

NORTHPOINTE BEHAVIORAL HEALTHCARE SYSTEMS

POLICY TITLE: Recipient Rights System

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MANUAL: Recipient Rights

SECTION: Rights

ORIGINAL EFFECTIVE DATE: 9/15/00

BOARD APPROVAL DATE: 11/25/13

REVIEWED/REVISED ON DATE: 8/16/18

CURRENT EFFECTIVE DATE: 9/1/18

REVISIONS TO POLICY STATEMENT: YES NO **OTHER REVISIONS:** YES NO

APPLIES TO:

All programs operated by or under contract with Northpointe Behavioral Healthcare Systems.

POLICY:

Northpointe is committed to ensuring that the specific rights and protections are afforded to all service recipients.

PURPOSE:

This policy delineates the legal authority and the requirements of the rights of individuals receiving mental health specialty supports and services and substance abuse services. Including, but not limited to ensuring that:

1. recipients are free from abuse, neglect and other rights violations;
2. rights under the Balanced Budget Act, Michigan Mental Health Code, Michigan Public Health Code and Administrative Rules are protected;
3. when there is reason to believe a recipient's rights have been violated, staff report to the proper agency;
4. to protect and promote the rights of recipients in accordance with P.A. 258 of 1974, as amended (the Mental Health Code);
5. that an Office of Recipient Rights shall be established which is subordinate only to the Chief Executive Officer, which is protected from pressures that could interfere with the impartial, even-handed, and thorough performance of its duties, and whose staff have the education, training, and experience to fulfill the responsibilities of the Office.

DEFINITIONS:

Complaint: A written or oral statement filed by a recipient, or another individual on behalf of a recipient, with the Office of Recipient Rights, alleging a violation of the Mental Health Code or Administrative Rules, and which contains the following information:

- A. A statement of the allegations that give rise to the dispute;
- B. A statement of the right or rights that may have been violated;
- C. The outcome that the complainant is seeking as a resolution to the complaint.

RESPONSIBILITIES:

A. The Chief Executive Officer (CEO) shall ensure that:

1. The Recipient Rights Officer and Recipient Rights staff do not have direct service responsibilities and that any duties in addition to recipient rights are not in conflict with the basic purpose of the Office of Recipient Rights (Office);
2. The process for funding the Office of Recipient Rights includes an annual review of the funding by the Recipient Rights Advisory Committee;
3. The Office will have unimpeded access to all of the following:
 - a. All programs and services operated by or under contract with the Agency;
 - b. All staff employed by or under contract with the Agency;
 - c. All evidence necessary to conduct a thorough investigation or to fulfill its monitoring function.
4. Employees and recipients have unimpeded access to the Office;
5. Each contract between the Agency requires all of the following:
 - a. That the provider and all individuals employed by the provider receive recipient rights training before or within 30 days after being employed;
 - b. That recipients will be protected from rights violations while they are receiving services under the contract.

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6. Complainants, staff of the Office, and any staff acting on behalf of a recipient will be protected from harassment or retaliation resulting from recipient rights activities in accordance with Agency policies and procedures, and that appropriate disciplinary action will be taken if there is evidence of harassment or retaliation;
 7. Education and training in recipient rights' policies and procedures are provided to its Recipient Rights Advisory Committee and its Recipient Rights Complaint Appeals Committee;
 8. Staff of the Office receive training each year in recipient rights protection;
 9. Rights officers, advisors and alternates attend and successfully complete MDHHS-ORR Basic Skills Training Programs within 90 days of hire;
 10. Staff of the Office receive a minimum of 36 contact hours of education in each three year period from hire in rights related categories as follows:
 - Category I – Operations
 - Category II – Legal Foundations
 - Category III – Leadership
 - Category IV – Augmented
- A minimum of 12 contact hours of education must be obtained in trainings classifies as Category I or II.
11. Staff of the Office have access to the Agency's personnel grievance process in the event of disciplinary action or discharge;
 12. Appropriate remedial action is taken to resolve violations of rights;
 13. Notice is provided to complainants of substantiated violations in a manner that does not violate employee rights.

B. The Office of Recipient Rights shall ensure that:

1. Recipients, parents of minor recipients, and guardians or other legal representatives have access to summaries of the rights guaranteed by Chapters 7 and 7a of the Mental Health Code and are notified of those rights in an understandable manner, both at the time services are requested and/or initiated, and annually during the time services are provided to the recipient;
2. A complete copy of Chapters 7 and 7a of the Mental Health Code is readily available for review by applicants and recipients;
3. The telephone number and address of the Office and the names of rights staff are conspicuously posted in all service sites;
4. All individuals employed by the Agency, or a contract agency, receive training related to recipient rights protection before or within 30 days after being employed.
5. Each service site:
 - a. Is visited with the frequency necessary for protection of rights but in no case less than annually;
 - b. Has an adequate supply of all of the following:
 - 1) Recipient rights booklets;

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- 2) Complaint forms'
- 3) Incident Report forms;
- 4) Michigan Department of Health and Human Services (MDHHS) -ORR Summary of Abuse and Neglect Reporting Requirements chart;
- 5) Summary of the Whistleblowers' Protection Act;
- 6) Poster with the name, address, and telephone number of rights staff.

C. The Recipient Rights Officer shall possess the education, training, and experience necessary to fulfill the responsibilities of the position as documented in the position description on file in the Personnel Office.

PROCEDURES:

A. The Office shall:

1. Provide or coordinate the protection of recipient rights for all directly operated or contracted services;
2. Participate in the development of policies and procedures pertinent to the rights of recipients;
3. Review the recipient rights policies and the rights system of each provider of mental health services under contract with the Agency to determine that the rights protection system of each provider is in compliance with the Mental Health Code and is of a uniformly high standard;
4. Serve as consultant to the CEO, staff, and recipients of the Agency in matters related to recipient rights;
5. Semi-annually provide summary complaint data consistent with the annual report required in Section 755 of the Mental Health Code, together with a summary of remedial action taken on substantiated complaints by category, to the Michigan Department of Health and Human Services and to the Agency's Recipient Rights Advisory Committee;
6. Attend meetings when rights-related matters are to be discussed, i.e., Behavior Treatment Committee, Quality Improvement Committees and Ad Hoc Committees, Operations, Board, and individual case meetings;
7. Follow the Agency's procedure for local appeals, administrative hearings, and dispute resolution for applicants and Medicaid/non-Medicaid recipients.

B. Staffing

1. The CEO shall
 - a. Select a director of the Office, known as the Recipient Rights Officer, who has the education, training, and experience to fulfill the responsibilities of the Office;
 - b. Consult with the Recipient Rights Advisory Committee prior to selecting, replacing, or dismissing the Recipient Rights Officer and prior to any substantial changes to the rights system.
2. In the absence of a Recipient Rights Officer or other Recipient Rights staff, the CEO or the Agency's emergency services staff shall be available to attempt to contact a rights staff and to provide necessary rights services and shall inform the Office of any services requested.

C. Funding

The CEO shall consult with the Recipient Rights Advisory Committee prior to any alterations to levels of funding for the Office.

D. Investigation

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The Office shall:

1. Maintain a record system for all reports of apparent or suspected rights violations received by the Office, including a mechanism for logging all complaints and a mechanism for secure storage of all investigative documents and evidence;
2. Investigate all reports of apparent or suspected violations of rights within the Agency in accordance with Section 778 of the Mental Health Code and record those that do not warrant investigation;
3. Respond to complaints concerning Section 504 of the Rehabilitation Act of 1973;
4. For grievances related to the Americans with Disabilities Act of 1990, refer the individual to the Recipient Rights Officer.

E. Annual Report

1. The CEO shall submit to the Agency's Recipient Rights Advisory Committee, the Board, and the Michigan Department of Health and Human Services an annual report prepared by the Office on the current status of recipient rights in the Agency and a review of the operations of the Office. The report shall be submitted not later than December 30 of each year for the preceding fiscal year or period specified in the contract with the Department.
2. The Recipient Rights Advisory Committee shall review and provide comments on the report.
3. The annual report shall include, at a minimum, all of the following:
 - a. Summary data by category regarding the rights of recipients receiving services from the Agency including complaints received, the number of reports filed, and the number of reports investigated by the Office;
 - b. The number of substantiated rights violations by category and provider;
 - c. The remedial actions taken on substantiated rights violations by category and provider;
 - d. Training received by staff of the Office;
 - e. Training provided by the Office to employees and contract providers;
 - f. Desired outcomes established for the Office and progress toward these outcomes;
 - g. Recommendations to the Board.

F. Recipient rights Advisory Committee

1. The Board shall appoint a Recipient Rights Advisory Committee as a subcommittee of the Board. The membership of the Rights Advisory Committee shall be broadly based so as to best represent the varied perspectives of the Agency's geographic area. The Recipient Rights Advisory Committee shall be comprised of a minimum of six (6) members. At least 1/3 of the membership shall be primary service recipients or family members, and of that 1/3, at least 1/2 shall be primary service recipients.
2. The Recipient Rights Advisory Committee shall:
 - a. Meet at least quarterly or as necessary to carry out its responsibilities;
 - b. Maintain a current list of members' names to be made available to individuals upon request;
 - c. Maintain a current list of categories represented to be made available to individuals upon request. The identity of specific recipients may not be disclosed without informed consent for such disclosure;
 - d. Protect the Office from pressures that could interfere with the impartial, even-handed, and thorough performance of its functions;
 - e. Recommend candidates for Recipient Rights Officer to the CEO, and consult with the CEO regarding any proposed dismissal or replacement of the Officer and prior to any substantial changes to the rights system;
 - f. Serve in an advisory capacity to the CEO and the Officer;
 - g. Inform the Board of the Committee's position when there is disagreement between the Committee and

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- the CEO;
- h. Review the semi-annual summary of complaint data prepared by the Office;
 - i. Review and provide comments on the annual report submitted by the CEO to the Board under Section 755 of the Mental Health Code;
 - j. Serve as the Board's designated Recipient Rights Complaint Appeals Committee.
3. Meetings of the Recipient Rights Advisory Committee are subject to the open meetings act, Act No. 267 of the Public Acts of 1976. Minutes shall be maintained and made available to individuals upon request.

CROSS REFERENCES:

Act 258 of the Public Acts of 1974, as amended (Mental Health Code) Sections 100a, 100b, 100c, 722, 755, 772, 776.