

ST. CLAIR COUNTY COMMUNITY MENTAL HEALTH AUTHORITY

BOARD POLICY

Date Issued **12/20**

Page 1

CHAPTER Recipient Rights	CHAPTER 05	SECTION 001	SUBJECT 0005
SECTION Recipient Rights	SUBJECT Recipient Rights		
WRITTEN BY Peggy Lawton	REVISED BY Telly Delor		AUTHORIZED BY SCCCMHA Policy

I. **APPLICATION:**

- SCCCMHA Board
- SCCCMHA Providers & Subcontractors
- Direct-Operated Programs
- Community Agency Programs
- Residential Programs
- Specialized Foster Care

II. **POLICY STATEMENT:**

It shall be the policy of St. Clair County Community Mental Health Authority (SCCCMHA) to ensure a mechanism is provided for the protection of recipients' rights in accordance with the Mental Health Code.

III. **DEFINITIONS:**

- A. **Complainant:** Means an individual who files a recipient rights complaint.
- B. **Dignity:** To be treated with esteem, honor, politeness; to be addressed in a manner that is not patronizing or condescending; to be treated as an equal; to be treated the way any individual would like to be treated.
- C. **Immediately:** Means without delay; instantly.
- D. **Investigation:** Means a detailed inquiry into and systematic examination of an allegation raised in a rights complaint.
- E. **Office of Recipient Rights:** The office created by the Michigan Mental Health Code that is subordinate only to the Executive Director and that is responsible for investigating, resolving, and assuring remediation of apparent or suspected recipient rights violations and assuring that mental health services are provided in a manner that respects and promotes the rights of recipients as guaranteed by Chapters 7 and 7A of the Michigan Mental Health Code, P.A. 258 of 1974, as amended.
- F. **Recipient:** Means an individual who receives mental health services from the Department, a community mental health services program, or a facility or from a provider that is under contract with the Department or a community mental health services program.

CHAPTER	CHAPTER	SECTION	SUBJECT
Recipient Rights	05	001	0005
SECTION	SUBJECT		
Recipient Rights	Recipient Rights		

- G. Respect: To show deferential regard for; to be treated with esteem, concern, consideration, or appreciation; to protect an individual's privacy; to be sensitive to cultural differences; to allow an individual to make choices.
- H. Rights Complaint: Means a written or oral statement that meets the requirements of section 776 of the Mental Health Code.
- I. Respondent: Means the service provider that had responsibility at the time of an alleged rights violation for the services with respect to which a recipient rights complaint has been filed.

IV. STANDARDS:

- A. St. Clair County Community Mental Health Authority shall ensure all of the following:
1. Education and training in recipient rights policies and procedures are provided to its Recipient Rights Advisory Committee and its Recipient Rights Appeals Committee.
 2. The process for funding the Office of Recipient Rights includes a review by the Recipient Rights Advisory Committee.
 3. The Office of Recipient Rights is protected from pressures that could interfere with the impartial, even-handed, and thorough performance of its duties.
 4. The Office of Recipient Rights has unimpeded access to all of the following.
 - a. All programs and services operated by SCCCMHA or its contract provider network.
 - b. All employees/volunteers of SCCCMHA and its contract provider network.
 - c. All evidence necessary to conduct a thorough investigation or to fulfill its monitoring function.
 5. Staff of the Office of Recipient Rights receive training each year in recipient rights protection that meets the minimum continuing education training requirements established by the Michigan Department of Health and Human Services – Office of Recipient Rights.
 6. Each contract between SCCCMHA and a contract provider includes both of the following:
 - a. That the contract provider and their employees/volunteers receive recipient rights training.
 - b. That recipients will be protected from rights violations while they are receiving services under the contract with SCCCMHA.
 7. Employees/volunteers of SCCCMHA and its contract provider network receive in-person Recipient Rights training within 30 days of hire and annually thereafter.

CHAPTER Recipient Rights	CHAPTER 05	SECTION 001	SUBJECT 0005
SECTION Recipient Rights	SUBJECT Recipient Rights		

8. Employees/volunteers of SCCCMHA and its contract provider network protect recipients from rights violations, and immediately report apparent and suspected violations of recipients' rights to the Office of Recipient Rights.
- B. St. Clair County Community Mental Health Authority shall ensure all of the following:
1. Complainants, staff of the Office of Recipient Rights, and all staff members/volunteers acting on behalf of recipients are protected from harassment or retaliation resulting from recipient rights activities, and that appropriate disciplinary action is taken if there is evidence of harassment or retaliation.
 2. Respondents take appropriate remedial action to resolve violations of recipients' rights.
 3. Complainants are notified of substantiated violations in a manner that does not violate an employee's rights.
- C. The SCCCMHA Executive Director shall select a Director of the Office of Recipient Rights who has the education, training, and experience to fulfill the responsibilities of the office. The level of education, training, and experience required for staff of the Office of Recipient Rights is located in each position job description. The Executive Director shall not select, replace, or dismiss the Director of the Office of Recipient Rights without first consulting with the Recipient Rights Advisory Committee. The Director of the Office of Recipient Rights shall have no direct clinical service responsibility.
- D. The SCCCMHA Office of Recipient Rights shall do all of the following:
1. Provide or coordinate the protection of recipients' rights for all directly operated or contracted services.
 2. Ensure that recipients, parents of minor recipients, and guardians or other legal representatives have access to summaries of the rights guaranteed by Chapters 7 and Chapter 7A of the Mental Health Code and are notified of those rights in an understandable manner, both at the time services are initiated and periodically during the time services are provided to the recipient.
 3. Ensure that the telephone number and address of the Office of Recipient Rights and the name of the Recipient Rights Director are conspicuously posted in all service sites.
 4. Maintain a record system for all reports of apparent or suspected recipient rights violations received by SCCCMHA, including a mechanism for logging in all complaints and a mechanism for secure storage of all investigative documents and evidence.
 5. Ensure that each service site is visited with the frequency necessary for protection of recipient rights, but in no case less than annually.

CHAPTER Recipient Rights	CHAPTER 05	SECTION 001	SUBJECT 0005
SECTION Recipient Rights	SUBJECT Recipient Rights		

6. Ensure that all individuals employed by SCCCMHA and its contract agencies receive in-person Recipient Rights training at SCCCMHA (or in-person training at a Community Mental Health Services Program in the State of Michigan) before or within 30 days of hire, and annually thereafter.
7. Review the recipient rights policies and the rights system of each provider of mental health services under contract with SCCCMHA to ensure that the rights protection system of each provider is in compliance with the Mental Health Code, and is of a uniformly high standard.
8. Serve as a consultant to the executive director, employees/volunteers of SCCCMHA, employees/volunteers of the contract provider system, recipients, guardians, and community members in matters related to recipient rights.
9. Ensure that all reports of apparent or suspected violations of recipients' rights within the jurisdiction of SCCCMHA are investigated in accordance with Section 778 of the Michigan Mental Health Code, and that those reports that do not warrant investigation are recorded in accordance with Item IV.D.4. above.
10. Semi-annually provide summary complaint data, together with a summary of remedial action taken on substantiated complaints by category, to the Michigan Department of Health and Human Services-Office of Recipient Rights (MDHHS-ORR), and to the SCCCMHA Recipient Rights Advisory Committee. The report shall be submitted to the MDHHS-ORR no later than June 30th.
11. Ensure the executive director submits to the SCCCMHA Board of Directors and the MDHHS-ORR an Annual Report prepared by the Office of Recipient Rights on the current status of recipient rights protection in St. Clair County as well as a review of the operations of the Office of Recipient Rights. The report shall be submitted no later than December 30th of each year for the preceding fiscal year or period specified in the MDHHS contract. The Annual Report requirements include:
 - a. Summary data by category, to include the number of complaints received, the number of reports filed, and the number of reports investigated.
 - b. The number of substantiated recipient rights violations by category and provider type.
 - c. The remedial action taken on substantiated recipient rights violations by category and provider type.
 - d. Training received by staff members of the Office of Recipient Rights.
 - e. Training provided by the Office of Recipient Rights to SCCCMHA employee/volunteers and employees/volunteers of the contract provider system.
 - f. Desired outcomes established by the Office of Recipient Rights, and progress toward those outcomes.
 - g. Recommendations to the SCCCMHA Board of Directors.

CHAPTER Recipient Rights	CHAPTER 05	SECTION 001	SUBJECT 0005
SECTION Recipient Rights	SUBJECT Recipient Rights		

- E. The Recipient Rights Director, SCCCMHA, and all contract providers of SCCCMHA will ensure that each recipient is treated with dignity and respect, that services are provided in the least restrictive setting, and that services are provided to each recipient suited to their condition.
- F. Restraint Policy: The use of restraints is prohibited in all programs, service sites, and residential settings directly operated by or under contract with SCCCMHA. Exceptions include licensed psychiatric hospitals/units, and child caring institutions where permitted by federal and/or state statutes and regulations. The SCCCMHA Office of Recipient Rights will review the restraint policies for the provider types permitted to use restraint to ensure compliance with federal and/or state statutes, regulations, and guidelines, including the Mental Health Code, and the MDHHS Administrative Rules. Policies on this subject will be forwarded to the SCCCMHA Office of Recipient Rights, when requested.
- G. Seclusion Policy: The use of seclusion is prohibited in all programs, service sites, and residential settings directly operated by or under contract with SCCCMHA. Exceptions include licensed psychiatric hospitals/units, and child caring institutions where permitted by federal and/or state statutes and regulations. The SCCCMHA Office of Recipient Rights will review the seclusion policies for the provider types permitted to use seclusion to ensure compliance with federal and/or state statutes, regulations, and guidelines, including the Mental Health Code, and the MDHHS Administrative Rules. Policies on this subject will be forwarded to the SCCCMHA Office of Recipient Rights, when requested.
- H. Employees/volunteers of SCCCMHA and its contract provider network are prohibited from engaging in any of the following actions/activities: physical abuse, sexual abuse, harassment, physical punishment, fiduciary abuse, and psychological abuse, including humiliating, threatening, and exploiting actions/activities. Staff members/volunteers witnessing such actions/activities must take immediate measures to stop the prohibited actions/activities and immediately report such incidents to their supervisor and the Office of Recipient Rights.
- I. Within their first three months of employment, the Recipient Rights Director, Recipient Rights Advisors, and alternates shall attend the Basic Skills I & II training programs offered by the MDHHS-ORR.
- J. For those service providers who are permitted by contract (licensed psychiatric hospitals/units) to establish their own rights protection system, the Recipient Rights Directors/Advisors and alternates of those providers shall attend and successfully complete the Basic Skills I & II training programs offered by the MDHHS-ORR within 3 months of hire/appointment.
- K. Ensure staff members of the SCCCMHA Office of Recipient Rights and any service providers permitted to establish their own Offices of Recipient Rights receive 36 continuing education units over a three year period per the technical requirement issued by the MDHHS-ORR. Of the 36 required continuing education units, only 12 units may be obtained through on-line learning resources.

CHAPTER	CHAPTER	SECTION	SUBJECT
Recipient Rights	05	001	0005
SECTION	SUBJECT		
Recipient Rights	Recipient Rights		

V. PROCEDURES:

SCCCMHA Board of Directors through Executive Director

1. Ensures that the Standards above are carried out, including funding, staffing, and protection of the Office of Recipient Rights.

SCCCMHA Executive Director

2. Ensures that the Standards above are carried out, including access, funding, staffing, protection, and training for the Office of Recipient Rights.
3. Ensures employees/volunteers of SCCCMHA and its contract provider network cooperate with recipient rights investigations/monitoring activities.
4. Designates a staff person trained in recipient rights policies, procedures, and protection to serve as the Recipient Rights Director during the temporary absence of the Recipient Rights Director.

Recipient Rights Director

5. Ensures that the Standards above are carried out, including notices, record keeping, site visits, staff training, consultation, and report preparation.
6. Attends meetings/trainings to ensure the protection of recipients' rights, to include: Behavior Treatment Plan/Review Committee, Board of Directors, Contract Agency Directors, Management Team, Policy & Procedure Committee, Quality Improvement Council, Recipient Rights Advisory Committee, Recipient Rights Officers Association of Michigan, Supervisors, and case meetings/consultations when recipient rights related matters are discussed.

In the event of disciplinary action or discharge, the Recipient Rights Director may grieve the action with the SCCCMHA Recipient Rights Advisory Committee.

VI. REFERENCES:

- A. Michigan Mental Health Code, Public Act 258 of 1974, Sections 330.1700, 330.1740, 330.1742, 330.1752, 330.1755, 330.1772, 330.1776, 330.1778, 330.1780, and 330.1782

VII. EXHIBITS:

None Available

VIII. REVISION HISTORY:

Dates issued: 02/88; 04/90; 12/91; 01/93; 12/93; 03/94; 08/95; 03/97; 09/97; 01/00; 12/01; 12/03; 12/05; 01/08; 02/10; 09/12; 05/13; 05/14; 05/15; 11/15; 11/16; 11/17; 11/18; 11/19; 12/20.