



HURON BEHAVIORAL HEALTH PROCEDURE

Procedure #: RR.2.02

Issue Date: 05/23/00

Rev. Date: 06/19/23

Page: 1 of 8

Title: Recipient Rights – Complaint and Appeal Process for 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 and part-time employees), contract providers, volunteers, students, and/or interns, of Huron Behavioral Health (HBH) programs and all consumers served.

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 the 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 contracted program, may file a Recipient Rights Complaint with the Recipient Rights Officer at HBH.
- Initially and annually, every individual served is provided a copy of the booklet from the Michigan Department of Health and Human Services (MDHHS) entitled "Your Rights" and posters located at each service site give information and contact information for how to access the HBH Recipient Rights Officer. The "Your Rights" booklet delineates a summary of the individual's rights when receiving behavioral healthcare from a Community Mental Health Services Program (CMHSP), including their right to a grievance and appeal process. During the intake process, HBH staff will also explain the grievance and appeal process to the individual whenever necessary in a manner that is understandable and will document the activity on the checklist (see also "[Limited English Proficiency/LEP Procedure RR.2.46](#)").

Procedure:

I. Complaint Investigation and Resolution:

1. The HBH Recipient Rights Officer will assure that consumers, parents of minors, guardians, and others have ready access to the "Recipient Rights Complaint Form" (DCH-0030). The Recipient Rights Officer will assure that all complaints received utilize this form and if not submitted utilizing this form will provide assistance in completing the required MDHHS form.
2. Recipient rights complaints filed by the recipient, or anyone on their behalf, are provided to the Recipient Rights Office in a timely manner.
3. The HBH Recipient Rights Officer ensures that each recipient rights complaint is recorded upon receipt.
4. Acknowledgement of the recording of the complaint is sent along with a copy of the complaint to complainant within five (5) business days.
5. The complainant will be notified within five (5) business days after receiving the complaint if it is determined that no investigation of the complaint is warranted.
6. Assistance will be given to the consumer/other individual with the complaint process, as necessary.
7. The consumer (or other individual) will be advised that there are advocacy organizations available to assist in preparation of a written rights complaint and assist with the referral if requested.

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8. In the absence of assistance from an advocacy organization, the Recipient Rights Officer will assist in preparing a written complaint, which contains a statement of the allegation, the right allegedly violated, and the outcome desired by the complainant.
9. The consumer (or other individual) will be informed of the option of mediation, under what circumstances and when it may be exercised.
10. If a recipient rights complaint is filed regarding the conduct of the Executive Director or the Recipient Rights Officer, HBH Board will be advised and they will direct the Recipient Rights Officer to refer the complaint to another CMHSP or to the state office of recipient rights for further investigation. If the Appeals Committee notifies the HBH Board Chairperson of a recommendation to seek an external investigation from the MDHHS-ORR, the Board will send a letter of request to the director of the MDHHS-ORR within five (5) business days of receipt of the request from the Appeals Committee. The director of the CMHSP making the request will be responsible for the issuance of the summary report, which will identify the grounds for the external investigation and advocacy information.
11. The Recipient Rights office will initiate investigation of apparent or suspected rights violations in a timely and efficient manner.
12. The Recipient Rights office will ensure that rights complaints filed by consumers or anyone on their behalf are sent/given to the designated Recipient Rights Officer/advisor in a timely manner.
13. Subject to delays involving pending action by external agencies (Children's Protective Services, law enforcement, etc.), the Recipient Rights office completes investigations no later than ninety (90) calendar days following receipt.
14. The Recipient Rights office will ensure investigation is immediately initiated in cases involving alleged abuse, neglect, serious injury, or death of a consumer when a rights violation was apparent of suspected.
15. Investigation activities for each rights complaint will be accurately recorded by the Recipient Rights office. The Recipient Rights Officer will interview all persons who are involved in the issue and document these interviews. If the person cannot be interviewed (for example due to cognitive function, or is non-verbal), the rationale will be clearly documented in the findings.
16. The Recipient Right office will use a preponderance of the evidence as its standard of proof in determining whether a right was violated.
17. The Recipient Rights office will issue a written status report every thirty (30) calendar days during the course of the investigation to the complainant, respondent, and the responsible mental health agency. The thirty (30) days status report shall contain:
 - a. statement of the allegations;
 - b. statement of the issues involved;
 - c. citations to relevant provisions of the Michigan Mental Health Code, rules, policies, and guidelines;
 - d. investigative progress to date; and
 - e. expected date for completion
18. Upon completion of the investigation, the Recipient Rights office will provide a copy of the written investigative report to the respondent. A copy of the findings will also be provided to the HBH Executive Director. (Issuance of the written investigative report may be delayed pending completion of investigations that involve external agencies). The written investigative report shall include all of the following:
 - a. statement of the allegations
 - b. statement of the issues involved
 - c. citations to relevant provisions of the Michigan Mental Health Code, rules, policies, and guidelines
 - d. investigative findings
 - e. conclusions
 - f. recommendations, if any

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19. The Recipient Rights office will ensure that for substantiated rights violations, the respondent and/or HBH has taken the appropriate remedial action to meet all the following requirements:
 - a. corrects or provides remedy for the rights violation
 - b. is implemented in a timely manner
 - c. attempts to prevent a recurrence of the rights violation
20. Remedial action(s) will be taken on substantiated violations and is documented and made part of the record maintained by the Recipient Rights office.
21. The Executive Director or his/her designee submits a written summary report to the complainant and recipient/consumer (if different than the complainant), parent, or guardian, within ten (10) business days after receiving a copy of the investigative report from the Recipient Rights office.
22. The written summary report shall contain all of the following:
 - a. Statement of the allegations
 - b. Statement of the issues involved
 - c. Citations to relevant provisions of the Michigan Mental Health Code, rules, policies, and guidelines
 - d. Summary of investigation findings of the Recipient Rights office
 - e. Conclusions of the Recipient Rights office
 - f. Recommendations made by the Recipient Rights office
 - g. Action taken, or plan of action proposed, by the respondent
 - h. A statement describing the complainant's right to appeal and the grounds for the appeal
23. Information in the summary report is provided within the constraints of the confidentiality/privileged communications sections (748, 750) of the Michigan Mental Health Code.
24. Information shall not violate the rights of any employee (ex. Bullard-Plawecki Employee Right to Know Act, Act No. 397 of the Public Acts of 1978, MCL 423.501 et. Seq.).
25. HBH and each service provider under contract with HBH will ensure that the appropriate disciplinary action(s) are taken against those who have engaged in abuse or neglect.
26. The Recipient Rights Officer shall comply with pertinent HBH policies to assure that investigations are conducted in a manner that does not violate employee rights.
27. Complainants, Recipient Rights office staff, and any staff acting on behalf of a consumer will be protected from harassment or retaliation resulting from recipient rights activities. Appropriate disciplinary action will be taken if there is evidence of harassment or retaliation, in accordance with HBH disciplinary policies ([ORI.1.07 Discipline Compliance Policy](#)).
28. When either HBH or provider personnel fail to report suspected violations of rights, appropriate administrative action will be taken.
29. The Recipient Rights Officer will review incident reports to determine if they involve possible rights violation.

II. 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.

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3. The HBH office of recipient rights 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 weighting of evidence
- Explanation of the preponderance of the evidence standard used by the Recipient 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

III. 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 in a timely manner.
2. The Recipient Rights office 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 Recipient Rights office shall assist the complainant in meeting procedural requirements of a written appeal. The Recipient Rights office shall inform the consumer or other individual of the option of mediation under Section 784 of the Michigan Mental Health Code (330.1784).

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 than the complainant), 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 Recipient Rights 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 after receipt of the notice to appeal the Appeals Committee on the grounds of inadequate action taken to remedy a Recipient 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. (Note – when necessary, the Appeals Committee may request consultation and technical assistance from the MDHHS-ORR.)
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 III.B above.

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(Note: This review may be conducted by the full Appeals 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 five (5) 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 III.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, but shall inform the appellant of his/her right to file a complaint with the Recipient Rights office. Upon completion of the review, the Appeals Committee will do one of the following:
 - Uphold the investigative findings of the Recipient Rights office and the action taken or plan of action proposed by the respondent; OR
 - If the appeal concerns the investigative findings of the Recipient Rights office, either:
 - a. Return the investigation to the Recipient Rights 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 takes 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 violationWritten 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 Recipient Rights 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) working 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 Recipient Rights office re-open or reinvestigate the complaint, the Recipient Rights 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 Recipient Rights 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 Recipient Rights office and the Appeals Committee.
8. If the findings of the Recipient Rights office remain unsubstantiated upon re-investigation, the appellant may file a further appeal to the MDHHS-APPEALS - Level 2 Appeal (see section IV) if the appellant continues to assert that the investigative findings of the Recipient Rights office are not consistent with the facts or with

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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 Recipient Rights 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 Recipient Rights office and directs that the respondent takes 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:
 - 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 Recipient Rights 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 complainant, recipient, (if different than complainant), the recipient's parent or legal guardian, if any, the RMHA if different than the respondent, the Appeals Committee, and the Recipient Rights 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 (e.g., 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 (e.g., 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 MDHHS ORR, 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 Recipient Rights 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 Recipient Rights office 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 Recipient Rights office are provided written notice that the action described in the plan has been completed.

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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 forty-five (45) calendar days after receipt of the notice to appeal the appropriate Appeals Committee on the grounds of inadequate action taken to remedy a Recipient Rights violation.

IV. MDHHS Level 2 Appeals:

1. An appeal to the MDHHS Appeals may be taken only upon the ground that the investigative findings of the Recipient Rights 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 Recipient Rights 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
P.O. Box 30807
Lansing, MI 48909
FAX: (517) 241-7973

Definitions/Acronyms:

Acronyms:

CMHSP – Community Mental Health Services Program
HBH – Huron Behavioral Health
LPH/U – Licensed Private Hospital/Unit
MDHHS – Michigan Department of Health and Human Services
RMHA – Responsible Mental Health Agency

Definitions:

Appeals Committee – refers to a committee appointed by the 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 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:

DCH-0030 Recipient Rights Complaint Form

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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

[RR.2.46 Limited English Proficiency \(LEP\) Procedure](#)

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.
K	08/07/18	Changed title from "Recipient Rights – Appealing Recipient Rights Investigative Findings Procedure", in "Procedure" section added Section "I" ("Complaint Investigation and Resolution" which was removed from RR.2.23 ("Recipient Rights System Procedure"), made several minor wording/grammatical changes/corrections throughout document without changing sentence content.
L	11/30/18	In "Procedure" section I.1 added second sentence and form number, in #15 added last two sentences, in #18 added "A copy of the findings will also be provided", in #21 added "recipient, (if different than the complainant), parent, or guardian", in C.1 changed "from the date of the mailing of the notice" to "after receipt of the notice", in "Forms" section added "DCH-0030" to comply with Plan of Correction from October 2018 RR System Assessment.
M	08/31/20	Made several minor wording/grammatical changes/corrections throughout procedure without changing sentence content
N	08/03/21	In "Information" section 3 rd bullet added "Initially and annually", and added last two sentences ("The "Your Rights" booklet delineates.....Limited English Proficiency/LEP Procedure (RR.2.46)", in D.3 changed "seven (7) days" to "five (5) days".
O	06/19/23	Corrected formatting/numbering, made several minor wording/grammatical changes/corrections throughout procedure without changing sentence content.