

## **TECHNICAL REQUIREMENT RECIPIENT RIGHTS APPEAL PROCESS**

### **I. Purpose**

The Michigan Mental Health Code (1974 PA 258, herein referred to as the Code), 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 and provides for a mechanism to appeal the results of a complaint investigation. This technical requirement establishes a process for the prompt review of appeal requests and provides procedural direction for appeals committees on hearing and responding to requests accepted by the committee.

### **II. Definitions**

- A. Appeals Committee:  
A committee appointed by the Michigan Department of Health and Human Services (MDHHS) Director, by the board of a Community Mental Health Services program (CMHSP), or by the governing board of a licensed psychiatric hospital (LPH).
- B. Appellant: The complainant, the recipient (if different than the complainant), the legal guardian of the recipient (if any), or the parent of a minor who seeks review by an appeals committee or the MDHHS pursuant to MCL 330.1784 and MCL 330.1786.
- C. Complainant: The individual who files a recipient rights complaint.
- D. Executive Director: An individual appointed under section 226 of the Code to direct a community mental health services program or their designee.
- E. Grounds for Appeal:
  - i. The investigative findings of the office are not consistent with the facts or with law, rules, policies or guidelines.
  - ii. The action taken, or plan of action proposed, by the respondent does not provide an adequate remedy.
  - iii. An investigation was not initiated or completed on a timely basis.
- F. Hospital Director: The chief administrative officer of a hospital or their designee.
- G. Intervention: To act on behalf of a recipient 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 within 30 days, and does not involve statutorily required disciplinary action. Interventions, at a minimum, must contain the following elements: the specific action taken by ORR on behalf of the complainant to resolve the complaint, identification of the code protected right, a statement indicating whether the allegation of a rights violation is substantiated or

not substantiated. Additionally, if the allegation is substantiated, the specific remedial action taken is identified.

- H. Investigation: A detailed inquiry into and systematic examination of an allegation raised in a rights complaint, as outlined in section 778 of the Code.
- I. Legal Guardian: A judicially appointed guardian or parent who has legal custody of a minor recipient.
- J. Office of Recipient Rights: Any of the following:
  - i. With respect to a rights complaint involving services provided directly by the MDHHS, the MDHHS office of recipient rights created under section 754 of the Code.
  - ii. 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.
  - iii. With respect to a rights complaint involving services provided directly or under contract to a licensed psychiatric hospital, the office of recipient rights created by the licensed hospital under section 755 of the Code.
- K. 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.
- L. Responsible Mental Health Agency (RMHA): The hospital or community mental health services program that has primary responsibility for the recipient's care or for the delivery of services or supports to that recipient.

### **III. Standards**

#### **A. Jurisdiction**

An appeal must be reviewed by the committee designated by the governing body. All appeals filed involving a CMHSP recipient are in the jurisdiction of the CMHSP ORR Appeals Committee. The CMHSP Appeals Committee must have jurisdiction for all appeals of investigations involving recipients receiving treatment in an LPH for which the CMHSP is the RMHA. For non-CMHSP recipients, the LPH may appoint its own appeals committee in compliance with section 774(4)(a) of the Code or, under agreement with MDHHS, designate the MDHHS Appeals Committee to hear appeals of investigations of the LPH ORR under section 774(4)(b) of the Code.

B. Training

The office of recipient rights with the MDHHS, a CMHSP, or an LPH must assure that training is provided to the appeals committee, as required by Section 755(2)(a) of the Code.

C. Notice of Right to Appeal

All potential appellants must be informed in the Summary Report issued by the executive director or hospital director of the right to appeal to the designated appeals committee. Notice must include the address for filing the appeal, the grounds for appeal, the time frame for submission of the appeal, information on advocacy organizations that may assist with filing the written appeal, and, in the absence of assistance from an advocacy organization, an offer of assistance by the office of recipient rights.

D. Notification when the Summary Report Contains a Plan of Action

A Summary Report which contains a plan of action must indicate a date the action is expected to be completed. Once the action has been completed the executive director or hospital director must send an amended summary report with a notice to appeal as described in C. above.

E. Time Frame

Not later than 45 calendar days after receipt of the Summary Report or amended Summary Report an appellant may file a written appeal with the appeals committee having jurisdiction.

F. Notice of Preliminary Review

Within 5 business days of receipt of the request for appeal, at least two members of the appeals committee must review the request for appeal to determine if the appellant has standing to appeal and the appeal request meets the timeframe and grounds for appeal. If the appeal is denied, the appellant must be notified in writing, the reason for not accepting the request for appeal (standing to appeal, grounds or timeliness). If the appeal is accepted the appellant must be notified in writing and a copy of the appeal must be provided to the respondent, the RMHA, and the rights office. The appeals committee must maintain a log of all appeals received and the disposition of each.

G. Recusal

Any member of an appeals committee who has a personal or professional relationship with an individual involved in the appeal must abstain from participating in that appeal.

H. Appeal Committee Review

If the appeal is accepted, no later than 30 calendar days after receipt of a written appeal the appeals committee must meet in closed session to review the facts as

stated in complaint investigation documents in light of the reason for appeal. The appeals committee must not consider allegations that were not part of the original complaint, but must inform appellant of their right to file a new complaint with the office. Upon completion of their review, the appeals committee must do one of the following:

- i. Uphold the investigative findings of the office and the action taken or plan of action proposed by the respondent.
- ii. 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 (LPH) request an external investigation by the MDHHS office of recipient rights.
- iii. If the appeal concerns the action taken, recommend that the respondent take additional, or different, action to remedy the violation. The appeals committee must base its determination upon remedial action as defined in section 780 of the Code.
  - a. Action taken or proposed does not correct or remedy the rights violation.
  - b. Action taken or proposed action was not completed in a timely manner.
  - c. Action taken or proposed action does not attempt to prevent a future recurrence of the violation.

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

- iv. If the appeals committee determines the investigation was not initiated or completed in a timely manner per chapter 7A, recommend that the director of the state office of recipient rights, executive director of the CMHSP or hospital director of the LPH address the lack of timeliness with staff completing the investigation.

#### I. Decision

The appeals committee must document its decision in writing within 10 business days following the committee appeal review and must provide notice to the respondent, appellant, recipient (if different than appellant), the recipient's legal guardian (if any), the RMHA and the office.

- a. If the appeals committee returns the investigation to the office of recipient rights to be reopened or reinvestigated, documentation

must include justification for the decision made by the appeals committee.

- b. If the appeals committee upholds the investigative findings of office of recipient rights and the action taken or plan of action proposed by the respondent, the notice must include level 2 appeal contact information, grounds for appeal as stated in section 784(2) of the Code, the timeframe 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.

#### **IV. Subsequent Action**

- A. If the appeals committee returns the investigation to be reopened or reinvestigated, the office of recipient rights must complete the reinvestigation within 45 calendar days of receipt of the written decision of the appeals committee and submit to the executive director or hospital director.
- B. Within 10 business days of receipt of the reinvestigation report, the executive director or hospital director must issue a new Summary Report in compliance with section 782 of the Code. The Summary Report must be submitted to the appellant, recipient if different than the appellant, the recipient's legal guardian, if any, the office of recipient rights and the appeals committee. The Summary Report must include level 2 appeal contact information, grounds for appeal as stated in section 784(2) of the Code, 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.
- C. If the appeals committee recommends the respondent take additional or different action, the respondent must provide written notice within 30 days of different or additional action taken or justification as to why it was not taken. The written notice must be sent to the appellant, recipient if different than appellant, the recipient's legal guardian, if any, the RMHA if different than the respondent, the office of recipient rights and the appeals committee.
- D. If the appeals committee recommends that the board (CMHSP) or governing body (LPH) request an external investigation by MDHHS Office of Recipient Rights (ORR), the board or governing body may make the request to MDHHS ORR, in writing, within 5 business days of receipt of the request from the appeals committee.
  - i. Within 10 business days of receipt of the investigative report from MDHHS ORR, the executive director or hospital director must issue a Summary

Report in compliance with section 782 of the Code. The Summary Report must be submitted to the appellant, recipient if different than the appellant, the recipient's legal guardian, if any, the office of recipient right and the appeals committee.

- ii. The complainant, recipient if different than the complainant, and the recipient's legal guardian, if any, must be informed in the Summary Report issued by the executive director or hospital director of the right to level 2 appeal per section 786 of the Code. Notice must include level 2 appeal contact information, grounds for appeal as stated in section 784(2) of the Code, 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.

**Level 2 Appeal contact information:**

**Level 2 Appeal  
MDHHS Legal Affairs Administration  
Appeals Division  
PO Box 30807  
Lansing, MI 48909  
FAX: (517) 241-7973  
[mdhhs-appeals@michigan.gov](mailto:mdhhs-appeals@michigan.gov)**