



## SHIAWASSEE HEALTH AND WELLNESS POLICY AND PROCEDURE MANUAL

<b>Title:</b>	Recipient Rights System
<b>Section:</b>	Recipient Rights
<b>Policy Number:</b>	1
<b>Issued By:</b>	Recipient Rights Director
<b>Approved by:</b> Leadership Team	<b>Effective Date:</b> 10/27/97
<b>Approved on:</b> 08/15/19	<b>Last Revision:</b> 08/07/19
	<b>Last Review:</b> 01/28/21
	<b>Annual Policy Statement Review:</b> 12/28/20

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### **POLICY STATEMENT:**

It is the policy of the Shiawassee Health and Wellness (SHW) that it protect the rights of recipients in compliance with the Michigan Mental Health Code and the Michigan Department of Health and Human Services Administrative Rules, and promote and protect the dignity and respect to which a recipient is entitled.

It is the policy of SHW to establish measures to prevent and correct a possible violation of civil rights related to the service provision. A violation of civil rights shall be regarded as a violation of recipient rights and shall be subject to remedies established for recipient rights violations.

### **PURPOSE:**

To establish policy and standards for the structure and operation of the Recipient Rights System of Shiawassee Health and Wellness (SHW) and the protection of rights of recipients of the agency.

### **APPLICATION:**

This policy applies to all employees, independent contractors, contract agencies and their employees, volunteers, and the SHW Board of Directors.

### **PROCEDURE:**

It is understood that protection of the rights of recipients is a process and a philosophy which must permeate all aspects of SHW operations. This process and philosophy is based on a framework which recognizes the interdependence of care delivery and organizational ethical issues and includes mechanisms to support ethical decision-making. These mechanisms are designed to 1) respect the rights of the recipient within the organization's capability, mission, and applicable law and regulations; 2) address the involvement of the recipient in all aspects of care and service; 3) allow the recipient to express spiritual beliefs and cultural practices which do not harm others or interfere with the planned course of services; and 4) provide for consideration of other needs of the recipient/family.

The preferred approach to rights protection is proactive and preventive in nature. Rights protection activities are inextricably linked to quality assurance and continuous quality improvement processes.

The SHW Board has established an Office of Recipient Rights (ORR) which shall be subordinate only to the CEO. The Office of Recipient Rights will ensure the protection of recipient rights, serve as a consultant in rights related matters, and provide education and training to SHW employees and contract agency employees working with recipients of Shiawassee Health and Wellness.

**A. Board Responsibilities**

1. SHW shall have written policies and procedures concerning the rights of recipients, protection of those rights, and for the operation of the local rights protection system including:
  - a. A mechanism for prompt reporting and investigating suspected violations of rights;
  - b. A grievance procedure for complaints concerning Section 504, Rehabilitation Act of 1973 P.L. 93-112; and grievances related to the Americans with Disabilities Act of 1990;
  - c. Policies and procedures which provide for non-retaliation and protection from harassment of complainants and rights staff. Rule 7037 (1); MCLA 15.361 et seq., the Whistleblowers Protection Act;
  - d. Policies and procedures required by the Michigan Mental Health Code, Chapter Seven and Seven A, and Michigan Department of Health and Human Services Administrative Rules, Part Seven;
  - e. Policies and procedures to ensure that the Office of Recipient Rights shall be protected from pressures which could interfere with the impartial, even handed, objective, and thorough performance of its duties. Such policies and procedures address funding, hiring, and dismissal of the Recipient Rights Director; and,
  - f. Work rules requiring employee cooperation in recipient rights investigations.
  
2. Assure that contracts and agreements for the provision of mental health services specify that the provider is in compliance with the Michigan Mental Health Code and that the rights of recipients shall be protected when they are receiving the services specified in the contract or agreement and have written policies in place. Where there is a contract between SHW and a service provider that is allowed/required to establish its own recipient rights system, the contract will require that the rights officer/advisor and alternate, if employed after 10/1/2002, complete DHHS-ORR's Basic Skills Trainings Part 1 and Part 2, within three months of hire. Every three years, the rights officer/advisor and alternate will also complete recipient rights update training, as specified and approved by DHHS ORR.

3. The organization's policies and procedures for the operation of the local rights system shall specify how rights services shall be provided, including circumstances in which the Recipient Rights Director may be absent.
4. The organization's policies and procedures shall require that clients be informed in writing that information and consultation may be obtained regarding their rights, including appeal rights, as a recipient of community mental health services.
5. Appoint a Recipient Rights Advisory Committee of at least six (6) members who shall be selected from a group of candidates which may include but is not limited to board members and staff, government officials, attorneys, mental health professionals, mental health service recipients, family members, and advocacy groups. At least 1/3 of the membership shall be primary recipients or family members and 1/2 of these shall be primary recipients.
6. Ensure that the job descriptions for the Recipient Rights Director (RRD) and Rights Advisor (RA) includes his/her qualifications and responsibilities and that the job descriptions specify that the Director be subordinate only to the CEO and shall have no direct clinical service responsibilities.
7. Consider the recommendation of the Recipient Rights Advisory Committee (RRAC) prior to appointing a Recipient Rights Director and it shall ensure that consultation from the RRAC be obtained prior to the termination of the Recipient Rights Director.
8. In the event of a recipient rights complaint being filed against the SHW CEO, the SHW Board of Directors will request another Community Mental Health Board ORR within the region or the State Office of Recipient Rights to investigate.

**B. Recipient Rights Advisory Committee (RRAC) Responsibilities**

1. The Recipient Rights Advisory Committee shall hold open public meetings with reasonable notice at least bi-annually or with the frequency necessary to carry out the responsibilities required by the Mental Health Code and in accordance with the Open Meetings Act.
2. Minutes of the RRAC meetings are maintained and available to individuals upon request.
3. A current list of committee member's names shall be maintained and shall be made available to individuals upon request. A current list of categories represented shall also be maintained and available to individuals upon request.

4. Serve in an advisory capacity to the CEO and will recommend candidates with the education, training, and experience necessary to head the SHW Office of Recipient Rights. The RRAC will also provide consultation to the CEO regarding any proposed dismissal of the Recipient Rights Director.
5. Review the local rights protection system including funding of the office and recommend improvements, when necessary, to the CEO.
6. Review the annual report on the rights protection system of the organization and provide comments on the annual rights report submitted by the CEO for presentation to the SHW Board of Directors and submission to the Michigan Department of Health and Human Services.
6. Protect the Office of Recipient Rights from pressures which could interfere with the impartial, even-handed, and thorough performance of ORR duties.
7. The Recipient Rights Advisory Committee is designated to act as the Recipient Rights Appeals Committee.

**C. Chief Executive Officer (CEO) Responsibilities**

1. Select a Director of the Office of Recipient Rights who has the education, training, and experience to fulfill the responsibilities of the office. The CEO shall not select, replace, or dismiss the Recipient Rights Director without prior consultation with the Recipient Rights Advisory Committee. The CEO shall also develop the Recipient Rights Director and Rights Advisor job descriptions.
2. Ensure that staff of the Office of Recipient Rights have specific training on the rights of recipients as guaranteed by the Michigan Mental Health Code and Michigan Department of Health and Human Services Administrative Rules. The Rights Director and Rights Advisor will attend MDHHS-ORR Basic Skills Part 1 and Part 2 and Developing Effective Rights Training within three (3) months or 90 days of hire. Staff of the Office shall also comply with obtaining the continuing education hours as specified in the MDHHS Contract, including acquiring a minimum of three CEU's each calendar year and completing a minimum of twelve CEU's in Category I and/or Category II training every three years.
3. Ensure that the Office of Recipient Rights will have unimpeded access to all programs and staff employed by or under contract with SHW and shall ensure that the ORR has all evidence necessary to conduct a thorough investigation or to fulfill its monitoring function.
4. Take appropriate disciplinary action to ensure protection for complainants, ORR staff, and any staff acting on behalf of a recipient if there is evidence of harassment concerning an alleged violation of rights or a rights complaint.

5. The CEO or his/her designee shall take appropriate disciplinary/administrative action to resolve or prevent violations of rights. Such actions shall be noted in a manner which does not violate employee rights.
6. Arrange a meeting of the Recipient Rights Appeals Committee to hear all appeals of complainants who are not satisfied with the outcome of the investigation of their alleged rights violation and/or the administrative action taken. Requests for such appeals shall be made in writing to the Appeals Committee within forty-five (45) days of receipt of the Summary Report. The appeal shall be completed and a written response to the complainant shall be completed within ten (10) days of the committee reaching the decisions.

**D. Office of Recipient Rights (ORR) Responsibilities**

1. Provide or coordinate rights activities and functions for all services operated by or under contract with SHW consistent with the Michigan Department of Health and Human Services Master Contract and contracts with providers.
3. Ensure that recipients, parents of minor recipients, and guardians or other legal representatives are provided with summaries of the rights guaranteed by Chapter 7 and 7a of the Mental Health Code and complaint forms. The ORR will also ensure that those referenced are notified of their rights in an understandable manner, both at the time services are initialed and annually thereafter.
4. Assure that recipients, parents of minor recipients, guardians, and other have ready access to recipient right complaint forms.
5. Have a complete copy of Chapter 7 and 7a of the Mental Health Code available for review by applicants and recipients.
6. Assure that the telephone number and address of the Rights Office and the names of the rights staff are conspicuously posted in all services sites.
7. Visit all SHW service locations at least annually, or with the frequency necessary, for protection of rights guaranteed by the Michigan Mental Health Code and Michigan Department of Health and Human Services, Administrative Rules. In doing so, the ORR shall ensure that the telephone number, address of the rights office, and the names of the rights officers are conspicuously posted in all service sites and that Recipient Rights booklets, complaint forms, Incident Report forms, and the DHHS-ORR Summary of Abuse and Neglect Reporting Requirement chart are available..
6. Serve as a consultant to the CEO and to all SHW staff and contracted provider staff in rights related matters.

7. The Recipient Rights Director (RRD) shall review recipient rights policies and the rights system of each provider of mental health services under contract with SHW to ensure that the rights protection system of each provider is in compliance with the Mental Health Code and is of uniformly high standard.
8. The Recipient Rights Director will semiannually provide summary complaint data consistent with that required in the annual report, together with a summary of remedial action taken on substantiated complaints by category, to the DHHS ORR and the SHW Recipient Rights Advisory Committee.
9. The ORR shall ensure that all reports of suspected or apparent violations of rights and rights complaints within the Board's service system are investigated in a timely manner according to Mental Health Code Section 778, and will maintain a record system for all reports of apparent or suspected rights violations received within SHW. This logging mechanism will also include those reports that do not warrant investigation. All investigative documents and evidence will be securely stored by the Office of Recipient Rights.
10. Ensure that investigations are conducted in a manner which does not violate employee rights.
11. Provide education and training in recipient rights policies and procedures to all SHW staff, contracted provider staff, and the SHW RRAC and Recipient Rights Appeals Committee in accordance with the technical requirements established in the DHHS Master Contract. The ORR will ensure that all staff employed by SHW, contract agencies, or contracted licensed hospitals receive training related to recipient rights protection before or within 30 days after being employed. A records system of all training received/.given shall be maintained.
12. The Recipient Rights Director or designee shall attend meetings which have an impact on the rights of recipients.
13. The Recipient Rights Director shall have the training and education to fulfill the responsibilities of the office and shall be credentialed for this position. Requirements for education, training, and experience shall be specified in the job description and competencies for the position.
14. The Recipient Rights Director shall review all contracts annually and any new contracts approved during the fiscal year prior to their submission to the provider to ensure that the terms of the contract comply with requirements of the Michigan Mental Health Code and agency policies as they pertain to the rights of recipients, protection of recipients from rights violations, and the requirements for staff training related to recipient rights.

**COMPLIANCE:**

1. SHW shall have written policies and procedures for the operation of the rights system on file with the Michigan Department of Health and Human Services, Office of Recipient Rights.
2. SHW shall develop and approve written policies concerning the rights of recipients, as required by the Michigan Mental Health Code and the Michigan Department of Health and Human Services, Administrative Rules of each directly operated and contract service.
3. The CEO shall submit to the Michigan Department of Health and Human Services, Office of Recipient Rights for review and comment, copies of the organization's policies and procedures, concerning the rights of recipients as specified in the Michigan Mental Health Code and Michigan Department of Health and Human Services, Administrative Rules.
4. The SHW CEO shall submit to the SHW Board of Directors and the DHHS ORR an annual report prepared by the Office of Recipient Rights on the current status of recipient rights in the community mental health services program. The report shall be submitted no later than December 30 of each year for the preceding fiscal year, or period specified in contract, and shall contain at a minimum all of the following:
  - a. Summary data by category regarding the rights of SHW recipients, including complaints received, the number of reports filed, and the number of reports investigated by provider.
  - 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 the Office of Recipient Rights staff and training provided by the ORR staff to contracted providers.
  - e. Desired outcomes established by the ORR and progress toward those outcomes.
  - f. Recommendations made to the SHW Board of Directors.
5. Availability of Recipient Rights Services: In the event of a temporary absence of the Recipient Rights Director, the Recipient Rights Advisor of the agency shall assume the functions of the Recipient Rights Director under the condition that the person holding the position of Recipient Rights Director is credentialed to perform said functions. In the event that no staff person is so credentialed, the agency will contract with another community mental health agency for ancillary Recipient Rights services.

**REFERENCES AND LEGAL AUTHORITY:**

- A. Michigan Mental Health Code, Public Act 258 of 1974, as amended.
- B. Michigan Department of Health and Human Services Administrative Rules.
- C. Michigan Whistleblowers' Protection Act P.A. 469 of 1980.
- D. Section 504, Rehabilitation Act of 1973, Public Law 93-112.
- E. Public Act P.L. 101-336 of 1990, The Americans with Disabilities Act.

**Change Log:**

<b>Date of Change</b>	<b>Description of Change</b>	<b>Responsible Party</b>
11/29/18	Reorganization of policy, removing appeals information that is in RR #2	Andrea Andrykovich, Recipient Rights Director
04/12/19	Clarification of 3 months to include 90 days	Andrea Andrykovich
8/9/19	Updated ORR CEU information	Andrea Andrykovich, RRD
01/28/21	Reviewed	Andrea Andrykovich