

POLICY AND PROCEDURE MANUAL	BCCMHA	PAGE 1 OF 10
CATEGORY - RECIPIENT RIGHTS	CHAPTER 10	SUBJECT D
ABUSE AND NEGLECT/INCIDENT REPORTS	REVISED 11/19/19 REVIEWED 07/07/2021	EFFECTIVE 05/16/96

I PURPOSE

To ensure timely review, uniformity, and consistency in reporting unusual incidents involving a recipient of mental health services that adversely disrupt the normal routine of program administration.

All unusual incidents will be reported by staff on the appropriate forms to the Recipient Rights Officer.

II APPLICATION

This policy/procedure applies to all persons receiving services from Barry County Community Mental Health Authority (BCCMHA).

III POLICY

It is the policy of BCCMHA to ensure that unusual incidents, including abuse and neglect, involving recipients are reported, reviewed and investigated immediately, and that appropriate follow-up care and/or remedial action is taken to ensure the safe and humane treatment of all clients.

BCCMHA has a zero tolerance stance on abuse and neglect per contract language.

Appropriate remedial action shall be recommended by the Executive Director. The Director will ensure corrective action contains firm and fair disciplinary action when required [MHC 1722(2)/RR Standard C5].

IV DEFINITIONS

Abuse: Non-accidental physical or emotional harm to a recipient, or sexual contact with or sexual penetration of a recipient as those terms are defined in Section 520a of the Michigan Penal Code, 1931, PA 328, MCL 750.520a, that is committed by an employee or volunteer of the department, a community mental health services program, a licensed hospital, an employee or volunteer of a service provider under contract with the department, community mental health services program, or licensed hospital.

- Class I: A non-accidental act, or provocation of another to act, by an employee or volunteer, or agent of a provider that caused or contributed to the death, or sexual abuse of, or serious physical harm to a recipient.
- Class II:
- a. A non-accidental act, or provocation of another act, by an employee, volunteer, or agent of a provider, that caused, or contributed to, non-serious physical harm to a recipient; or
 - b. The use of unreasonable force on a recipient by an employee, volunteer, or agent of a provider, with or without apparent harm; or
 - c. Any action, or provocation of another act, by an employee, volunteer or agent of a provider, that causes or contributes to emotional harm to a recipient; or
 - d. An action taken on behalf of a recipient by a provider who assumes the recipient is incompetent, although a guardian has not been appointed or sought, which results in substantial economic, material, or emotional harm to the recipient.
 - e. Exploitation of a recipient by an employee, volunteer, or agent of a provider.
- Class III: The use of language, or other means of communication by an employee, volunteer, or agent of a provider to degrade, threaten, or sexually harass a recipient [AR 7001 (a-c) (z)/AR 7035(2)(a)/RR Standard C1].

2. **Abuse (DHHS):**

All suspected cases or incidents of individuals (not less than 18 years of age) who are at risk because of harm or threatened harm to adult's health or welfare caused by another person. This includes but is not limited to non-accidental physical or mental injury, sexual abuse, or mistreatment.

3. **Assault:**

An intentional act to physically injure another person by force, or forces unlawfully directed toward the person of another, under such circumstances as creates a well-founded fear of imminent peril, coupled with the apparent present ability to effectuate the attempt, even if not presented.

4. **Bodily Function:**

The usual action of any region or organ of the body.

5. **Consumer/Client:**

Any person for whom BCCMHA is responsible for arranging, contracting for and/or coordinating the provision of services.

6. **Emotional Harm:**

Impaired psychological functioning, growth, or development of a significant nature as evidenced by observable physical symptomatology or as determined by a mental health professional.

7. **Employee-Volunteer:**

An individual who works for compensation or a volunteer, including a student, who works without compensation for a CMH program or for staff of an agency or service under contract with CMH.

8. **Exploitation:**

An action by an employee, volunteer, or agent of a provider, that involves the misappropriation or misuse of a recipient's property or funds for the benefit of an individual or individuals other than the recipient.

9. **Neglect:**

An act, or failure to act, committed by an employee or volunteer of the department, a community mental health services program, a licensed hospital, a service provider under contract with the department, community mental health services program, or licensed hospital; or an employee or volunteer of a service provider under contract with the department, community mental health services program, or licensed hospital, that denies a recipient the standard of care or treatment to which he or she is entitled under this act.

- Class I:
- a. Acts of commission or omission by an employee, volunteer or agent of a provider which results from noncompliance with a standard of care or treatment required by law, rules, policies, guidelines, written directives, procedures, or individual plan of service and that causes or contributes to the death, or sexual abuse of, or serious physical harm to a recipient.
 - b. The failure to report apparent or suspected Abuse Class I or Neglect Class I of a recipient.

- Class II:
- a. Acts of commission or omission by an employee, volunteer or agent of a provider which results from noncompliance with standard of care or treatment required by law, rules, policies, guidelines, written directives, procedures, or individual plan of service and which cause, or contribute to non-serious physical harm, or emotional harm, to a recipient; or

- b. The failure to report apparent or suspected Abuse Class II or Neglect Class II of a recipient.
 - Class III:
 - a. Acts of commission or omission by an employee, volunteer or agent of a provider which results from noncompliance with a standard of care or treatment required by law, rules, policies, guidelines, written directives, procedures, or individual plan of service and which either placed or could have placed a recipient at risk of physical harm; or sexual abuse.
 - b. The failure to report apparent or suspected Abuse Class III or Neglect Class III of a recipient [AR 7001(k)/AR 7035(2)(a)/RR Standard C2].
10. **Neglect (DHHS):**
All suspected cases of incidents of individuals who are at risk because of harm to an adult's health or welfare caused by the inability of the adult to respond to a harmful situation (self-neglect) or by the conduct of a person who assumes responsibility for a significant aspect of the adult's health or welfare.
 11. **Non-Serious Physical Harm:**
Physical damage or what could reasonably be construed as pain suffered by a recipient that a physician or registered nurse determines could not have caused or contributed to, the death of a recipient, the permanent disfigurement of a recipient, or an impairment of his or her bodily functions.
 12. **Physical Management:**
A technique used by staff as an emergency intervention to restrict the movement of a recipient by direct physical contact to prevent the recipient from harming themselves, or others.
 13. **Protective Device:**
A device or physical barrier to prevent the recipient from causing serious self-injury associated with documented and frequent incidents of the behavior.
 14. **Restraint:**
The use of a physical device to restrict an individual's movement. Restraint does not include the use of a device primarily intended to provide anatomical support.
 15. **Serious Physical Harm:**
Physical damage suffered by a recipient that a physician or registered nurse determines caused or could have caused the death of a recipient, caused the impairment of their bodily functions, or caused the permanent disfigurement of a recipient.

16. **Sexual Abuse:**
Any of the following:
- 1) Criminal sexual conduct as defined by section 520b to 520e of 1931 PA 318, being MCL 750, 520b to MCL 750.520e involving an employee, volunteer, or agent of a provider and a recipient.
 - 2) Any sexual contact or sexual penetration involving an employee, volunteer or agent of a department operated hospital or center, a facility licensed by the department under section 137 of the act or an adult foster care facility, and a recipient.
 - 3) Any sexual contact or sexual penetration involving an employee, volunteer or agent of a provider and a recipient for whom the employee, volunteer or agent provides direct services.
17. **Sexual Contact:**
The intentional touching of the clothing covering the immediate area of the recipient's or employee's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, done for a sexual purpose or in a sexual manner for any of the following:
- 1) Revenge;
 - 2) To inflict humiliation; or
 - 3) Out of anger
18. **Sexual Penetration:**
Sexual intercourse, cunnilingus, fellatio, intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body. Emission of semen is not required.
19. **Sexual Harassment:**
Any action, by any person, which can be construed as sexual advances toward a recipient, requests for sexual favors from a recipient, or communication of a sexual nature toward a recipient.
20. **Therapeutic De-Escalation:**
An intervention, the implementation of which is incorporated in the individualized written plan of service, wherein the recipient is placed in an area or room, accompanied by staff who shall therapeutically engage the recipient in behavioral de-escalation techniques and debriefing as to the cause and future prevention of the target behavior.
21. **Time Out:**
A voluntary response to the therapeutic suggestion to a recipient to remove themselves from a stressful situation in order to prevent a potentially hazardous outcome.

22. **Treatment by Spiritual Means:**
A spiritual discipline or school of thought that a recipient wishes to rely on to aid physical or mental recovery.
23. **Unreasonable Force:**
Physical management or force that is applied by an employee, volunteer or agent of a provider to a recipient in one or more of the following circumstances:
- a. There is no imminent risk of serious or non-serious physical harm to the recipient, staff or others;
 - b. The physical management used is not in compliance with techniques approved by the provider and the responsible mental health agency;
 - c. The physical management used is not in compliance with the emergency interventions authorized in the recipient's individual plan of service;
 - d. The physical management or force is used when other less restrictive measures were possible but not attempted immediately before the use of physical management or force.
24. **Fiduciary Abuse:**
Any exploitation of a recipient for financial gain that may include, but not limited to, misuse of recipient's funds or taking advantage of the provider relationship with the recipient.
25. **Vulnerable:**
A condition in which an adult is unable to protect themselves from abuse, neglect or exploitation because of a mental or physical impairment or because of advanced age.
26. **Degrade:**
To treat inhumanly; to cause a humiliating loss of status or reputation or cause somebody a humiliating loss of self-esteem; make worthless, to cause a person to feel that they or other people are worthless and do not have the respect or good opinion of others. (syn) degrade, debased, demean, humble, humiliate. These verbs mean to deprive of self-esteem or self-worth; to shame or disgrace. Degrading behavior shall be further defined as any language or epithets that insult the person's heritage, mental status, race, sexual orientation, gender, intelligence, etc.
27. **Threaten:**
To tell someone that you will hurt them or cause problems if they do not do what you want [CMHSP 6.3.2.3(B)/RR Standard C9].

V **STANDARDS**
[Continuing Education for Requirements for Recipient Rights Staff](#)

https://www.michigan.gov/documents/mdhhs/C6.3.2.3B_RR_Course_Content_Requirements_for_CMHSP_and_Provider_Staff_FINAL_FY19_636151_7.pdf
[Incident Report.pdf](#)
[10-D Report of Death attachment.pdf](#)
[10-D Report of Actual or Suspected Neglect or Abuse.pdf](#)

VI PROCEDURES

Incident Reports:

Employees shall immediately report all unusual incidents on the Incident Report, see Attachment A, Incident Report. Reports shall be detailed, clear and concise, with all requested information on the form to be completed in its entirety. The original Incident Report will be forwarded to the Rights Office.

Incident reports other than suspected abuse, neglect, serious physical injury, death, sexual abuse or criminal offenses involving a client will proceed as follows:

- a. Employees who witness, discover or are notified of an unusual incident as described above shall:
 - 1) Protect, comfort, and assure treatment of the client as necessary;
 - 2) Report the incident in the client's progress notes;
 - 3) Contact the program supervisor.

- b. The Program Supervisor notified of an unusual incident shall:
 - 1) As appropriate, take further action necessary to assure treatment, comfort, and protection of the client when verbally notified.
 - 2) If the incident involves an injury that may require further treatment, assure that immediate treatment is received.
 - 3) Assure that proper documentation has been entered in the client's progress notes.
 - 4) State corrective/remedial action taken on the bottom section of the Incident Report.

- c. The Recipient Rights Officer shall inquire further into the situation in order to determine possible rights violations [MHC 1778(1)/RR Standard C4].

Incidents of witnessed or suspected abuse, neglect, serious physical injury, death, sexual abuse, or criminal offense involving a client will proceed as follows. Employees shall:

- 1) Protect, comfort, and assure treatment of the client as necessary;
- 2) Notify the program supervisor immediately;
- 3) Notify the Office of Recipient Rights immediately;
- 4) Report on an Incident Report Form and give it to the program supervisor before the end of the workday, see Attachment Packet.
- 5) Report the incident in the client's progress notes.

b. The program supervisor shall:

- 1) Assure that the Incident Report Form is completed and personally receive the report from the reporting person. If the incident involves a death, assure a Report of Death Form, see Attachment Packet, is completed and attached to the Incident Report.
- 2) Supervisor will forward the Incident Report to the Recipient Rights Officer within 24 hours.

Abuse and Neglect Reporting

Any BCCMHA employee or contract employee who has reasonable cause to suspect the abuse or neglect of a client shall immediately make a verbal report of the suspected abuse or neglect to the Recipient Rights Officer. See Attachment Packet.

The Recipient Rights Officer shall report suspected cases of abuse or neglect to the following within 24 hours either verbally or in writing:

- a. BCCMHA Executive Director;
- b. Barry County Department of Health and Human Services, Adult or Child Protective Services in accordance with their definition of abuse and neglect;
- c. Department of Health and Human Services Licensing if the suspected case of abuse or neglect occurred in a licensed home;
- d. Local law enforcement if the suspected abuse involves assault, criminal homicide or criminal sexual conduct, vulnerable adult abuse and child abuse [MHC 1723/RR Standard C7]. Within 72 hours after making the oral report, the reporting person shall file a written report with the law enforcement agency to which the oral report was made and with the chief administrator or the agency responsible for the recipient [MHC 1723(2)/RR Standard C8][RR Standard C3/C6].

Any employee making such a report of suspected abuse or neglect shall not be dismissed or penalized for making the report and will be protected by the Michigan Whistleblower's Protection Act.

All BCCMHA employees and contractual providers are required to cooperate with recipient rights investigations.

REFERENCES

BCCMHA

CARF

Department of Health and Human Services

Michigan Mental Health Code

CMS

Office of Recipient Rights

SOAMR Administrative Rules (R325.14302 to 325.14306)

ATTACHMENTS

See Attachment Packet

QUALITY ASSURANCE

GOAL

All staff will receive initial and ongoing training on proper incident reporting.

OBJECTIVE

The Recipient Rights Officer will provide initial training on Incident Reporting for new staff and interns, and ongoing training for all staff on an annual basis.

QUALITY ASSURANCE

The Staff Development Committee Chair will monitor the provision and attendance of training by reviewing documentation of the completed training. Recipient Rights training will be completed within 30 days of hire or beginning of internship.

GOAL

Barry County Community Mental Health Authority will be proactive in monitoring trends concerning safety issues evident in incident reporting.

OBJECTIVE

The Recipient Rights Officer will include in the Annual Recipient Rights Report data summarizing incident reports received and reviewed, highlighting trends, sudden increases, and preventative areas.

QUALITY ASSURANCE

The Safety and Infection Control Committee will monitor the safety incidents and concerns by reviewing outcome data addressing trends, sudden increases of incidents, etc. As a result this committee will make recommendations to address agency related issues and concerns regarding safety.

QUALITY IMPROVEMENT

This policy/procedure will be evaluated by the Quality Improvement Committee on an annual basis to enhance and improve the quality.

At any time, employees can request in writing, on the form provided, that this policy or items in this policy be reviewed by the Quality Improvement Committee. Employee’s written requests can be given to any Quality Improvement Committee member.

When an area for improvement is indicated, the process for improvement as identified in the Quality Improvement Plan will be followed.

APPROVED BY:

Richard Thiemkey Date
Executive Director

Holly Hess, BS, QIDP, QMHP Date
Recipient Rights Officer

Emily Whisner, MA, LLP, QMHP, QIDP, CMHP Date
Chief Clinical Officer