

PATHWAYS CMH

POLICY TITLE: Recipient Rights System	CATEGORY: Recipient Rights	
EFFECTIVE DATE: July 6, 2005	BOARD APPROVAL DATE: August 5, 2020	
REVIEWED DATE: June 6, 2020	REVISION(S) TO POLICY STATEMENT: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	OTHER REVISION(S): <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
RESPONSIBLE PARTY: Recipient Rights Supervisor or Designee	CEO APPROVAL: Mary J. Swift, CEO	

APPLIES TO:

Employees, volunteers and contractual providers of Pathways CMH

POLICY:

It is the policy of the Pathways Board:

- A. To protect and promote the rights of recipients in accordance with P.A. 258 of 1974, as amended (the Mental Health Code);
- B. That an Office of Recipient Rights shall be established which is subordinate only to the Chief Executive Officer, which is protected from pressures that could interfere with the impartial, even-handed and thorough performance of its duties, and whose staff have the education, training, and experience to fulfill the responsibilities of the Office;

The following standards shall be adhered to:

- A. The Chief Executive Officer (CEO) shall ensure that:
 - 1. The Recipient Rights Supervisor (Supervisor) and Recipient Rights Coordinator (Coordinator) do not have direct service responsibilities and that any duties in addition to recipient rights are not in conflict with the basic purpose of the Office of Recipient Rights (Office);
 - 2. The process for funding the Office of Recipient Rights includes a review of the funding by the Recipient Rights Advisory Committee;
 - 3. The Office will have unimpeded access to all of the following:
 - a. All programs and services operated by or under contract with the agency;
 - b. All staff employed by or under contract with the agency;
 - c. All evidence necessary to conduct a thorough investigation or to fulfill its monitoring function;
 - 4. Employees and recipients have unimpeded access to the Office;
 - 5. Each contract between the agency and a provider requires all of the following:
 - a. That the provider and all individuals employed by the provider receive recipient rights training before or within 30 days after being employed;
 - b. That recipients will be protected from rights violations while they are receiving services under the contract;
 - 6. Staff of the Office, and any staff acting on behalf of a recipient will be protected from harassment or retaliation resulting from recipient rights activities in accordance with agency policies and procedures, and that appropriate disciplinary action will be taken if there is evidence of harassment or retaliation;

7. Education and training in recipient rights policies and procedures are provided to its Recipient Rights Advisory Committee and its Recipient Rights Complaint Appeals Committee;
 8. Staff of the Office receive training each year in recipient rights protection;
 9. Rights officers, advisors and alternates attend and successfully complete MDHHS-ORR Basic Skills Training Programs within 3 months of hire;
 10. Staff of the Office have access to the agency's personnel grievance process in the event of disciplinary action or discharge;
 11. Appropriate remedial action is taken to resolve violations of rights;
 12. Notice is provided to complainants of substantiated violations in a manner that does not violate employee rights.
- B. The Office of Recipient Rights shall ensure that:
1. Recipients, parents of minor recipients, and guardians or other legal representatives have access to summaries of the rights guaranteed by Chapters 7 and 7a of the Mental Health Code and are notified of those rights in an understandable manner, both at the time services are requested and/or initiated, and annually during the time services are provided to the recipient;
 2. A complete copy of Chapters 7 and 7a of the Mental Health Code is readily available for review by applicants and recipients;
 3. The telephone number and address of the Office and the names of rights staff are conspicuously posted in all service sites;
 4. All individuals employed by the agency, or a contract agency, receive training related to recipient rights protection before or within 30 days after being employed which shall include receiving an accurate written summary of rights.
 5. Each service site:
 - a. Is visited with the frequency necessary for protection of rights but in no case less than once each year (not to exceed 395 days from the previous visit). When a Pathways recipient is placed at a service site that is currently not in the site review cycle, ORR will visit the site, or assure that a visit is conducted, within 10 business days in order to assure adequate rights protection is available. Prior to the recipient's admission, the Pathways Contract Manager will notify ORR of the upcoming placement;
 - b. Has an adequate supply of all of the following:
 - 1) Recipient rights booklets;
 - 2) Complaint forms;
 - 3) Incident Report forms;
 - 4) MDHHS-ORR Summary of Abuse and Neglect Reporting Requirements chart;
 - 5) Summary of the Whistleblowers' Protection Act;
 - 6) Poster with the name, address, and telephone number of rights staff.
- C. The Recipient Rights Supervisor shall possess the education, training, and experience necessary to fulfill the responsibilities of the position as documented in the position description on file in the Personnel office.
- D. The Recipient Rights Coordinator shall possess the education, training, and experience necessary to fulfill the responsibilities of the position as documented in the position description on file in the Personnel office.

PURPOSE:

To protect the rights of recipients

DEFINITIONS:

- A. Complaint

A written or oral statement filed by a recipient, or another individual on behalf of a recipient, with the Office of Recipient Rights, alleging a violation of the Mental Health Code or Administrative Rules, and which contains the following information:

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.

REFERENCES:

- A. Act 258 of the Public Acts of 1974, as amended (Mental Health Code) Sections 100a, 100b, 100c, 722, 755, 772, 776. MDHHS/CMHSP Managed Health Supports and Services Contract, FY16 6.3.2 and Attachment C 6.3.2.3.A

HISTORY:

Dates Reviewed: May 2008; May 2011; May 2013; July 11, 2014; May 5, 2015; March 10, 2016; March 3, 2017; March 26, 2018; June 6, 2020

Dates Revised: July 11, 2013; May 5, 2015; March 10, 2016; June 6, 2020

Dates Approved: July 6, 2005; April 6, 2016; August 5, 2020; August 5, 2020

PROCEDURES:

A. General Responsibilities

The Office shall:

1. Provide or coordinate the protection of recipient rights for all directly operated or contracted services;
2. Participate in the development of policies and procedures pertinent to the rights of recipients;
3. Review the recipient rights policies and the rights system of each provider of mental health services under contract with the agency to determine that the rights protection system of each provider is in compliance with the Mental Health Code and is of a uniformly high standard;
4. Assure that the Rights Officer, Advisor and alternate attend and successfully complete ORR Basic Skills Training Programs within 3 months of hire.
5. Assure that staff of the rights office comply with the continuing education requirements specified in the MDHHS contract (Attachment C6.3.2.3A). This includes obtaining a minimum of 36 contact hours of education or training over a three (3) year period subsequent to the completion of the Basic Skills requirements, and in every three (3) year period thereafter. A minimum of 12 contact hours must be obtained in programs classified as either Category I (Operations) or Category II (Legal Foundation). No more than 12 credits in a 3 year period may be earned through the use of online learning resources. At least 3 credits must be earned each calendar year.
6. Serve as consultant to the CEO, staff, and recipients of the agency in matters related to recipient rights;
7. Semiannually provide summary complaint data consistent with the annual report required in Section 755 of the Mental Health Code, together with a summary of remedial action taken on substantiated complaints by category, to the Department of Community Health and to the agency's Recipient Rights Advisory Committee;
8. Attend meetings when rights related matters are to be discussed, i.e. Behavior Management Committee, Quality Improvement Committees and Ad Hoc Committees, Supervisors, Board, and individual case meetings and provide rights complaint data for use in agency decision making process;
9. Follow the agency's procedure for local appeals, administrative hearings, and dispute resolution for applicants and Medicaid/non-Medicaid recipients.

B. Staffing

The CEO shall:

1. Select a director of the Office, known as the Recipient Rights Supervisor, who has the education, training, and experience to fulfill the responsibilities of the Office;
2. Consult with the Recipient Rights Advisory Committee prior to selecting, replacing, or dismissing the Recipient Rights Supervisor and Recipient Rights Coordinator and prior to any substantial changes to the rights system.
3. If Rights staff are unavailable, the agency's crisis support staff shall take appropriate measures to ensure the health and safety of consumers and shall notify the Rights Office of any allegations received.

C. Funding

The CEO shall consult with the Recipient Rights Advisory Committee prior to any alterations to levels of funding for the Office.

D. Investigation

The Office shall:

1. Maintain a record system for all reports of apparent or suspected rights violations received by the Office, including a mechanism for logging all complaints and a mechanism for secure storage of all investigative documents and evidence;
2. Investigate all reports of apparent or suspected violations of rights within the agency in accordance with Section 778 of the Mental Health Code and record those that do not warrant investigation;
3. Respond to complaints concerning Section 504 of the Rehabilitation Act of 1973;
4. For grievances related to the Americans with Disabilities Act of 1990, refer the individual to the agency's ADA compliance officer.

E. Annual Report

1. The CEO shall submit to the agency's Recipient Rights Advisory Committee the Board, and the Department of Community Health an annual report prepared by the Office on the current status of recipient rights in the agency and a review of the operations of the Office. The report shall be submitted not later than December 30 of each year for the preceding fiscal year or period specified in the contract with the Department.
2. The Recipient Rights Advisory Committee shall review and provide comments on the report.
3. The annual report shall include, at a minimum, all of the following:
 - a. Summary data by category regarding the rights of recipients receiving services from the agency including complaints received, the number of reports filed, and the number of reports investigated by the Office;
 - b. The number of substantiated rights violations by category and provider;
 - c. The remedial actions taken on substantiated rights violations by category and provider;
 - d. Training received by staff of the Office;
 - e. Training provided by the Office to employees and contract providers;
 - f. Desired outcomes established for the Office and progress toward these outcomes;
 - g. Recommendations to the Board.

F. Recipient Rights Advisory Committee

1. The Board shall appoint a Recipient Rights Advisory Committee as a subcommittee of the Board. The membership of the Rights Advisory Committee shall be broadly based so as to best represent the varied perspectives of the agency's geographic area. At least 1/3 of the membership shall be primary consumers or family members, and of that 1/3, at least 1/2 shall be primary consumers.
2. The Recipient Rights Advisory Committee shall:
 - a. Meet at least quarterly or as necessary to carry out its responsibilities;
 - b. Maintain a current list of members' names to be made available to individuals upon request;
 - c. Maintain a current list of categories represented to be made available to individuals upon request. The identity of specific consumers may not be disclosed without informed consent for such disclosure;
 - d. Protect the Office from pressures that could interfere with the impartial, even-handed, and thorough performance of its functions;
 - e. Recommend candidates for Recipient Rights Coordinator to the CEO, and consult with the CEO regarding any proposed dismissal or replacement of the Coordinator and prior to any substantial changes to the rights system;
 - f. Serve in an advisory capacity to the CEO and the Coordinator;
 - g. Inform the Board of the Committee's position when there is disagreement between the Committee and the CEO;
 - h. Review the semiannual summary of complaint data prepared by the Office;

- i. Review and provide comments on the annual report submitted by the CEO to the Board under Section 755 of the Mental Health Code;
 - j. Serve as the Board's designated Recipient Rights Complaint Appeals Committee.
3. Meetings of the Recipient Rights Advisory Committee are subject to the open meetings act, Act No. 267 of the Public Acts of 1976. Minutes shall be maintained and made available to individuals upon request.