c. RR Policy Review and Training – Briana Fowler

No Suggested Motion Needed

i. 1.07 – Recipient Rights Complaint and Appeal Process (*Attachment C*)

ii. 1.11 – Confidentiality (*Attachment D*)

iii. 1.13 – Fingerprinting and Photographing Consumers (*Attachment E*)

iv. 1.14 – Treatment by Spiritual Means (*Attachment F*)

v. 1.18 – Personal Property and Funds (*Attachment G*)

vi. 1.19 – Resident Labor (*Attachment H*)

vii. 1.23 – Dignity and Respect (*Attachment I*)

viii. 1.27 – Accommodations (*Attachment J*)

d. Holland Hospital's Use of CMHOC's Recipient Rights Advisory Committee (RRAC)

Motion: Authorize Dr. Brashears and Ms. Cosby to issue a letter to Holland Hospital discontinuing use of CMHOC's RRAC effective immediately.

6. Old Business

7. Public Comment

8. Adjournment

Recipient Rights Advisory Committee (RRAC) July 26, 2024

INV = Investigation

S = Substantiated

NS = Not Substantiated N/A = Not applicable

* = Status Report Sent (30 day and/or 60 day)

COMPLAINTS OPEN/CLOSED MARCH 2024

Complaint #	Date Opened	Service Site	Rights Category	Action	Decision	Outcome	Length in days
3693	12/7/23	Residential DD	Neglect Class III	INV	S	Reprimand	89*
3695	12/20/23	Residential DD	Dignity and Respect	INV	NS	N/A	89*
3702	1/29/24	CLS	Dignity and Respect	INV	NS	N/A	30 (2/28/24)
3703	1/29/24	Other	Disclosure of Confidential Information	INV	S	Training	43*
3705	3/18/24	Outpatient	Disclosure of Confidential Information	INV			
3706	3/20/24	Outpatient	Disclosure of Confidential Information	INV			
3707	3/25/24	Residential MI/DD	Neglect Class III	INV			
3708	3/25/24	Outpatient	Abuse Class II – Unreasonable Force	INV			

Opened: 4

Closed: 4

COMPLAINTS OPEN/CLOSED APRIL 2024

Complaint #	Date Opened	Service Site	Rights Category	Action	Decision	Outcome	Length in days
3696	1/4/24	Residential MI/DD	Abuse Class II – Exploitation	INV	S	Employment Termination	90*
3704	1/30/24	Residential MI/DD	Dignity and Respect	INV	S	Employment Termination	90*
3710	4/17/24	Outpatient	No Code/Out of Jurisdiction	N/A	N/A	N/A	2
3711	4/18/24	Residential MI/DD	Dignity and Respect	INV			
3712	4/22/24	Residential MI/DD	Neglect Class III	INV			
3713	4/24/24	Outpatient	No Code/Out of Jurisdiction	N/A	N/A	N/A	5
3714	4/29/24	Residential MI/DD	No Code/Out of Jurisdiction	N/A			

Opened: 5

Closed: 4

COMPLAINTS OPEN/CLOSED MAY 2024

Complaint #	Date Opened	Service Site	Rights Category	Action	Decision	Outcome	Length in days
3705	3/18/24	Outpatient	Disclosure of Confidential Information	INV	S	Verbal Counseling Training	59*
3706	3/20/24	Outpatient	Disclosure of Confidential Information	INV	S	Verbal Counseling Training	58*

Attachment A

3712	4/22/24	Residential MI/DD	Neglect Class III	INV	NS	N/A	29
3714	4/29/24	Residential MI/DD	No Code/Out of Jurisdiction	N/A	N/A	N/A	2

Opened: 0 Closed: 4

COMPLAINANTS OPEN/CLOSED JUNE 2024

Complaint #	Date Opened	Service Site	Rights Category	Action	Decision	Outcome	Length in days
3707	3/25/24	Residential MI/DD	Neglect Class III	INV	S	Written Reprimand	81*
3708	3/25/24	Outpatient	Abuse Class II – Unreasonable Force	INV	NS	N/A	88*
3711	4/18/24	Residential MI/DD	Dignity and Respect	INV	NS	N/A	57*
3715	6/20/24	Other	Abuse Class III	INV			

Opened: 1 Closed: 3

March 2024 – June 2024 INCIDENT REPORTS:

Incident Reports:	MARCH 2024	APRIL 2024	MAY 2024	JUNE 2024
	Physical Management, Harm to Self, Harm to Others, Unusual Behavior (i.e., canceled appointments, fecal smearing, exposing self, kissing a peer, touching a peer/staff, refusing meds, not showering, feeling suicidal, left the property, left the program against medical/clinical advice, hit peer/staff, altercation with peer, property damage, smoking indoors, etc.), Emergency Medical Treatment, Hospitalization, Medication Error, Significant Medication Error, Death, Fall, Injury, Environmental Emergency, Police Assistance, Car Accident, etc.			
Total IR's	256	273	228	256

ONGOING MEETINGS/COMMITTEES (RRR Director):

Human Resources Committee (quarterly)	Compliance Committee (monthly)	Pharmacology and Therapeutic/Medication Committee (quarterly)	Recipient Rights Advisory Committee (4 X's Annually)	Leadership Group (weekly)	Behavior Treatment Review Committee (monthly)
X	X	X	X	X	X

Attachment A

2024 SITE REVIEWS:

Residential/Outpatient: 29

- January 2024: 0
- February 2024: 6
- March 2024: 5
- April 2024: 4
- May 2024: 7
- June 2024: 7

Licensed Psychiatric Hospital: 0

Crisis Stabilization/Partial Hospitalization Program: 0

TRAINING:

Class	Date	# of Participants
4-hour training course online through Network 180 ended July 1, 2024. The new hire training will not be offered in person two times a month by CMHOC. New hire RR training will continue to also be available electronically through Improving MI Practices (training developed by MDHHS-ORR and being revised).	Ongoing October 1, 2023 – April 30, 2024	18 CMH Staff 220 Contractual Staff 24 Self Determination/CV Assigned to CMHOC Staff by the Training Center on 03/2024
2024 Recipient Rights Annual Update (online)	Ongoing	Available to Contractual Staff on 01/2024 139 CMH Staff 493 Contractual Staff 55 Self Determination/CV

Submitted by: **Brianne Fowler, Director of Recipient Rights**

Data Summary

Demographic Information

Reporting CMH/LPH	CMH of Ottawa County
Recipient Rights Office Director Name	Briana Fowler
Reporting Period	October 1, 2023 through March 31, 2024


Complaint Data Summary

Complaints Received	20
Allegations	17
Investigations	17
Interventions	0
Complaints Substantiated	11
Percent of allegations substantiated	65%

Highlighted Complaint Categories	Received	Substantiated
Abuse I, II, III	2	2
Neglect I, II, III	2	2
Dignity and Respect	5	2
MH Services Suited to Condition	1	0
No Right Involved/Outside Jurisdiction	3	

Complaint Remediation

Remediation Type	Total	Waiver Type	Total
Verbal Counseling	2	SEDW	0
Written Counseling	1	CWP	0
Verbal Reprimand	0	HSW	2
Written Reprimand	2		
Suspension	0		
Demotion	0		
Staff Transfer	0		
Training	5		
Employment Termination	4		
Employee left the agency, but substantiated	0		
Contract Action	0		
Policy Revision/Development	0		
Environmental Repair/Enhancement	0		
Plan of Service Revision	0		
Recipient Transfer to Another Provider/Site	0		
Other	0		
Pending	1		
None	0		

CHAPTER: 1	SECTION: 7	SUBJECT: RECIPIENT RIGHTS
TITLE: RECIPIENT RIGHTS COMPLAINT AND APPEAL PROCESS		
DATE OF ORIGIN: 12/31/86	REVIEWED DATES: 8/31/1999, 3/14/2002, 6/20/05, 12/3/09, 10/5/10, 3/28/11, 3/26/12, 3/25/13, 6/23/14, 6/15/15, 6/27/16, 10/16/17, 9/24/18, 9/23/19, 6/22/20, 7/26/21, 7/25/22, 07/24/23	
LAST REVISED/EFFECTIVE DATE: 07/26/2021		
ISSUED AND APPROVED BY:  EXECUTIVE DIRECTOR		

I. PURPOSE:

To outline procedures for the handling of complaints received by the Office of Recipient Rights, the resulting investigations, written complaint investigation reports, and the storage of the complaint reports.

II. APPLICATION:

All Community Mental Health of Ottawa County (CMHOC) providers and contract agency providers as specified by contract.

III. DEFINITIONS:

Allegation: means an assertion of fact made by an individual that has not yet been proved or supported with evidence.

Appellant: the consumer, complainant, parent, or guardian who appeals a recipient rights finding or a respondent's action to an appeals committee.

Code Protected Rights: A right that is guaranteed by the Michigan Mental Health Code (Act 258 of 1974), Administrative Rules of the Department of Mental Health, or other applicable law.

Complainant: A consumer or any other person who files a complaint indicating that a right has been violated.

Complaint: Either an oral or written statement of a code protected right within the jurisdiction of CMHOC. The rights complaint will include all of the following:

1. a statement of the allegations that give rise to the dispute.
2. a statement of the right or rights that may have been violated.
3. the outcome that the complainant is seeking as a resolution to the complaint.

Disciplinary Action:

The Michigan Mental Health Code requires: "Abuse or neglect of a recipient by an employee, volunteer, or agent of a provider shall subject the employee, volunteer, or agent of a provider, upon substantiated reports, to an appropriate penalty, including official reprimand, demotion, suspension, reassignment, or dismissal."

Intervention: The method of handling a complaint that does not involve abuse or neglect and that can be resolved informally to the satisfaction of all parties involved.

Investigation: A detailed inquiry into and systematic examination of an allegation raised in a rights complaint.

Mediation: A private, informal dispute resolution process in which an impartial, neutral individual, in a confidential setting, assists parties in reaching their own settlement of issues in a dispute and has no authoritative decision-making power.

Not Substantiated: A determination made by the Recipient Rights Officer that the recipient rights complaint was not a rights violation based on a preponderance of evidence standard.

Preponderance of Evidence: Means a standard of proof which is met when, based upon all of the available evidence, it is more likely that a right was violated than not; greater weight of evidence, not as to quantity (number of witnesses), but as to quality (believability and greater weight of important facts).

Remedial Action: Action taken to correct a violation from reoccurring and/or remove contributing conditions.

Respondent: The service provider that had responsibility at the time of an alleged rights violation for the services with respect to which a rights complaint has been filed.

Substantiated: A determination made by the Recipient Rights Officer that the recipient rights complaint was a rights violation based on a preponderance of evidence standard.

IV. POLICY:

It is the policy of CMHOC that Recipient Rights complaints will be handled in a manner consistent with Chapter 7A of the Michigan Mental Health Code.

V. PROCEDURE:

A. Complaints:

All recipients will receive a summary of their code protected rights at intake, and annually thereafter. A copy of the You Have Rights booklet will be offered to the recipient, parents of minors, and guardians at the annual Individual Plan of Service (IPOS) meeting.

The Office of Recipient Rights, staff, contractual staff, interns, and volunteers will explain recipient rights to all recipients, parents of minors, and guardians in an understandable manner, including documentation of alternative methods utilized. The name of the person providing the explanation will be documented on the electronic medical record.

Recipient rights complaints may be filed by recipients, or anyone on their behalf, and the complaint will be provided to the Office of Recipient Rights in a timely manner.

The Office of Recipient Rights, staff, contractual staff, interns, and volunteers will assure that complaint forms are readily available and will assist consumers, parents of minors, guardians, or other individuals with the complaint process as necessary and/or upon request.

All complaints will be numbered and recorded by the rights office on a complaint log, upon receipt by the Office of Recipient Rights.

Within 5 business days after receipt of a complaint, the Office of Recipient Rights will mail an acknowledgment letter, including a copy of the written complaint, to the complainant, recipient, parent or a minor child and/or guardian.

The acknowledgement letter will include a copy of the written complaint and a determination of whether the Office of Recipient Rights will complete an intervention or investigation.

The Office of Recipient Rights will also notify the complainant, recipient, parent of a minor child and/or guardian within 5 business days if the complaint is not a code protected right or is out of the office's jurisdiction and an investigation or intervention is not warranted.

The Office of Recipient Rights will offer assistance to the recipient or other individual with the complaint process as necessary. However, the Office of Recipient Rights will advise the recipient, or other individual filing a recipient rights complaint, that there are advocacy organizations available to assist in the preparation of the written rights complaint and will offer to make such a referral. In the absence of assistance from an advocacy organization, the Office of Recipient Rights will assist in preparing a written complaint which will contain a statement of allegation, the right that was allegedly violated, and the outcome desired by the complainant.

Any provider making a complaint in good faith with the Office of Recipient Rights is protected by the Michigan Whistleblower's Protection Act (469 P.A. 1980) and will not be discharged, threatened, or otherwise discriminated against for doing so.

Appropriate disciplinary action will be taken if there is evidence of harassment, retaliation, and/or humiliation against anyone who files a recipient rights complaint.

The Office of Recipient Rights shall determine if the complaint involves a right protected by the Michigan Mental Health Code and if not will inform the complainant and/or recipient and will refer the complainant and/or recipient to the appropriate agency.

If the complaint is related to the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990, the Office of Recipient Rights will accept such complaints and may assist/refer for further action.

The Office of Recipient Rights shall determine if the alleged rights violation involves abuse, neglect, serious injury, or death of consumer involving an apparent or suspected rights violation and if so, will immediately initiate an investigation, and:

1. Assures all mandatory reporting to external agencies and required written reports are completed within specified time frames.
2. Secures a written statement from the complainant and anyone else involved in or with knowledge of the allegation.
3. Informs the Director/Supervisor of the employee named in the alleged rights violation to take steps necessary, such as reassignment of the employee, to prevent contact between the employee and the consumer named in the complaint, or if this is not possible, suspend the employee with or without pay until the investigation is complete.

4. For verbal complaints that involve code-protected rights, but not abuse or neglect, the Office of Recipient Rights has the complainant describe the alleged violation and then puts the complaint in writing.
5. If the complaint involves an allegation regarding the conduct of the Executive Director, the rights investigation will be conducted by a Recipient Rights Officer from another CMH or by the state Office of Recipient Rights. The decision as to who will be asked to conduct the investigation will be made by the CMHOC Board of Directors.

B. Investigation:

The Office of Recipient Rights shall determine if the complaint will be investigated or handled as an intervention. All complaints will receive a response within 5 business days. Investigation activities for each rights complaint will be accurately recorded by the Office of Recipient Rights.

1. Complaints

- a. The investigation will be initiated in a timely and efficient manner, with initial contact via letter to the complainant within five business days of receipt of complaint. The Office of Recipient Rights shall complete the investigation not later than 90 days after it receives the rights complaint, this is subject to delay pending action of external agencies (i.e. MDHHS, law enforcement, etc.).
- b. Allegations will be investigated with priority assigned to the allegation concerning safety or personal injury.
- c. Investigations will immediately be initiated in cases involving allegations of abuse, neglect, serious injury or when a rights violation is apparent or suspected in the death of a consumer.
- d. Inform the staff of the recipient rights allegation if he/she has not already been informed by the provider/employer.
- e. Interview the complainant and consumer, if appropriate.
- f. Identify all people who may have information about the allegation.
- g. Interview all persons identified and where appropriate, secure written statements in regard to the recipient rights allegation.
- h. Review all the pertinent records and applicable MDHHS, CMHOC, Board, and contractual provider's policies, and document the necessary information.
- i. Assure the investigation is conducted in a manner consistent with County personnel policies and employee contracts and is not in violation of employee rights.
- j. Make an independent determination, using the preponderance of evidence as its standard of proof, of whether or not the available facts lead to a conclusion that the allegation can be substantiated or not substantiated.
- k. A written status report will be issued every 30 calendar days during the course of the investigation to the complainant, respondent and the responsible mental health agency.

This report will contain:

1. Statement of the allegations.
 2. Statement of the issues involved.
 3. Citations to relevant provisions of Mental Health Code, rules, policies, and guidelines.
 4. Investigative progress to date.
 5. Expected date for completion of the investigation.
- l. Upon completion of the investigation, the Office of Recipient Rights shall submit a written investigative report to the respondent and to the responsible mental

health agency. Issuance of the written Investigative Report may be delayed pending completion of investigations that involve external agencies (i.e. DHS, police, etc.).

The Report of Investigative Findings (RIF) will include all of the following:

1. Statement of the allegations.
 2. Citations to relevant provisions of applicable laws, rules, policies, and guidelines.
 3. Statement of the issues involved.
 4. Investigative findings.
 5. Conclusions.
 6. Recommendations, if any.
- m. Distribute a copy of the Investigative Report to the respondent and responsible mental health agency. On substantiated rights violations the respondent's written corrective action plan will meet all of the following requirements for remedial action:
1. Correct or provide remedy for the rights violation.
 2. Is implemented in a timely manner.
 3. Attempt to prevent a reoccurrence of the rights violation.
- n. The corrective action plan/remedial action will be documented and made a part of the record maintained by the Office of Recipient Rights. Other involved investigatory agencies (APS, CPS, Licensing and/or law enforcement) shall receive a report as applicable.
- o. The Executive Director/responsible mental health agency will submit a written summary report to the complainant and consumer (if not the same person), guardian, or parent of a minor within 10 business days after the executive director receives a copy of the investigative report from the Office of Recipient Rights.
- p. The Summary Report will contain all of the following:
1. Statement of the allegations.
 2. Citations to relevant provisions of applicable laws, rules, policies, and guidelines.
 3. Statement of the issues involved.
 4. Summary of investigative findings of the Office of Recipient Rights.
 5. Conclusions of the Office of Recipient Rights.
 6. Recommendations, if any, made by the Office of Recipient Rights.
 7. Action taken, or plan of action proposed, by the respondent.
 8. A statement/information describing the appellant's right to appeal, time frames and the grounds for making an appeal, and process for filing an appeal.
 9. If a plan of action is proposed, not completed, the Executive Director will a follow-up letter to the recipient, parent of minor, and/or guardian indicating when the remedial or disciplinary action was completed, a copy of the Summary Report, and appeal rights.
 10. If the letter indicating the plan of action describes an action that differs from the plan, the letter must indicate that an appeal may be made within 45 days of the "action."
- q. Information in the Summary Report will be provided within the constraints of the confidentiality/privileged communications sections (Section 748, 750) of the Michigan Mental Health Code. Therefore, the Office of Recipient Rights will obtain written informed consent from the consumer to reveal results of an investigation, to a complainant when the complainant is not the consumer, parent of a minor, guardian, or provider. If consent cannot be obtained, the

complainant's copy of the Recipient Rights Summary Report should state whether the allegation was substantiated or not substantiated and contain only non-confidential information.

- r. Information in the summary report will 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. etc.) and will be within the constraints of the confidentiality/privileged communications sections of the Michigan Mental Health Code.
 - s. CMHOC and all providers of service will ensure that appropriate disciplinary action was taken against those who engaged in abuse or neglect, or retaliation and harassment.
 - t. When either a CMH staff or provider personnel fail to report suspected violations of rights, appropriate administrative action will be taken.
 - u. The Office of Recipient Rights complied with pertinent CMHOC policies to assure that investigations were conducted in a manner that did not violate employee rights.
 - v. The Executive Director will review the submitted corrective action to assure the respondent took appropriate remedial action that meets the following requirements:
 - 1. Corrects or provides remedy for the rights violation.
 - 2. Is implemented in a timely manner.
 - 3. Attempts to prevent recurrence of the rights violation.
 - w. The Executive Director will review the submitted corrective action to assure the respondent took appropriate firm and fair disciplinary action for all substantiated abuse and neglect allegations, including failure to report.
 - x. 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.
2. Rights Interventions:
All other rights issues, besides abuse and neglect, can be handled as interventions and resolved to the mutual satisfaction of all parties involved. Records will be maintained of all such cases.
- a. Interventions are completed by the Office of Recipient Rights on behalf of a consumer to resolve a complaint alleging a violation of a code protected right when the facts are clear, and the remedy, if applicable, is clear, easily obtainable and does not involve statutorily required disciplinary action.

C. Appeal Process:

- 1. The Board of the CMHSP has designated the Recipient Rights Advisory Committee as the appeals committee. None of the members shall be employed by the community mental health service provider or MDHHS.
- 2. The appeals committee may request consultation and technical assistance from MDHHS-ORR.
- 3. A member of an 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.
- 4. The complainant, consumer, guardian, and parent of a minor in the summary report from the executive director, was advised of the following:
 - a. The written appeal must be filed with the CMHOC Recipient Rights Appeals Committee no later than 45 days after receipt of the summary report.

- b. The complainant, consumer, guardian, or parent of a minor may appeal the outcome of the complaint investigation based on the following grounds:
 1. The investigative findings of the rights office are not consistent with the facts, law, rules, policies, or guidelines.
 2. The action taken or plan of action proposed by the respondent does not provide an adequate remedy.
 3. An investigation was not initiated or completed on a timely basis.
5. The complainant, consumer, guardian, or parent of a minor will be advised by the Office of Recipient Rights that there are advocacy organizations available to assist in preparing the written appeal and offered to make the referral.
6. In the absence of assistance from an advocacy organization, the Office of Recipient Rights will offer to make the referral or to provide assistance in meeting the procedural requirements of the written appeal.
7. Within 5 business days after receipt of the written appeal, members of the Appeals Committee will review the appeal to determine whether it meets the criteria for an appeal (see above #4).
8. If the appeal is denied because the criteria were not met, the complainant, consumer, guardian or parent of a minor will be notified in writing within the 5 business days.
9. If the appeal is accepted, written notice shall be provided to the appellant, consumer, guardian or parent of a minor and a copy of the appeal shall be provided to the respondent and the responsible mental health agency within 5 business days.
10. Within 30 days after receipt of the written appeal, the Appeals Committee will meet and review the facts as stated in all complaint investigation documents.
11. The Appeals Committee will do one of the following in deciding about the appeal:
 - a. Uphold the findings of the Office of Recipient Rights and the action taken or plan of action proposed by the respondent.
 - b. Return the investigation to the Office of Recipient Rights with a request that it be reopened or reinvestigated.
 - If the investigation is returned to the Office of Recipient Rights by the appeals committee for reinvestigation, the Office of Recipient Rights will complete the reinvestigation within 45 days following the standards established in 330.1778.
 - Upon receipt of the Report of Investigative Findings (RIF), the 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.
 - c. Uphold the investigative findings of the Office of Recipient Rights but recommend that the respondent take additional or different action to remedy the violation.
 - If a request for additional or different action is sent to the director, a response will be sent within 30 days as to the action taken or justification as to why it was not taken. The response will be sent to the complainant, the recipient, if different than the complainant, parent or guardian, and the appeals committee.
 - d. Recommend that the CMHOC Board request an external investigation by another Recipient Rights Officer or by the MDHHS Office of Recipient Rights.

- If the committee notifies the CMHOC Board Chair of a recommendation to seek an external investigation from MDHHS-ORR, the board will send a letter of request to the director of MDHHS-ORR within 5 business days of receipt of the request from the appeals committee. The director of CMHOC will be responsible for issuance of the summary report, which will identify the grounds and advocacy information and direct to MDHHS-ORR Appeals committee for an appeal.
12. The Appeals Committee will document their decision and justification for the decision in writing.
 13. Within 10 business days after reaching a decision, the Appeals Committee will provide copies of its written decision to the respondent, appellant, consumer, guardian, parent of minor, CMHOC's Executive Director, and the Director of Recipient Rights.
 14. The written decision will include information on the appellant's right to appeal to MDHHS (level 2 appeal) within 45 days of receipt of the decision by CMHOC's Recipient Rights Appeals Committee. The appeal shall be based on the record established in the previous appeal, and on the allegation that the investigative findings of the local Office of Recipient Rights are not consistent with the facts or with the law, rules, policies, or guidelines.

D. Mediation:

1. If the recipient/parent/guardian has a dispute related to service planning or the services provided by a Community Mental Health Services Program (CMHSP) or a contracted service provider of a CMHSP, the recipient/parent/guardian has the right to mediation under section 1206(a). The recipient/parent/guardian should be directed to contact the Customer Service Representative at the CMHSP.

E. Storage & Distribution of Recipient Rights Complaint Reports:


1. All complaint reports will be stamped "CONFIDENTIAL" in red ink by rights staff.
2. One copy of the complaint report with a request for corrective action will go to the Director of the contract agency or, internally, to the Program Director.
3. Persons receiving these reports are responsible for assuring their confidentiality. These reports are to be maintained in a locked storage area or shredded when no longer needed.
4. These reports are only to be shared on a "need to know" basis, consistent with any applicable Ottawa County or contract agency personnel policies and Section 748 of the Mental Health Code.
5. A copy of the report will not be given to any of the staff involved in the allegation.
6. When the complaint report is used in a disciplinary action, the names of all consumers and providers involved in the case must be eliminated to preserve their confidentiality.

VI. ATTACHMENT:

None Applicable

VII. REFERENCE:

Michigan Mental Health Code, Chapter 7
MDHHS -- ORR Attachment B

CHAPTER: 1	SECTION: 11	SUBJECT: RECIPIENT RIGHTS
TITLE: CONFIDENTIALITY & DISCLOSURE		
DATE OF ORIGIN: 12/31/1986	REVIEWED DATE: 9/9/99, 3/13/02, 5/7/02, 9/25/02, 6/20/05, 5/9/08, 2/21/11, 7/23/12, 9/23/13, 12/15/14, 12/21/15; 12/19/16, 10/16/17, 6/25/18, 6/24/19, 12/21/20, 3/22/21, 3/28/22, 07/24/23	
LAST REVISED/EFFECTIVE DATE: 03/22/2021		
ISSUED AND APPROVED BY:  EXECUTIVE DIRECTOR		

I. PURPOSE:

To define the limits and procedures for disclosing confidential information about CMHOC consumers outside the agency.

II. APPLICATION:

All CMHOC staff and contract agency staff as specified by contract.

III. DEFINITIONS:

Client/Consumer: An adult, responsible parent, or legally empowered guardian of a child, or a legally empowered guardian of a person who is legally incapacitated or developmentally disabled.

Privileged Communication: A communication made by a psychiatrist or psychologist, or by someone under the supervision of such a person, in connection with the examination, diagnosis, or treatment of a consumer, or to other persons while they are participating in such examination, diagnosis, or treatment.

Proper Authorization:

1. A valid consent executed by the consumer; or
2. An order from the presiding judge/court on the privileged nature of the information.

IV. POLICY:

It is the policy of CMHOC that all information in the consumer's case record, and other information acquired in the course of providing mental health services, shall be kept confidential and shall not be open to public inspection. This confidential information will include:

- A. Information acquired in diagnostic interviews or examination
- B. Results and interpretations of tests ordered by a mental health professional or given by a facility
- C. Entries and progress notes by mental health professionals and support personnel.

The information shall be provided as necessary for treatment, coordination of care, or payment for the delivery of mental health services, in accordance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191. The

confidential information disclosed shall be limited to that which is germane to the authorized purpose for which disclosure was sought.

When confidential information is disclosed, the identity of the individual to whom it pertains shall be protected and shall not be disclosed unless it is germane to the authorized purpose. The person making the disclosure shall inform the receiver that disclosure of the information by the receiver to another party is strictly prohibited unless consistent with the authorized purpose for which the information was obtained.

V. PROCEDURE:

A. Informing Consumers of Rights to Confidentiality:

Each individual (or parent or guardian) seeking mental health services shall be asked to sign consent for Mental Health Evaluation/Acknowledgement of Recipient Rights Information and will include a summary of Section 748. A summary of Section 748 shall be retained as a part of each person's record.

An individual evaluated at the request of a peace officer pursuant to Section 427 of the Mental Health Code shall be informed of his or her rights, and if clinically appropriate shall be asked to sign Consent for Evaluation/Acknowledgement of Recipient Rights Form.

A psychiatrist, physician, or psychologist examining an individual for medical certification shall inform the individual of intended disclosure of information to the Probate Court according to the instructions on the certificate.

B. Sharing Information Within CMHOC/Contractual Programs:

Information shall be shared among service units of CMHOC and contractual providers only on a "need to know" basis and only as is necessary for adequate service planning and coordination.

In the event that a consumer's care is transferred from one service to another within the network, the essential and relevant components of the medical record will "follow" the consumer to the new service unit. The "essential" components would include:

- a "referral/transfer" form supporting the transfer
- psychosocial assessment (including history of illness)
- all assessments from relevant professionals (including crisis assessments)
- plan for treatment/care/support
- status reports
- progress reports
- physical/medication documents
- current releases of information
- evidence of correspondence and/or coordination of care
- demographic information
- billing/insurance information
- authorization for service documentation

Other information will be shared as needed on an individual basis. Otherwise, information shall be shared among CMHOC and contractual providers only on a "need to know" basis and only within the parameters defined in each contract.

Information shall be provided to private physicians or psychologists appointed by the court or retained to testify in civil, criminal, or administrative proceedings. They shall be notified before their review when the records contain privileged communication which cannot be disclosed in court, unless disclosure is permitted because of an express waiver of privilege or by law which permits or requires disclosure.

C. Consent To Release Information:

Except as otherwise provided in 1748(4), confidential information may be provided to providers of mental health services, to the consumer, or to any individual or agency if consent has been obtained from:

- Consumer
- Consumer's guardian with authority to consent
- Parent with legal custody of a minor consumer
- Court approved/appointed personal representative or executor of the estate of a deceased consumer.

Unless, in the written judgement of the holder of the record, the disclosure would be detrimental to the consumer or others.

For case records made subsequent to March 28, 1996, information made confidential by Section 1748 of the Mental Health Code shall be disclosed to a competent adult consumer upon the consumer's request. Release shall be done as expeditiously as possible but in no event later than the earlier of 30 days of the request or prior to discharge from treatment.

For all other records, minor or adult consumers with guardians, information placed in the record prior to March 28, 1996, may be disclosed to the consumer, attorney for the consumer, or any other person or agency, provided that the consumer consents and the disclosure would not be detrimental. All requests for such information shall be coordinated through the Case Manager/Supports Coordinator/Therapist. Except as provided otherwise in this procedure, when requested, confidential information shall be disclosed only under 1 or more of the following circumstances:

1. Pursuant to orders or subpoenas of a court of record, or subpoenas of the legislature, unless the information is made privileged by law.
2. To a prosecuting attorney as necessary for the prosecuting attorney to participate in proceedings governed by the Mental Health Code.
3. To an attorney for the consumer, with the consent of the consumer, the consumer's legal guardian (if they have authority to consent), or the parent of a minor who has legal and physical custody.
4. When necessary, in order to comply with another provision of law.
5. To the Michigan Department of Health and Human Services (MDHHS) when the information is necessary in order for the department to discharge a responsibility placed upon it by law.
6. To the office of the auditor general when the information is necessary for that office to discharge its constitutional responsibility.

7. To a surviving spouse of the consumer for purposes of applying for and receiving benefits or, if there is no surviving spouse, to the person or persons most closely related to the deceased consumer in order to apply for and receive benefits, but only if spouse or closest relative has been designated the personal representative or has a court order.
8. To disclose information that enables a consumer to apply for or receive benefits.
9. Upon written request, to MDHHS/Child Protective Services (CPS), to review and provide pertinent records and information within 14 days of the written.
10. As otherwise required by law.

All requests for the release of confidential information will be reviewed by the Case Manager/Supports Coordinator/Therapist and forwarded with the record to the Medical Records Assistant for copying and dispersal.

With proper consent to release information for clinical purposes, by the consumer or the consumer's guardian or parent of a minor, a copy of the entire medical and clinical record may be released to a consumer or a provider of mental health services.

All written disclosures will be documented in the client's record to include the following: the date the information was sent, to whom it was released, what information was sent, if it was germane to the stated purpose, the part of the law under which the disclosure was made, and a statement that the persons receiving the disclosed information could only further disclose consistent with the authorized purpose for which it was released.

Verbal disclosures shall be made only with written consent of the consumer/guardian and will be documented in a progress note.

All confidential documents released by this agency will be stamped "Confidential", for restricted use only. This information is released subject to the confidentiality provisions of Section 748 of Public Acts 258 of 1974. Not to be forwarded or copied."

D. Detrimental Information:

In the event the Case Manager or Supervisor judges that the release of certain information placed in the record prior to March 28, 1996, for competent adult consumers, and all records for minor and incompetent adult consumers might be detrimental to the consumer or others, the Case Manager/Supports Coordinator/Therapist shall review this judgment with the Program Supervisor. Should the Program Supervisor concur with this judgment, the information shall not be disclosed. Documentation of the decision to withhold information and the reasons for withholding it shall be entered in the consumer's record.

Disclosure of confidential information may be delayed if deemed detrimental, unless disclosed pursuant to the following:

- Order of subpoena of a court or Legislature for non-privileged information.
- Request of a prosecutor as necessary for participation in a proceeding governed by the MHC.

- Request of a consumer's or minor consumer's attorney, with consent of the consumer or minor consumer.
- Request of the Auditor General.

The holder of a record shall not decline to disclose information if a consumer or other empowered representative has consented, except for a documented reason. If a holder declines to disclose, there shall be a determination whether part of the information can be released without detriment. This determination will be made with the involvement of the County's Corporation Counsel.

Within 24 hours of request for information which has been delayed, the Director shall review the request and make a determination within three (3) business days if the record is on-site or ten (10) business days if record is off-site whether the disclosure would be detrimental to the consumer or others if such information is made available.

This determination can be appealed by filing a complaint with the Recipient Rights Officer by the person seeking disclosure if he/she disagrees with the decision of the director.

E. Consumer Requests for Direct Access to the Record:

With written request a competent adult consumer is allowed access to all CMHOC service information placed in the record after March 28, 1996. Information placed in the record prior to March 28, 1996, will be reviewed and material judged to be detrimental to the consumer or others may be excluded. In this case, the consumer is to be informed that some material is being withheld.

The following procedures are to be followed in implementing consumer access to their record:

1. The consumer should be asked to make the request in writing. The regular Authorization to Release Information letter may be used for this.
2. It must be documented that the record was reviewed for material that would be detrimental. The summary of this review, including specification of material to be withheld, will be attached to the release letter from the consumer. The consumer must be informed if any information is withheld. The consumer must be provided with a timetable by which this review can be completed and information released. If the consumer objects to the withholding of information, the consumer should be referred to the Director to appeal the decision.
3. The summary of the record review will also specify the information that is released. For example, "all progress notes from 05/86 - 08/87, exclusive of a medication review progress note written 07/87," or "the intake assessment dated 02/15, with the diagnostic formulation deleted."
4. If the request is to read the record, all material that is to be withheld is first to be removed from the record. The consumer will then be provided with a private office in which the remaining records can be read. A member of the clinical staff should be with the consumer at all times to supervise the client's handling of the record and to answer questions or discuss any material about which the consumer has concerns. The consumer may take notes.

5. If the consumer requests a copy of the record, the charge to the consumer for the copying costs should be handled in the same way as service costs that are based on ability to pay. The Finance Director may be asked to assist in setting an equitable fee. Copies of the specified documents will be made for the consumer by the Medical Records Assistant and noted in the record.
6. The consumer, guardian, or parent of a minor, after having gained access to treatment records, may challenge the accuracy, completeness, timeliness, or relevance of factual information in the record and will be offered an opportunity to insert into the record a statement correcting or amending the information at issue. This statement will then become a part of the record.

F. Peace Officer & Courts:

Information regarding an evaluation of an individual in protective custody shall be disclosed to a peace officer as necessary to assist the peace officer in determining an appropriate course of action.

All information related to proceedings of the Probate Court as governed by the Mental Health Code shall be made available upon request to the Court and to the Prosecuting Attorney.

Attorneys representing consumers may review records only upon representation and identification and the consumer's consent or a release executed by the parent or guardian shall be permitted to review the record on the provider's premises.

An attorney who has been retained or appointed to represent a minor pursuant to an objection of hospitalization of a minor shall be allowed to review the records.

Attorneys who are not representing consumers may review records only if the attorney presents a certified copy of an order from a court directing disclosure of information concerning the consumer to the attorney.

Attorneys shall be refused information by phone or in writing without the consent or release from the consumer or the request is accompanied or preceded by a certified copy of an order from a court ordering disclosure of information to that attorney.

In the event that any court orders an evaluation of an individual for any court purpose, the results of such an evaluation shall be disclosed to the Court if the individual was informed prior to the evaluation that the information would be made available to the Court.

Information shall be provided to the private physicians or psychologists appointed or retained to testify in civil, criminal, or administrative proceedings as follows:

1. A physician or psychologist who presents identification and a certified true copy of a court order appointing the physician or psychologist to examine a consumer for the purpose of diagnosing the consumer's present condition shall be permitted to review, on the provider's premises, a record containing information concerning the consumer. Physicians or psychologists shall be notified before the review of records when the

- records contain privileged communication which cannot be disclosed in court under section 750(2) of the act.
2. The court or other entity that issues a subpoena shall be informed if subpoenaed or ordered information is privileged under a provision of law. Privileged information shall not be disclosed unless disclosure is permitted because of an express waiver of privilege or because of other conditions which, by law, permit or require disclosure.
 3. A prosecutor may be given non privileged information or privileged information which may be disclosed pursuant to section 750 (3) of the act if it contains information relating to participation in proceedings under the act, including all of the following:
 - a. Names of witnesses to acts which support the criteria for involuntary admission.
 - b. Information relevant to alternatives to admission to a hospital or facility.
 - c. Other information designated in policies of the governing body.

G. Disability Rights Michigan:

Representatives of Disability Rights Michigan will be granted access to the records of all of the following:

1. A consumer, if the consumer or other empowered representative has consented to the access.
2. A consumer, including a consumer who has died or whose whereabouts are unknown, if all of the following apply:
 - a. Because of mental or physical condition, the consumer is unable to consent to the access.
 - b. The consumer does not have a guardian or other legal representative or the consumer's guardian is the state.
 - c. Disability Rights Michigan has received a complaint on behalf of the consumer or has probable cause to believe based on monitoring or other evidence that the consumer has been subject to abuse or neglect.
3. A consumer who has a guardian or other legal representative if all of the following apply:
 - a. A complaint has been received by the protection and advocacy system or there is probable cause to believe the health or safety of the consumer is in serious and immediate jeopardy.
 - b. Upon receipt of the name and address of the consumer's legal representative, Disability Rights Michigan has contacted the representative and offered assistance in resolving the situation.
 - c. The representative has failed or refused to act on behalf of the consumer.

H. Subpoenas:

1. The records, data, and knowledge collected for or by individuals or committees assigned a peer review function including the review function under section 143a (1) of the Mental Health Code are confidential, are used only for the purpose of peer review, are not public records, and are not subject to court subpoena.

2. Staff receiving a subpoena shall immediately inform their supervisor and the Recipient Rights Officer.
3. The originator of the subpoena shall be informed by the responsible worker that the requested information is made privileged by Section 750 (1) (c) of the Mental Health Code (see exceptions below) and may not be disclosed without proper authorization.
4. In consultation with Administration and Recipient Rights, the person (s) receiving the subpoena shall disclose privileged communications upon request:
 - a. When the privileged communication is relevant to a physical or mental condition of the patient which the patient has introduced as an element of his or her claim or defense in a civil or administrative case or proceeding or which, after the death of the patient, has been introduced as an element of his or her claim or defense by a party to a civil or administrative case or proceeding.
 - b. When the privileged communication is relevant to a matter under consideration in a commitment proceeding, but only if the patient was informed that any communications could be used in the proceeding.
 - c. When the privileged communication is relevant to a matter under consideration in a proceeding to determine the legal competence of the patient or his or her need for a guardian, but only if the patient was informed that any communications made could be used in such a proceeding.
 - d. In actions, civil or criminal, against the psychiatrist or psychologist or malpractice.
 - e. When the communications were made during an examination ordered by a court, prior to which the patient was informed that a communication would not be privileged, but only with respect to the particular purpose for which the examination was ordered.
 - f. When the communications were made during treatment which the patient was ordered to undergo to render him or her competent to stand trial on a criminal charge, but only with respect to issues to be determined in proceedings concerned with the competence of the patient to stand trial.
 - g. When other law supersedes the Mental Health Code such as staff's requirements under Public Acts 519, 32, and 372 to report their knowledge of suspected abuse or neglect of adult and minor consumers of service.

I. Billing/ Insurance/ Payment:

New consumers are asked to show proof of income and insurance upon admission to CMHOC and these are documented in the record. They are asked to update that information routinely. Consumers are informed in writing that CMH agrees to “release consumer information which may be required to obtain insurance and other benefits” and they agree to this provision in writing signifying their consent.

Information shall be disclosed as requested by the benefit provider or eligibility determination agent unless the Case Manager and Program Director judge that release of the information might cause harm to the consumer or others. Typically, this information would include information about the service (e.g. the date, provider, time, location, type, length) and information regarding the consumer (e.g. name, identifying case number, date of birth, insurance number/provider).

CMHOC may disclose information that enables a consumer to apply for or receive benefits without consent of the consumer or legally authorized representative only if the benefits shall accrue to the provider or shall be subject to collection for liability for mental health service.

J. Duty To Warn:

The duty to warn takes effect when there is a threat against a clearly identified or reasonably identified victim and serious intent with foreseeable peril is present as assessed by (1) the specificity of the plan - clarity, severity, imminence; (2) capability of the consumer; (3) opportunity and availability of the means; and, (3) the client's history of known violent behavior (if history is available).

If a threat of physical violence against a third person occurs, the Mental Health Code (Section 946) requires one or more of the following occur in a timely manner (1) hospitalize the consumer or initiate proceedings to hospitalize, and/or (2) make a reasonable attempt to communicate the threat to the third person and communicate the threat to the local police or sheriff's departments, or the state police.

The law further states that if the person threatened is a minor or is incompetent by other than age; staff must do all of the following: (1) contact the local police, sheriff, or state police (as above); (2) communicate the threat to the Department of Human Services - Protective Services, in the county where the minor resides; and (3) communicate the threat to the minor's custodial or non-custodial parent, or legal guardian.

Once evidence of a clear threat to specific person (s) is identified, the following will occur:

1. If possible, contact the consumer (by phone or in person) and get more information, and express your duty and intention to warn others. If direct contact is not possible in a short time, proceed with further steps.
2. Notify and consult with your Supervisor; if he/she is unavailable, contact another clinical supervisor. Do not attempt to deal with this crisis alone.
3. If after consultation, the decision is made that the duty to warn is required, the Recipient Rights Officer will be notified and apprised of the situation. At this point, legal counsel may be advised.
4. Evaluate for involuntary (or voluntary) hospitalization and implement this if appropriate as a first choice.
5. If hospitalization does not occur, or the threat to a third person still exists, directly notify the potential victim (s) of the threat of harm. Be as specific as possible about the details of the threat and indicate the appraisal of the degree of dangerousness. Do not otherwise divulge the mental status of the consumer or therapeutic content of the case.

RECIPIENT RIGHTS**10**

6. Notify appropriate police or sheriff authorities, and parents/guardians if applicable.
7. If the consumer is not hospitalized, continue treatment and consider the following:
 - a. psychiatric consultation, reassess medication, diagnosis, mental status.
 - b. psychological testing.
 - c. evaluating relationship with therapist/Case Manager and/or team.
 - d. increasing consumer level of observation and supervision.
 - e. enrolling consumer in more structured programs.
 - f. contracting with consumer to notify therapist before acting.
8. Finally, document everything. This includes specific findings regarding the threat and its elements (see above); who was contacted inside and outside the agency and what was discussed with them; interventions considered, and which ones were implemented, and their outcomes.
9. An Incident Report will be filed every time the duty to warn is discharged.

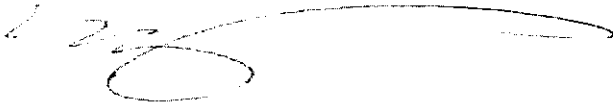
K. Other Disclosures:

1. No identifying information will be disclosed for purposes of outside research or statistical reporting.
2. Record reviews will be permitted for the purposes of evaluation and accreditation from external governing and accreditation bodies.
3. No other inspection or sampling of confidential information will be permitted without proper consent.
4. No copies of confidential information will be provided without proper consent.

VI. ATTACHMENT:

Disclosure of PHI to Law Enforcement

VII. REFERENCE:Michigan Mental Health Code
MDHHS-ORR Attachment B

CHAPTER: 1	SECTION: 13	SUBJECT: RECIPIENT RIGHTS
TITLE: FINGERPRINTING, PHOTOGRAPHS, AUDIOTAPES, OR USE OF ONE-WAY GLASS		
DATE OF ORIGIN: 12/31/1986	REVIEWED DATE: 9/9/99, 3/13/02, 6/20/05, 5/9/08, 6/27/11, 9/20/12, 6/24/13, 3/17/14, 3/23/15, 3/28/16, 3/20/17, 6/25/18, 6/24/19, 06/22/20, 07/26/21, 07/25/22, 07/24/23	
LAST REVISED/EFFECTIVE DATE: 07/26/2021		
ISSUED AND APPROVED BY:  EXECUTIVE DIRECTOR		

- I. **PURPOSE:**
To define procedures by which consumers may be fingerprinted, photographed, videotaped, audio taped, or observed through one-way glass.

- II. **APPLICATION:**
All Community Mental Health of Ottawa County (CMHOC) staff, volunteers/inters, and contract agency staff as specified by contract.

- III. **DEFINITIONS:**
Photography: the art, process, or job of taking pictures with a camera.

Public news media: 1. publications including but not limited to newspapers, magazines, books and other printed materials produced by the public press. 2. communication systems capable of transmitting photographs or sound via air or cable, e.g., television or radio.

Agency-related media: refers to publications produced by business or industrial firms, nonprofit associations, or public agencies.

- IV. **POLICY:**
It is the policy of CMHOC that a consumer will only be photographed, video taped, audio taped, or observed through one-way glass when written consent is obtained from the recipient or parent/guardian.

It is also the policy that no consumer will be fingerprinted as a part of any program or for purpose of identification.

- V. **PROCEDURE:**
 - A. Photographs or audio taping by or on behalf of the public news media or agency-related media, including brochures and annual reports, may be taken only when written consent is obtained from one of the following, using the consent form for taping/photography:
 - 1. A consumer, if eighteen years of age or older and competent to consent.
 - 2. The guardian of the consumer if legally empowered to execute such consent.
 - 3. A parent/legal guardian if the consumer is less than eighteen years of age.

- B. A photograph or audio tape of the consumer shall not be taken or used if the consumer has indicated his/her objections, regardless of whether or not the consumer, parent or guardian has previously given written consent.
- C. For identification purposes, specific written consent must be obtained and the photograph, or audiotape will be kept as part of the consumer's clinical record. If a photograph is delivered to an individual who is not an employee of Community Mental Health of Ottawa County (CMHOC) for the purpose of identifying a consumer, it is required that:
 - 1. The photograph be returned.
 - 2. No duplication of the photograph be made without approval from the Program Supervisor.


No consumer will be fingerprinted as a part of any program or for purpose of identification.

- D. To provide services, including therapy assessments, to the consumer, education, and staff development services or presentation to professional groups outside the agency, expressed written consent must be obtained.
- E. For personal or social purposes, audiovisual reproductions (i.e. photographs, videotapes, etc.) may be made and used unless the consumer or parent/legal guardian indicates his/her objection. Specific written consent or objection is required.
- F. If photographs are required for gathering evidence in an allegation of abuse, consent is not required from the consumer, his/her parent or guardian, but may be taken at the direction of the Executive Director or his designee or the Office of Recipient Rights.
- G. All photographs, audio tapes, and videotapes taken for treatment purposes will become part of the clinical record, and as such are protected by confidentiality regulations. All such materials will be stored in a locked area and annually assessed for continued need.

Fingerprints, photographs, or audiotapes in the record of a recipient, and any copies of them, shall be given to the recipient or immediately destroyed when they are no longer needed/essential to achieve one of the following objectives set forth in subsection (2), or at the time of discharge or when consent is withdrawn, whichever comes first.
- H. Consent may be withdrawn at any time, verbally or in writing.
- I. Periodic review of the current need for audio taping, photographing, fingerprinting, or use of one-way glass will be implemented.
- J. Video surveillance is prohibited.

VI. ATTACHMENT:
None Applicable

VII. REFERENCE:
Michigan Mental Health Code
MDHHS-ORR Attachment B
Merriam-Webster Dictionary

CHAPTER: 1	SECTION: 14	SUBJECT: RECIPIENT RIGHTS
TITLE: TREATMENT BY SPIRITUAL MEANS		
DATE OF ORIGIN: 12/31/1986	REVIEWED DATE: 9/9/99, 2/22/02, 4/24/02, 9/25/02, 6/20/05, 5/9/08, 6/27/11, 9/20/12, 6/24/13, 3/17/14, 3/23/15, 3/28/16, 3/20/17, 6/25/18, 6/24/19, 6/22/20, 7/26/21, 7/25/22, 07/24/23	
LAST REVISED/EFFECTIVE DATE: 07/26/2021		
ISSUED AND APPROVED BY:  EXECUTIVE DIRECTOR		

- I. **PURPOSE:**
To define policy and procedures for consumers to request treatment by spiritual means.
- II. **APPLICATION:**
All Community Mental Health of Ottawa County (CMHOC) providers and contract providers as specified by contract.
- III. **DEFINITIONS:**


Nearest relative includes spouse, parents, adult children and siblings, whether natural or adopted, or in their physical absence, another blood relative deemed to be in close association with a consumer.

Treatment by spiritual means encompasses a spiritual discipline or school of thought upon which a consumer wishes to rely on to aid physical or mental recovery.
- IV. **POLICY:**
It is the policy of CMHOC to assure consumers of mental health services are permitted to access treatment by spiritual means by request, at the request of the consumer, parent of a minor child, or guardian. It is also the policy of CMHOC to refer consumers to their own minister, local church of their choice, or to the interfaith council.
- V. **PROCEDURE:**
 - A. At the consumer's expense, he/she will have access to printed, recorded, or visual material essential or related to the treatment by spiritual means and to a symbolic object of similar significance.
 - B. A consumer will be allowed to practice his/her spiritual beliefs providing:
 - 1. his/her practice is not deemed harmful to his/herself or others.
 - 2. that his/her practice incurs no expense to the program.
 - 3. his/her practice does not interfere with the treatment program or violate the rights of others in the program.
 - 4. that his/her practice does not violate the law or court orders.

- C. CMHOC shall insure the right to treatment by spiritual means by adopting policies and procedures which include all of the following:
1. Recourse to court proceedings when there is refusal of medication or other treatment for a minor.
 2. Notice to the requesting person of a denial of a request and the reasons for denial.
- D. Opportunity for contact with agencies providing treatment by spiritual means shall be provided in the same manner as consumers are permitted to see private physicians and mental health professionals.
- E. The "right to treatment by spiritual means" includes the right of consumers, guardians, or parents of a minor to refuse medication, or other treatment, if:
- on spiritual grounds which predate the current allegations of mental illness or disability,
 - there is no court order empowering the guardian or facility to make those decisions, or
 - when the consumer is not imminently dangerous to self or others
- F. The right to treatment by spiritual means does not include the right:
- a. To use mechanical devices or chemical or organic compounds which are physically harmful.
 - b. To engage in activity prohibited by law.
 - c. To engage in activity which physically harms the consumer or others.
 - d. To engage in activity which is inconsistent with court-ordered custody or voluntary placement by a person other than the consumer.
- G. If a minor's refusal of either medication or treatment poses a danger to either the minor or others, a petition will be made to the probate court to secure a court order for treatment.
- H. If a request for treatment by spiritual means is denied, written notice will be given to the consumer, parent of a minor, or legal guardian, with an explanation for the denial.
- I. A denial of treatment by spiritual means by providers may be appealed to the Office of Recipient Rights at the option of the person requesting treatment.

VI. ATTACHMENT:
None Applicable

VII. REFERENCE:
MDHHS Administrative Rules
Michigan Mental Health Code
MDHHS-ORR Attachment B

CHAPTER: 1	SECTION: 18	SUBJECT: RECIPIENT RIGHTS
TITLE: PERSONAL PROPERTY & FUNDS		
DATE OF ORIGIN: 12/31/1986	REVIEWED DATE: 09/09/99, 03/14/02, 09/25/02, 06/20/05, 06/05/08, 09/26/11, 09/20/12, 09/23/13, 06/23/14, 06/15/15, 06/27/16, 07/24/17, 09/24/18, 09/23/19, 06/22/20, 07/26/21, 07/25/22, 07/24/23	
LAST REVISED/EFFECTIVE DATE: 06/22/2020		
ISSUED AND APPROVED BY:  EXECUTIVE DIRECTOR		

- I. PURPOSE:**
To define procedures to assure consumer's right to receive, possess, and use personal property and funds.
- II. APPLICATION:**
All Community Mental Health of Ottawa County (CMHOC) staff, volunteers, and contract agency staff as specified by contract.
- III. DEFINITIONS:**

Limitation: A time limited restriction placed on a consumer.

Personal Property: Any possessions belonging to a consumer.

Resident Funds: The consumer's money, legal tender, note, draft, certificate of deposit, stock, bond, check, debit card, or credit card.
- IV. POLICY:**
It is the policy of CMHOC to assure the consumer's right to receive, possess, and use all personal property unless limited pursuant to regulations in the Mental Health Code. Any limitations shall be removed when the circumstances justifying its adoption cease to exist.
- V. PROCEDURE:**
 - A. Property**
 1. A consumer may receive, possess, use, and dispose of his/her personal property, including clothing.
 2. Certain properties may be excluded including weapons (i.e., firearms), sharp objects (i.e., knives), explosives, illegal drugs, and alcohol.
 3. All exclusions are officially adopted, in writing, and posted in each program; if applicable. If a consumer is admitted to a residential program, items of personal property which are not subject to an exclusion or limitation shall be permitted to remain with the consumer.
 4. All such property will be inventoried during admission for possible contraband items.

5. A consumer's person, belongings, or living area shall not be searched, unless there is reason to believe there is a hidden illegal item or other item excluded by policy or house rules. If an illegal item, an item excluded by policy or house rules is suspected, the program staff may conduct a search in the presence of the consumer and a witness. Justification for any search shall be documented in the case record and on an Incident Report, stating the following:
 - a. the reason for the search,
 - b. the names of the individuals performing and witnessing the search,
 - c. and the outcome of the search, including a description of the property seized.
6. Limitations on the right to receive, possess, and use personal property which are imposed by the person in charge of a consumer's plan of service shall be preceded by documentation in the progress notes of the circumstances which indicate that a limitation is the minimal essential step to achieve protection of physical well-being or property. The Interdisciplinary team shall discuss the consumer's progress or lack of progress and determine if the limitation still needs to be imposed, unless a waiver is signed by the consumer.
7. An official receipt shall be issued for limited items which are not excluded but which are essential to the consumer's welfare while in the program, and an individual designated by the consumer for any property taken into possession by the program. Each residential program shall establish procedures for the disposition of excluded property in the possession of the consumer at the time of admittance.
8. A reasonable amount of storage area will be provided for personal property and clothing. All personal property may be inspected at reasonable times by the consumer.
9. A consumer's right to possess personal property may be limited, only if the limitation is essential:
 - a. in order to prevent theft, loss, or destruction of the property, unless a waiver is signed by the consumer.
 - b. in order to prevent the consumer from physically harming himself/herself or others.
10. Personal belongings of consumers shall not be used as community property; exceptions require written informed consent and shall be documented in the case record.
11. Any personal property taken into possession by the residence/facility must be given to the consumer at the time the consumer leaves/is discharged from the residence/facility.

B. **Consumer Funds**

1. A consumer shall retain possession of his/her own funds. This includes notes, drafts, deposit receipts, stocks, bonds, checks, credit cards, debit cards, as well as cash.

2. A consumer with an empowered guardian shall retain possession of his/her money or assets unless other direction is given by a parent or empowered guardian. Allowances provided by a parent, or a court appointed guardian, shall be spent at the discretion of the consumer.
3. A consumer shall be provided with a locked storage space for money and other valuables kept in the home.
4. A consumer may be counseled/educated in budgeting his/her money. However, a consumer may not be prevented from spending his/her money as he/she chooses.
5. A consumer shall not be denied access to the spending of his/her money.

C. Assistance with Consumer Funds

CMHOC prefers that consumers hold and be responsible for their own funds and related items. In all cases as needed, counseling/education should occur to assist consumers who need it to learn how to handle their financial items and documents independently of CMHOC intervention.

If a consumer is unable to handle/manage his/her own funds, then a payee will be obtained through the Social Security Administration. CMHOC staff and contractual staff will not assist or manage a consumer's funds. It is the responsibility of the Social Security Administration to appoint a qualified individual as the consumer's payee.

D. Consumer's Appeal Process:


1. A consumer may appeal any limitation imposed on their property or funds and/or the limitations expiration date and shall be so informed by the Case Manager/Supports Coordinator at the time of the limitation.
2. Within 5 days of the request for an appeal, the Team Supervisor shall review the imposed limitation to determine whether it is justified.
3. If the consumer still does not agree with the supervisor's decision, the consumer will be informed that he/she can file a complaint with the Office of Recipient Rights if he/she feels their right to personal property or funds has been violated.

VI. ATTACHMENT:

None Applicable

VII. REFERENCE:

Michigan Mental Health Code/Administrative Rules
MDHHS-ORR Attachment B

CHAPTER: 1	SECTION: 19	SUBJECT: RECIPIENT RIGHTS
TITLE: RESIDENT LABOR		
DATE OF ORIGIN: 12/31/1986	REVIEWED DATE: 09/13/99, 03/15/02, 06/20/05, 05/09/08, 09/26/11, 09/20/12, 09/23/13, 06/23/14, 06/15/15, 06/27/16, 07/24/17, 09/24/18, 09/23/19, 06/22/20, 07/26/21, 07/25/22, 07/24/23	
LAST REVISED/EFFECTIVE DATE: 06/22/2020		
ISSUED AND APPROVED BY:  EXECUTIVE DIRECTOR		

I. PURPOSE:

To define procedures to protect consumers' right to compensation when performing labor.

II. APPLICATION:

All Community Mental Health of Ottawa County (CMHOC) staff, volunteers, and contract agency staff as specified by contract.

III. DEFINITIONS:

None Applicable

IV. POLICY:

It is the policy of CMHOC to protect a consumer's right to compensation when performing labor which results in an economic benefit to another person, CMHOC program, or other agency.

V. PROCEDURE:

- A. A consumer may perform labor which contributes to the operation and maintenance of the program/home/apartment/facility, for which the organization would otherwise employ someone, only if:
 - 1. the consumer voluntarily agrees to perform the labor,
 - 2. engaging in the labor would not be inconsistent with the IPOS of the consumer,
 - 3. the amount of time or effort necessary to perform the labor would not be excessive, and
 - 4. in no event shall discharge of privileges be conditioned upon the performance of labor.
- B. The consumer who performs labor that contributes to the operation and maintenance of the program/home/apartment/facility for which the facility would otherwise employ someone shall be compensated appropriately and be in accordance with applicable federal and state labor laws, including minimum wage and minimum wage reduction provisions.
- C. A consumer who voluntarily performs labor other than described above will be compensated in the appropriate amount if an economic benefit to another person or agency results from his/her labor.


- D. Chores of a personal housekeeping nature or helping with daily household tasks, as permitted under licensing rules, are not covered by the above and are not eligible for payment.
- E. Labor shall not interfere with other ongoing treatment or habilitation programs suitable for the consumer.
- F. One-half of any compensation paid to a consumer for labor performed shall be exempt from collection for payment of mental health services provided.

VI. ATTACHMENT:

None Applicable

VII. REFERENCE:

Michigan Mental Health Code
Administrative Rules
MDHHS-ORR Attachment B

CHAPTER: 1	SECTION: 23	SUBJECT: RECIPIENT RIGHTS
TITLE: DIGNITY AND RESPECT		
DATE OF ORIGIN: 12/31/1986	REVIEWED DATE: 9/13/99, 3/15/02, 6/20/05, 5/28/08, 2/21/11, 3/26/12, 3/25/13, 3/17/14, 3/23/15, 3/28/16, 3/20/17, 6/25/18, 6/24/19, 6/22/20, 7/26/21, 7/25/22 07/24/23	
LAST REVISED/EFFECTIVE DATE: 07/26/2021		
ISSUED AND APPROVED BY:  EXECUTIVE DIRECTOR		

I. PURPOSE:

To assure all consumers, parents, guardians, and family members are treated with dignity and respect.

II. APPLICATION:

All Community Mental Health of Ottawa County (CMHOC) staff and contract agency staff as specified by contract.

III. DEFINITIONS:

Dignity – to be treated with esteem, honor, politeness; to be addressed in a manner that is not patronizing, condescending or demeaning; to be treated as an equal; to be treated the way any individual would like to be treated.

Family Member (Michigan Mental Health Code, Chapter 1) – means a parent, stepparent, spouse, sibling, child, or grandparent of a primary consumer, or an individual upon whom a primary consumer is dependent for at least 50% of his or her financial support.

Respect – to show deferential regard for; to be treated with esteem, concern, consideration or appreciation; to protect the individual’s privacy; to be sensitive to cultural differences; to allow an individual to make choices.

IV. POLICY:

It is the policy of CMHOC to protect and promote the dignity and respect to which all recipients of services, parents, guardians, and family members are entitled to.

V. PROCEDURE:

A. CMHOC services will be designed to protect and promote the dignity and respect to which all consumers are entitled to.

Examples of treating a person with dignity and respect include but are not limited to calling a person by his or her preferred name, knocking on a closed door before entering, using positive language, encouraging the person to make choices instead of making assumptions about what he or she wants, taking the person’s opinion

seriously, including the person in conversations, allowing the person to do things independently or to try new things.


- B. Family members and parents/guardians will be treated with dignity and respect.
- C. Family members will be given an opportunity to provide information to the treating professionals.
- D. Family members are provided an opportunity to request and receive general educational information about the nature of disorders, medications, and their side effects, available support services, advocacy and support groups, financial assistance and coping strategies.
- E. Information shall be received from or provided to family members within the confidentiality constraints of Section 748 of the Mental Health Code.

VI. ATTACHMENT:

None Applicable

VII. REFERENCE:

Michigan Mental Health Code, Chapter 1
Michigan Mental Health Code, Chapter 7
MDHHS-ORR Attachment B

CHAPTER: 1	SECTION: 27	SUBJECT: RECIPIENT RIGHTS
TITLE: ACCOMMODATIONS		
DATE OF ORIGIN: 01/22/2002	REVIEWED DATE: 2/1/02, 6/20/05, 5/29/08, 2/21/11, 12/17/12, 12/16/13, 12/15/14, 12/21/15, 12/19/16, 10/16/17, 12/17/18, 12/16/19, 12/21/20, 3/28/22, 7/24/23	
LAST REVISED/EFFECTIVE DATE: 12/16/2019		
ISSUED AND APPROVED BY:  EXECUTIVE DIRECTOR		

I. PURPOSE:

To establish policy and procedure to assure accommodations in the areas of limited English proficiency, diverse ethnic and cultural backgrounds, communication impairments, visual impairments, and mobility challenges.

II. APPLICATION:

All provider staff and service locations directly operated or under contract.

III. DEFINITIONS:

Cultural Competency: An acceptance and respect for difference, a continuing self-assessment regarding culture, a regard for and attention to the dynamics of difference, engagement in ongoing development of cultural knowledge, and resources and flexibility within service models to work toward better meeting the needs of minority populations.

Limited-English Proficiency: Persons who cannot speak, write, read, or understand the English language in a manner that permits them to interact effectively with health care providers and social service agencies.

IV. POLICY:

It is the policy of Community Mental Health of Ottawa County (CMHOC) to accommodate access and assure a consumer's full participation in services being offered. These services will be provided in a manner that recognizes and takes into consideration the consumer's ethnicity, cultural differences, language proficiency, communication, visual and physical limitations. Staff at all levels of the organization will be culturally competent and sensitive to diversity and able to recognize the need for accommodation and how to accomplish such.

V. PROCEDURE:

A. The initial contact and assessment to determine eligibility for services will assess the need for accommodations in any of the following areas:

- Limited English Proficiency
- Ethnic/Cultural Background
- Communication Impairments
- Visual Impairments
- Mobility Impairments

The assessment and need for the accommodation will be noted in the clinical record. CMHOC will ensure consumers have the right to receive information material and instructional materials relating to them in a manner and format that may be easily understood. All services will be provided in the language best understood by the consumer through bilingual staff and the use of qualified interpreters. Consumers will be notified that oral interpretation is available for all languages.

It is the responsibility of CMHOC to provide the appropriate accommodation (i.e. oral interpretation services) at no cost/free of charge to consumers and potential consumers for all non-English languages.

- B. Consumers will be offered a choice in their preferred method of translation: face to face, phone, family member or friend. The preference of the consumer must be documented in the record.
- C. CMHOC will notify consumers that written information is available in prevalent languages. Written material will be available in alternatives formats (i.e. DVD) and consumers will be informed of this option and how to access the necessary information.
- D. Accommodations in all of the named areas will be coordinated by Access. Accommodations will be tracked on an annual basis to determine frequency and need for the accommodation.
- E. Service animals will be welcomed in all service locations.
- F. All staff will receive initial training in accommodations and cultural competency during the Orientation process and with planned annual educational activities. Ongoing information on accommodations will be published in the staff newsletter and provided to consumers via the consumer newsletter.

VI. ATTACHMENT:
None Applicable

VII. REFERENCE:
Title VI of the Civil Rights Act of 1964
Americans with Disabilities Act of 1990
Rehabilitation Act of 1973