

CMHA-CEI RECIPIENT RIGHTS REFRESHER



Community

MENTAL HEALTH

CLINTON • EATON • INGHAM

Reviewed 09/2020

Objectives:

- As a result of reading this section you will be able to:
- Understand the rights guaranteed to all individuals receiving mental health services in Michigan
 - Understand how and when to file a recipient Rights complaint

**IT IS IMPORTANT TO UNDERSTAND WHERE
RIGHTS COME FROM, WHAT THEY ARE,
AND WHAT ADDITIONAL RIGHTS ARE
GRANTED TO RECIPIENTS OF MENTAL
HEALTH SERVICES IN MICHIGAN**

Abuse Defined

Recipients have the Right to be free from Abuse. This Right cannot be limited.

- Non-accidental physical or emotional harm to a recipient, or sexual contact with or sexual penetration of a recipient.
- The use of unreasonable force on a recipient by an employee, volunteer, or agent of the CMHA-CEI Network or provider, with or without apparent harm.
 - *Force: The use of power or violence to compel or restrain.*
- Any action, or provocation of another to act, by an employee, volunteer, or agent...that causes or contributes to emotional harm to a recipient.
- An action taken on behalf of a recipient by an employee, volunteer, or agent... who assumes the recipient is incompetent, despite the fact that a guardian has not been appointed, that results in substantial economic, material, or emotional harm to the recipient.
- The use of language or other means of communication by an employee, volunteer, or agent...to degrade, threaten, or sexually harass a recipient.

Examples

- Some types of Abuse are obvious:
 - Slapping a recipient
 - Making sexual contact with a recipient
 - Threatening a recipient with violence
- Other types may be more difficult to identify:
 - Use of physical management with no imminent risk of physical harm to the recipient, staff, or others.
 - Use of physical management using unapproved techniques.
 - Use of physical management not in compliance with emergency interventions authorized in the recipients individual plan of service.
 - Use of physical management when other less restrictive measures were possible but not attempted.

Neglect Defined

Recipients have the Right to be free from Neglect. This Right cannot be limited.

- An act or failure to act committed by an employee, volunteer, or agent of the CMHA-CEI Network or provider that denies a recipient the standard of care or treatment to which he or she is entitled.
- An act of commission or omission by an employee, volunteer, or agent of the CMHA-CEI Network or provider that results from noncompliance with a standard of care of treatment required by law, rules, policies, guidelines, written directives, procedures, or individual plan of service that cause or contribute to:
 - The death of,
 - Physical harm to,
 - Or the risk of physical harm to a recipient.
- The failure to report abuse or neglect of a recipient.

Examples

- Some forms of Neglect are obvious:
 - Leaving a recipient unsupervised when he requires line of sight monitoring.
 - Failing to follow a recipient's dysphagia care plan, the recipient chokes and requires emergency medical care.
- Other forms may be more difficult to identify:
 - Losing track of a recipient at a community event.
 - Failing to follow a recipient's health care plan resulting in skin breakdown and the need for medical care.

Reporting Abuse and Neglect

- Allegations of abuse and neglect **MUST** be reported to the Recipient Rights Office immediately.
- If you are unsure whether an action is abuse or neglect call the Recipient Rights Office.



**It's good to know
about your RIGHTS.**

Recipients of mental health services are guaranteed certain rights. If you have questions about these rights, we can help.

Recipient Rights Office:
Main Number - (517) 346-8249
Ashlee Bailey - (517) 887-5287
Greg Fox - (517) 887-5288



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Reporting Abuse and Neglect cont.

When **MUST** I call the Recipient Rights office and make a report?

- When I witness a co-worker lose his/her temper hit or slap a recipient.
- Anytime I suspect any form of abuse and neglect has occurred.

When **SHOULD** I call the Recipient Rights office?

- When I have a question if something may or may not be abuse or neglect.
- When my supervisor says I should file a complaint.
- When a recipient says he or she wants to file a complaint and needs help dialing the phone.

Civil Rights

The Right to Religious Expression

- To practice the religion of one's choice
- Not to attend any religious service against one's wishes
- Not to be discriminated against based upon one's religious beliefs

The Right to Freedom of Speech

- To speak freely and to write, or express, one's views without restrictions
- To make and receive phone calls in private
- To send and receive mail without censorship
- To speak with one's attorney

The Right Not to be Discriminated Against Because of Race, Sex, National Origin, or Disability.

The Right to Vote

The Michigan Mental Health Code

The Michigan Mental Health Code states that people who receive mental health services in Michigan have rights:

- The right to be **free from abuse or neglect**
- The right to be **treated with dignity**, to be treated without discrimination, to have privacy, to practice one's religion, and to get paid for work that is done.
- The right to **send and receive mail**; have visitors, use the telephone, and get legal advice.
- The right to have information about the person receiving treatment **kept confidential**.
- The right to have **access to information** contained in the clinical record
- The right to a hearing, to be represented by an attorney, and to discharge planning that assures that appropriate mental health services are provided in the **least restrictive setting**.
- The right to be treated in a safe, sanitary, and humane **environment**.

The Michigan Mental Health Code cont.

- The right to have **access to his or her own funds**, and to be able to use them as they see fit.
- The right to have **personal property** safely kept and to have any rules regarding any limitations on using it clearly stated, consistent, and posted in a place where all can see.
- The right not to be forced or coerced to take medication, or to take more medication than desired, and the right to be provided with **information regarding medication** and possible side effects.
- The right to have a **written plan of service** developed through a person-centered planning process. Person-centered planning means a process for planning and supporting the individual receiving services that builds upon the individual's capacity to engage in activities that promote community life and that honors the individual's preferences, choices, and abilities. The person-centered planning process involves families, friends, and professionals, as the individual desires or requires.
- The right to **refuse treatment**.

The Michigan Mental Health Code cont.

The Michigan Mental Health Code states that some of the rights it grants to recipients *cannot* be limited. These are:

- Freedom from abuse, neglect, and mistreatment
- Dignity and respect
- Contact with attorneys regarding legal matters
- To refuse treatment

The Michigan Mental Health Code cont.

The Michigan Mental Health Code also states that some of the rights it grants to recipients *can* be limited within the individualized treatment plan. Examples include:

- Communication by mail, phone, visits
- Personal property
- Money
- Freedom of movement
- Access to entertainment materials

The Michigan Mental Health Code cont.

Limitations/Restrictions placed on an individual can only be made through the person-centered planning process. In the recipient's individualized treatment plan you should find:

- A description of the behavior and the limitation
- A time limit on the limitation
- An indication that previous measures to stop the behavior were unsuccessful
- An indication that the limitation is the least restrictive or intrusive action possible
- Measures to reduce or eliminate the behavior (this is the action you will take when the behavior occurs)

Confidentiality

The right to confidentiality is one of the most important rights granted to recipients.

- Each mental health service provider is required to have policies and procedures which provide for maintaining the confidentiality of those receiving services.
- Each recipient is entitled to confidentiality when seeking the services of a lawyer, a doctor, or other mental health services professional.
- In order to assure the confidentiality of recipients, all staff must protect written and unwritten information gained while providing mental health services.

The Mental Health Code Requires that:

- **Every recipient is informed** about the law requiring confidentiality.
- **A record is maintained** of any information about the recipient that is disclosed. This record must indicate what information was released, to whom it was released, and the reason for the release.
- Under certain circumstances, the release of information may be delayed, or even withheld.
- However, a competent adult recipient is entitled to receive any and all information contained in his or her record subsequent to March 28, 1996.
- Some information can be provided to legal and medical personnel who provide emergency care to the recipient, without obtaining a release of information. However, this information is limited to that which relates to the emergency care being provided.

There are Times When it is Appropriate to Disclose Information About a Recipient.

- **Some of these are:**
 - When the recipient agrees and has provided written consent, and the person who requested the information has a legitimate need for the information.
 - To mental health, or other public agencies, when there is a strong chance that the recipient or others will be seriously hurt if no action is taken.
 - To other agencies such as Social Security or the Department of Human Services when necessary in order for service providers to receive payment.
 - When required by court order, or to comply with the law.
 - To a prosecuting attorney when necessary to participate in proceedings governed by the Mental Health Code, for example, a civil commitment proceeding.
 - To the recipient's attorney when the recipient has given consent.
 - To the surviving spouse of a recipient in order to apply for and receive benefits.
 - As necessary for treatment, coordination of care or payment for the delivery of mental health services in accordance with HIPAA.



**CONFIDENTIALITY IS A RIGHT OF EVERY
RECIPIENT OF MENTAL HEALTH SERVICES.
EVERYONE INVOLVED WITH THE DELIVERY
OF SERVICES MUST WORK TO MAINTAIN
AND PROTECT THIS RIGHT. ALL
INFORMATION IN A PERSON'S RECORD,
AND ANY INFORMATION ABOUT THE
PERSON DISCOVERED WHILE PROVIDING
SERVICES, IS CONFIDENTIAL.**

Informed Consent

- A recipient cannot simply agree to have confidential information released. In order for a release of information to be valid, it must be given with *Informed Consent*³.
- *This means the recipient:*
 - Has the legal capacity to give consent
 - Is not pressured in any way to give consent
 - Is able to understand what information he/she is agreeing to release
 - Understands the risks, benefits and consequences of agreeing, or not agreeing, to the release of the information requested.
- A person who has a guardian is not legally capable of giving informed consent. In most cases involving children informed consent must be obtained from his or her parent.

³ All of the following are elements of informed consent: (a) legal competency, (b) knowledge, (c) comprehension, and (d) voluntariness (Administrative Rule 330.7003)

Here are Some Examples of How You Could Unknowingly Violate Confidentiality

- Talking about recipients outside of work
- Referring to or identifying recipients by name when discussing work with family or friends
- Giving information over the phone to callers who say they are relatives
- Taking photographs or videotapes of recipients without permission
- Listening in on a recipient's phone calls
- Discussing information in a recipient's record with staff from another home or with other mental health or service professionals who are not authorized to receive the information
- Referring to a recipient by name in another recipient's record or on an incident report for another recipient
- Referring to a recipient by full name when speaking with another recipient's family or teacher

THANK YOU!

**You must complete the test to receive credit for
completing this refresher course.**

