



HURON BEHAVIORAL HEALTH
PROCEDURE

Procedure #: RR.2.02
Issue Date: 05/23/00
Rev. Date: 10/31/17
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Title: Recipient Rights – Appealing Recipient Rights Investigative Findings Procedure

Prepared By: Recipient Rights Officer

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Purpose:

To define the procedure and process for a recipient rights appeal.

Scope:

This procedure applies to all employees (including full-time employees, part-time employees, contractual providers, volunteers, students, and/or interns, of Huron Behavioral Health (HBH) programs, both direct and contracted.

Information:

- Chapter 7A of the Michigan Mental Health Code, PA 258 of 1974 as amended, establishes the right of public mental health service recipients or someone on their behalf to file complaints alleging a violation of rights guaranteed by Chapter 7 of the Code. Chapter 7A also assures that an appeal can be taken regarding the findings, remedial action, or timeliness of the complaint investigation. This process assures all recipients and those acting on their behalf receive due process including its essential elements of notice and an opportunity to be heard by a fair and impartial decision-making entity.
- A consumer, or another individual on behalf of a consumer, who feels that their rights are being violated in any HBH program or contract program, may file a Recipient Rights Complaint with the Recipient Rights Officer at HBH.
- Every individual served is provided with a copy of the booklets entitled “Your Rights” and posters at each service site give information and contact information for how to access Recipient Rights staff.

Procedure:

I. Appeals Committee:

1. Huron Behavioral Health has designated the Recipient Rights Advisory Committee to serve also as the Appeals Committee.
2. Employees of Huron Behavioral Health cannot be members of the Appeals Committee. Any employee serving on the Recipient Rights Advisory Committee, with the exception of the Recipient Rights Officer, will be excused from any session addressing an appeal of a complaint investigation. A member of the 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. The Recipient Rights Officer will assist with facilitating the meetings, but will abstain from any decision-making regarding the appeal.
3. The office of recipient rights with at HBH will assure that training is provided to the Appeals Committee, as required by Section 755(2)(a) of the Code. Topics will include the following:
 - Categories of rights violations
 - The complaint investigation process
 - Types and weighing of evidence
 - Explanation of the preponderance of the evidence standard used by the rights office in determining whether a rights violation has occurred
 - Statutory definition of “appropriate remedial action”
 - Agency disciplinary guidelines
 - Agency policy/procedures on the appeal process and functions of the Appeals Committee

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II. Filing an Appeal:

A. Who can appeal:

1. The Complainant (person filing the complaint), the consumer (if different from the complainant), a parent of a minor child (if they have legal custody), or a guardian can appeal.

B. Grounds for filing an appeal:

1. The following conditions are grounds for appeal:
 - The investigative findings of the (recipient rights) office are not consistent with the facts, or with the law, rules, policies, or guidelines.
 - The action taken or plan of action proposed by the respondent does not provide an adequate remedy.
 - An investigation was not initiated or completed on a timely basis.
2. The Office of Recipient Rights shall advise the appellant that there are advocacy organizations available to assist the complainant in preparing the written appeal and shall offer to refer the complainant to those organizations. In the absence of assistance from an advocacy organization, the office shall assist the complainant in meeting procedural requirements of a written appeal. The office shall inform the consumer or other individual of the option of mediation under Section 784.

C. When to file an appeal:

1. In the Summary Report (which follows a recipient rights investigation) from the Executive Director, the complainant, consumer, if different, guardian or parent of a minor will be informed that they may file an appeal no later than forty-five (45) calendar days after receipt of the summary report. The appeal can be filed with the Appeals Committee with jurisdiction over the Office of Recipient Rights that issued the summary report. If the Summary report contains a plan of action to be completed in the future, the Executive Director shall assure that the complainant, recipient if different than the complainant, his/her legal guardian, if any, and the office are provided written notice of the completion of the plan. The notice shall include specific information as to the action that was taken and the date that it occurred, if it is different than that proposed. The complainant, recipient if different than the complainant and his/her legal guardian, if any, shall be afforded forty-five (45) calendar days from the date of the mailing of the notice to appeal the Appeals Committee on the grounds of inadequate action taken to remedy a rights violations. The decision will include a statement notifying the appellant of their right to appeal to MDHHS and the time frame.

D. The Appeals Process:

1. Appeals are filed with the HBH Appeals Committee.
2. Within five (5) business days of receipt of the appeal, members of the Appeals Committee shall review the appeal to determine if the appellant has standing to appeal and if it meets the criteria stated in II.B above. *(Note: This review may be conducted by the full Committee or by of at least two [2] committee members designated by the full Committee to fulfill this responsibility.)* The Committee shall maintain a log of all appeals received and the disposition of each.
3. Within seven (7) business days of receipt of the appeal, written notice that the appeal has been accepted, or rejected, shall be provided to the appellant and a copy of the appeal shall be provided to the respondent, the Responsible Mental Health Agency (RMHA), and the Recipient Rights Office. The appellant shall also be informed within the same time frame if the appeal has not been accepted (in other words denied) as it did not meet the criteria set forth in II.B above.
4. No later than thirty (30) calendar days after receipt of a written appeal, the HBH Appeals Committee shall meet in closed session to review the facts as stated in all complaint investigation documents in light of the reason for appeal. The committee shall not consider allegations that were not part of the original complaint,

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but shall inform the appellant of his/her right to file a complaint with the office of recipient rights. Upon completion of the review, the Appeals Committee will do one of the following:

- Uphold the investigative findings of the office and the action taken or plan of action proposed by the respondent; OR
- If the appeal concerns the investigative findings of the office, either:
 - a. Return the investigation to the office and direct that it be reopened or reinvestigated, or
 - b. Recommend that the board (CMHSP) or governing body request an external investigation by the state Office of Recipient Rights.
- If the appeal concerns the action taken, directs that the respondent take additional, or different, action to remedy the violation. The Appeals Committee shall base its determination upon any or all of the following:
 - a. Action taken or proposed did not correct or remedy the rights violation
 - b. Action taken or proposed was/will not be taken in a timely manner
 - c. Action taken or proposed did not/will not prevent a future recurrence of the violation

Written notice of this direction for additional or different action to be taken by the respondent shall also be provided to the RMHA, if different than the respondent and the office.

- If the appeal concerns the timeliness of the investigation and the Committee confirms that the investigation was not initiated or completed in a timely manner, recommend that the MDHHS-ORR director, executive director of the CMHSP (or LPH/U) address the root cause of the lack of timeliness.
5. The Appeals Committee shall document its decision in writing and shall provide copies within ten (10) days after reaching its decision to all involved parties (i.e.: respondent, appellant, consumer if different than appellant, consumer's guardian if one has been appointed, HBH, and the Recipient Rights Office). Documentation shall include justification for the decision made by the committee.
 6. If the Appeals Committee directs that the office reopen or reinvestigate the complaint, the office shall submit another investigative report in compliance with section 778(5) within forty-five (45) calendar days of receipt of the written decision of the Executive Director. The forty-five (45) calendar day time frame may be extended at the discretion of the Appeals Committee upon a showing of good cause by the office. At no time shall the time frame exceed ninety (90) days.
 7. Within ten (10) business days of receipt of the reinvestigate report, the Executive Director shall issue another Summary Report in compliance with section 782. The Summary Report shall be submitted to the appellant, recipient if different than the appellant, the recipient's legal guardian, if any, the office and the Appeals Committee.
 8. If the findings of the office remain unsubstantiated upon re-investigation, the appellant may file a further appeal to the MDHHS-APPEALS - Level 2 Appeal (see section III) if the appellant continues to assert that the investigative findings of the office are not consistent with the facts or with law, rules, policies or guidelines. The Summary Report shall contain information regarding the appellant's right to further appeal, the time frame for the appeal and the ground for appeal. The report shall also inform the appellant of advocacy organizations that may assist in filing the written appeal or offer the assistance of the office in the absence from an advocacy organization.
 9. If the investigative findings result in the substantiation of a previously unsubstantiated rights violation but the appellant disagrees with the adequacy of the action or plan of action proposed by the respondent, the appellant may file an appeal on such grounds to the Appeals Committee. The Summary Report shall inform the appellant of this right as well as further information as stated above.
 10. If the Appeals Committee upholds the findings of the office and directs that the respondent take additional or different action, that direction shall be based on the fact that appropriate remedial action has not been taken in compliance with section 780 of the Code.
 11. The Appeals Committee shall base its determination upon any or all of the following:

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- a. Action taken or proposed did not correct or remedy the rights violation.
 - b. Action taken or proposed was/will not be taken in a timely manner.
 - c. Action taken or proposed did not/will not prevent a future recurrence of the violation
12. Written notice of this direction for additional or different action to be taken by the respondent shall also be provided to the RMHA if different than the respondent and the office.
 13. Within thirty (30) calendar days of receipt of the determination from the Appeals Committee, respondent shall provide written notice to the Appeals Committee that the action has been taken or justification as to why it was not taken. The written notice shall also be sent to the appellant, recipient if different than appellant, the recipient's legal guardian, if any, the RMHA if different than the respondent, and the office.
 14. If the action taken by the respondent is determined by the Appeals Committee and/or the appellant still to be inadequate to remedy the violation, the appellant shall be informed by the Appeals Committee of his/her right to file a recipient rights complaint against the RMHA (i.e. Executive Director) for violation of section 754(3)(c) or 755(3)(b) of the Code.
 15. If the Appeals Committee recommends that the board or governing body of the RMHA (i.e. CMHSP), request an external investigation by MDHHS Office of Recipient Rights, the Board of Directors may make the request to MDHHS-ORR, in writing, within five (5) business days of receipt of the request from the Appeals Committee.
 16. Within ten (10) business days of receipt of the investigative report from MDHHSORR, the Executive Director shall issue a Summary Report in compliance with section 782. The Summary Report shall be submitted to the appellant, recipient if different than the appellant, the recipient's legal guardian, if any, the office and the Appeals Committee.
 17. The complainant, recipient if different than the complainant, and the recipient's legal guardian, if any, shall be informed in the Summary Report issued by the Executive Director of the right to appeal to the MDHHS Appeals Committee. Notice shall include information on the grounds for appeal as stated in section 784(2), the time frame for submission of the appeal, advocacy organizations that may assist with filing the written appeal, and an offer of assistance by the office of recipient rights in the absence of assistance from an advocacy organization.
 18. Not later than forty-five (45) calendar days after receipt of the Summary Report, the appellant may file a written appeal with the MDHHS Appeals Committee.
 19. If the Summary report contains a plan of action, the report must include a date the action is to be completed. The MDHHS facility director, CMHSP executive director (or director of the LPH/U) shall assure that the complainant, recipient (if different than the complainant), the recipient's legal guardian (if any), and the office are provided written notice that the action described in the plan has been completed. If the action taken differs from the original plan, a description of that action shall be provided. The complainant, recipient if different than the complainant and his/her legal guardian, if any, shall be afforded 45 calendar days after receipt of the notice to appeal the appropriate Appeals Committee on the grounds of inadequate action taken to remedy a rights violations.

III. MDHHS Level 2 Appeals:

1. An appeal to MDHHS Appeals may be taken only upon the ground that the investigative finding of the office were inconsistent with the facts or with law, rules, policies or guidelines; and only after a decision on an appeal has been made by the appropriate Appeals Committee to uphold the findings of an investigation, or, upon reinvestigation, the findings of the office remain unsubstantiated.
2. Within forty-five (45) calendar days after receiving written notice of the decision of the Appeals Committee or the Summary Report, the appellant may file a written appeal to:

MDHHS-APPEALS Level 2 Appeal
Lewis Cass Building 1st floor

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P.O. Box 30807
Lansing, MI 48909
FAX: (517) 241-7973

Definitions/Acronyms:

Acronyms:

CMHSP – Community Mental Health Services Program
HBH – Huron Behavioral Health
MDHHS – Michigan Department of Health and Human Services
RMHA – Responsible Mental Health Agency

Definitions:

Appeals Committee – refers to a committee appointed by the community mental health services program (CMHSP) to hear appeals brought by or on behalf of a recipient of that CMHSP to hear appeals against the LPH/U under section 774(4)(b) of the Code.

Appellant – refers to the complainant or, if different than the complainant, the recipient or his/her legal guardian, if any, who seeks review by an appeals committee or the MDHHS pursuant to sections 784 and 786 of the Code.

Complainant – refers to the individual who files a recipient rights complaint.

Legal Guardian – refers to a judicially appointed guardian or parent with legal custody of a minor recipient.

Office: Any of the following:

1. With respect to a rights complaint involving services provided directly by the MDHHS, the state Office of Recipient Rights created under section 754 of the Code.
2. With respect to a rights complaint involving services provided directly or under contract to a community mental health services program, the office of recipient rights created by the community mental health services program under section 755 of the Code.
3. With respect to a rights complaint involving services provided directly or under contract to a licensed private psychiatric hospital/unit, the office of recipient rights created by the licensed hospital under section 755 of the Code.

Respondent – refers to 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.

Responsible Mental Health Agency (RMHA) – refers to a MDHHS hospital or center; a community mental health services program; a licensed private psychiatric hospital or unit.

Forms:

N/A

Records:

Records of appeals are retained permanently by the HBH Recipient Rights Officer.

Reference(s) and/or Legal Authority

Michigan Mental Health Code, 330.1774, 330.1784 through 330.1788

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Change History:

Change Letter	Date of Change(s)	Changes
A	04/30/03	Documentation brought into the new procedure format and numbered for tracking, minimal changes made to content and added the Appellant explanation, reworded some sections for clearer understanding.
B	08/05/03	Added "of a minor if they have legal custody" under "Who can appeal" section of procedure, removed a duplicate sentence under "Grounds for Appeal" section, removed the section titled, "The Department of Community Health (DCH) to comply with DCH Recipient Rights POC.
C	03/01/06	5 th bullet under "D" – replaced "the responsible mental health agency" with "HBH", re-formatted procedure, changed "recipient rights committee" to "recipient rights advisory committee" throughout document, added "to all involved parties" (E.2
D	06/28/06	Changed "Purpose" statement, removed second paragraph in "Information – Policy" section to comply to Recipient Rights Audit findings.
E	04/25/11	Reviewed by HBH Recipient Rights Advisory Committee on 04/18/11 with NO content changes.
F	01/23/12	Reviewed by HBH Recipient Rights Advisory Committee on 01/23/12 with No content changes
G	05/15/13	Reviewed by the HBH Recipient Rights Advisory Committee w/ no content changes.
H	01/13/15	Reviewed by the HBH Recipient Rights Advisory Committee w/ no content changes.
I	04/12/16	Reviewed and revised to comply with MDHHS FY16 midyear contract amendments – Total rewrite of procedure, see Controlled Documentation Manager for previous versions and/or revisions.
J	10/31/17	Revised to comply with MDHHS contract attachment (C6.3.2.4) changes – in D.2 changed from "This review may be conducted by the full committee or by an individual member or subcommittee designated by the full committee." to "This review may be conducted by the full Committee or by an individual member of at least two [2] committee members designated by the full Committee to fulfill this responsibility", reworded D.4 to match contract attachment language.