POLICY AND PROCEDURE MANUAL	BCCMHA	PAGE 1 OF 22
CATEGORY - RECIPIENT RIGHTS	CHAPTER 10	SUBJECT E
RECIPIENT RIGHTS	REVISED 06/07/2020 REVIEWED 07/01/2020	EFFECTIVE 01/30/97

I PURPOSE

To establish a process for inputting, reporting, and providing remedial action for complaints made to the Recipient Rights Officer and to protect the fundamental human, civil, constitutional and statutory rights of each individual receiving services from Barry County Community Mental Health Authority. (BCCMHA)

II APPLICATION

The following provisions shall apply to all staff of all services/programs operated by or contracted with BCCMHA.

III POLICY

1. A simple mechanism for recipients and others to report complaints will be implemented and maintained.
2. A system for determining whether in fact violations have occurred will be implemented and maintained.
3. Firm and fair disciplinary action will be taken in the event of substantiated abuse and neglect violations.
4. There will be appropriate forms readily available to clients and others who wish to act on their behalf (including staff) for reporting Recipient Rights violations. These reporting forms include the Incident Report Form and the Recipient Rights Complaint Form. See Attachment Packet.
5. "Your Rights When Receiving Mental Health Services in Michigan" booklet will be given to each client upon acceptance for services. See Attachment Packet.
6. Summaries of Recipient Rights will be posted in appropriate places at BCCMHA Clinic and Positive Directions. Specialized Residential Adult Foster Care Homes and all locations where contracted services are provided are also given this information.

IV STANDARDS

The Executive Director will develop policies/procedures in writing to implement Section 752 of Act 258, Public Acts of 1974.

The policies/procedures will be submitted to the Department of Health and Human Services (DHHS) Central Office (Administration Services Unit) for review and approval, including review by DHHS Office of Recipient Rights.

BCCMHA will adopt and implement the approved policies and procedures.

The Executive Director will meet with the Recipient Rights Officer to discuss substantiated allegations, recommended remedial actions, and prevention of rights violations.

The Executive Director will take appropriate remedial action in the event of an apparent violation of recipient rights.

The Recipient Rights Officer will ensure that all applicants for service (each potential client) and parent(s) or guardian shall receive a written summary of rights upon acceptance for service. Documentation of this action will be in the client's file. In addition, the Recipient Rights System will be verbally explained to the client. Special explanations of the Recipient Rights summary shall be given if the client is:

a. Illiterate
b. Intellectually Developmentally Disabled
c. Non-English speaking (the verbal explanation may be delayed until a more clinically suitable time if the client is unable to comprehend the explanation at the time of admission). Time will also be given to obtain an interpreter for the non-English speaking client. A procedure will be in place to obtain an interpreter in a reasonable length of time.
d. Hearing Impaired: Arrangements will be made as soon as possible for an interpreter for a hearing-impaired client. A procedure will be in place to obtain an interpreter for the hearing impaired.

The Recipient Rights Officer will ensure that copies of the appropriate rights summary are posted in appropriate places in the agency.
The Recipient Rights Officer will ensure that recipients, parents of minors, guardians and others have ready access to complaint forms.

The Recipient Rights Officer will visit specialized residential adult foster care homes and center based contracted services on an annual basis to be available to clients and staff concerning rights issues.

The Recipient Rights Officer will investigate all allegations of violations of rights, with assistance from other staff when deemed necessary.

The Recipient Rights Officer will make an independent determination of whether each allegation is substantiated or unsubstantiated.

The Recipient Rights Officer will recommend disciplinary or other remedial action to the Executive Director when an allegation is substantiated.

The Recipient Rights Officer will assure that the recommended remedy to a specific complaint includes action (when applicable) for all clients in a similar situation.

The Recipient Rights Officer will inform the complainant when an allegation refers to a right for which remedial action is outside jurisdiction of the agency and assist the complainant in contacting the appropriate agency.

The Recipient Rights Officer will attend all necessary meetings where clarification of rights related issues may prevent violation of rights.

Records compiled in the course of investigating an alleged rights violation shall be retained by the Recipient Rights Officer and maintained independently of the client's case file and shall be subject to the Agency's Confidentiality Policies and Public Act 258, Section 748 and 748(a).

Each client will have impartial access to treatment, regardless of race, religion, sex, ethnicity, age or handicap.

Each client's personal dignity will be recognized and respected in the provision of all care and treatment.

Each client will receive individualized treatment, including (at least) the following:

a. The provisions of adequate and humane services, regardless of the source of financial support;
b. The provisions of services within the least restrictive environment possible;
c. The provision of an individual treatment plan;
d. The periodic review of the client's treatment plan;
e. The active participation of a client and their parents, relatives, or guardians in planning for treatment; and
f. The provision of an adequate number of competent, qualified, and experienced professional clinical staff to supervise and implement the treatment plan.

BCCMHA will provide continuing training for all staff and specific orientation for all new personnel in the principles of confidentiality and privacy.

V PROCEDURES

The Executive Director will appoint a Recipient Rights Officer who is not employed in direct treatment and is responsible in this capacity only to the Office of Recipient Rights (ORR).

The Executive Director will appoint an individual as back-up whenever the Recipient Rights Officer is on vacation, sick leave or for any other reason he/she may not be available.

The Executive Director will ensure that the agency has an adequate supply of the "Your Rights" booklet, with the Recipient Rights Officer's name and phone number stamped on the Booklet. He/She will also ensure that the agency has a supply of DCH-0030, Recipient Rights Complaint Form and Recipient Rights Complaint Form – Substance Abuse, and DCH-2550, Incident Report Form, Attachment Packet.

The Executive Director will ensure that each applicant (potential client; legal guardian; and if a minor, parent or legal guardian) for crisis intervention and stabilization (outpatient) services is given a copy of the Your Rights Booklet.

The Recipient Rights Officer will ensure that each client accepted for service and legal guardian of client (if applicable and if a minor, parent or guardian) is given an explanation of the rights protection system with a special explanation of rights if the client is:

a. Illiterate;
b. Intellectually Developmentally Disabled;
c. Non-English speaking; and/or
d. Emotionally upset.

The Recipient Rights Officer will ensure that the delivery and explanation of the Your Rights Booklet to the client is documented in the client's case file. This documentation will include:

a. The consent for mental health and/or substance abuse services and acknowledgment of recipient rights form by signing (parent or empowered guardian, if applicable), See Attachment Packet; and
b. Notation of the name of the staff person who gave the explanation and the date on which it was given.

NOTE: If a client refuses to sign, the reason and/or circumstances shall be documented on the form by the staff involved, and the clinician/case manager assigned to the case shall consult with the Program Supervisor or his/her designee regarding the appropriate action to take.

Copies of all legal documents empowering an individual to provide consent for another

(guardianship authority, divorce document, power of attorney, etc.) will be requested at intake and annually placed in the record.

Service recipients ordered by a court of law to receive mental health services on an involuntary basis represent a special classification. An informed consent for services need not be obtained prior to providing services, but efforts shall always be made to obtain written consent whenever possible before services are initiated. A copy of the court order will be requested and placed in the record.

FAMILY PLANNING

The purpose of this subject is to define CMH responsibilities in responding to requests from clients for family planning services.

Family Planning Service: A specialized counseling service, which focuses on the values, clarification and decision-making about such issues as marriage, sexuality, birth control and childbearing.

The individual in charge of the client's written plan of service shall provide clients, their guardians, and parents of minor clients with notice of the availability of family planning and health information services and, upon request, provide referral assistance to providers of such services. The notice shall include a statement that receiving mental health services does not depend in any way on requesting or not requesting family planning or health information services.

The clinician/case manager shall provide the client, guardian and parents of minor children assistance in accessing basic information and education services, utilizing the resources of both the agency's staff as appropriate, and family planning service providers.

The clinician/case manager will provide follow-up to the referral and assure the coordination of services as appropriate, consistent with the standard procedure for the development of the individual plan of service.

The client shall be informed that the receipt of mental health services, or discharge, is in no way dependent upon the request or decision to act on the family planning information. This shall be documented in the progress notes.

If a client, during the course of treatment, requests information in the areas of abortion, sterilization, or contraception, the clinician/case manager shall make a referral to the appropriate agency whose mandates cover these areas.

FINGERPRINTING, PHOTOGRAPHING, AUDIO TAPING OR USE OF ONE-WAY

GLASS

The purpose of this subject is to define procedures regarding the fingerprinting and photographing of clients as part of mental health service delivery. The client will not be fingerprinted as part of any program.

Photographs or audio taping by or on behalf of the public news media or agency-related media, including brochures and annual reports, may be taken only when prior written consent is obtained from one of the following, using the consent form for taping/photography**.** See Attachment Packet:

a. A client (if 18 years of age or older) and competent to consent;
b. The guardian of the client if legally empowered to execute such consent;
c. A parent, if the client is less than 18 years of age.

A photograph or audiotape of the client shall not be taken or used if the client has indicated his/her objections, regardless of whether or not the client, parent or guardian has previously given written consent.

Withdrawal of consent can be made in writing to therapist, case manager, or Recipient Rights Officer at any time.

For identification purposes, expressed written consent must be obtained and the photographs will be kept in the client record. If a photograph is delivered to an individual who is not an employee of BCCMHA for the purpose of identifying a client, it is required that:

a. The photograph is returned;
b. No duplication of the photograph is made without approval from the Program Supervisor.

Written consent must be obtained to provide services, including therapy assessment, to the client, education, and staff development services or presentation to professional groups outside the agency.

If photographs are required for gathering evidence in an allegation of abuse, consent is not required from the client or his/her parent or guardian, but may be taken at the direction of the Executive Director or his designee or the Recipient Rights Officer.

All photographs, audiotapes, and videotapes taken for treatment purposes will become part of the clinical record, and as such are protected by confidentiality regulations. All such materials will be stored in a locked area, annually assessed for continued need and immediately destroyed or returned to client when not needed, or at the time of discharge.

Photographs or audio tapes may be taken and one-way glass may be used for educational or

training purposes, including therapy assessment, to the client, education, and staff development services or presentation to professional groups outside the agency only when expressed written consent is obtained from one of the following: client if 18 years of age or over and competent to consent; the guardian if empowered; or the parent with legal and physical custody if the client is less than 18 years of age.

TREATMENT BY SPIRITUAL MEANS

The purpose of this subject is to assure a client of mental health services is permitted treatment by spiritual means on request of the client or the request of the parent or guardian.

"Treatment by Spiritual Means" encompasses a spiritual discipline or school of thought upon which a client wishes to rely to aid physical or mental recovery and includes easy access, at the client's expense, both to printed, recorded, or visual material essential or related to treatment by spiritual means and to a symbolic object of similar significance.

A client will be allowed to practice his/her spiritual beliefs providing:

a. His/Her practice is not deemed harmful to himself/herself or others;
b. That his/her practice incurs no expense to the program;
c. His/Her practice does not interfere with the treatment program, or violate the rights of others in the program;
d. That his/her practice does not violate the law or court orders.

A facility shall ensure the right to treatment by spiritual means by adopting policies and procedures, which include all of the following:

a. Recourse to court proceedings when there is refusal of medication or other treatment for a minor;
b. Notice to the requesting person of a denial of a request and the reasons for denial;
c. Administrative review or appeal process when treatment by spiritual means is denied.

Opportunity for contact with agencies providing treatment by spiritual means shall be provided in the same manner as clients are permitted to see mental health professionals.

The "right to treatment by spiritual means" includes the right of clients, guardians, or parents of a minor to refuse medication or other treatment on spiritual grounds which predate the current allegations of mental illness or disability, but does not extend to circumstances where either:

a. A guardian or the facility has been empowered by a court to consent to or provide treatment and has done so.
b. A client is presently dangerous to self or others and treatment is essential to prevent physical injury.

c. The right to treatment by spiritual means does not include the right:
    1) To use mechanical devices or chemical or organic compounds which are physically harmful.
    2) To engage in activity prohibited by law.
    3) To engage in activity which physically harms the client or others.
    4) To engage in activity which is inconsistent with court-ordered custody or voluntary placement by a person other than the client.

A denial of treatment by spiritual means by program staff may be appealed to the Office of Recipient Rights at the option of a person requesting treatment.

CULTURAL COMPENTENCY

Gender, sexual orientation, gender expression, cultural background, and spiritual beliefs may be essential components to recovery or treatment and, therefore, are not excluded as a factor when gathering information and will be considered in the provision of services. BCCMHA prohibits discrimination on the basis of race, color, national origin, sex, age, or disability (Affordable Care Act Section 1557).

CLIENT'S RIGHTS TO ACCESS

This subject is designed to assure clients in a residential setting are not prevented from acquiring at their own expense; or from reading written or printed material; or from viewing or listening to television, radio, recordings, or movies available at the program site for reason of, or similar to, censorship. Minors may not have access over the objection of parent/guardian or if against state law. BCCMHA may not override guardian's wish but can advocate for the client.

Restrictions or limitations of this right must be documented in a client's written individual plan of service in accordance with HCBS guidelines. Each restriction or limitation and its justification will be placed in the client's record. Restrictions or limitations will be removed when not essential to achieve program objectives, which justified their application.

Material and devices, beyond those made available by the program, shall be acquired at the client's expense. The program will determine the resident's interest for provision of a daily newspaper.

Any client who wishes to appeal a denial of their right of access may do so by contacting the Recipient Rights Officer. Staff in charge of plan may persuade a parent or guardian of a minor to withdraw objection to material desired by the minor.

COMPREHENSIVE EXAMINATIONS

This subject is designed to assure that clients involved in or with residential services receive a comprehensive examination that will serve as a basis for the development of the treatment plan.

Prior to admission into a residential program, a client shall receive initial comprehensive physical, mental, and social examinations to be used as a means for determining appropriateness of placement.

The comprehensive examinations shall be thorough and consistent with professional standards. For each client admitted as an intellectually disabled individual, the mental examination shall include psychological and educational evaluation and an assessment of adaptive behavior level. For each client admitted as mentally ill, the mental examination shall include history, psychological evaluation, and a mental status assessment. The results shall be recorded in the client's clinical record.

An initial comprehensive examination shall be completed and will include a diagnosis of physical and mental conditions and prescribed program for initial care, treatment, and rehabilitation of the diagnosed conditions pending the completion of a total treatment plan.

The case manager will be responsible for coordinating these examinations.

A report of an initial comprehensive examination shall include diagnosis of physical and mental conditions and a prescribed program for initial care, treatment, and rehabilitation of the diagnosed conditions pending completion of a total treatment plan. A facility shall adopt policies and procedures regarding additional content deemed necessary and for designating which mental health personnel shall perform examination tasks.
Examinations subsequent to admission shall be completed within three working days after an informal or formal voluntary admission or temporary admission and within two working days after a preliminary hearing, which results in continued residence for those involuntarily admitted. If an individual ordered discharged at a preliminary hearing or who waives a preliminary hearing is subsequently ordered admitted after a final adjudication, an examination shall be completed within three working days of either admission or the order of admission if already a resident. Examination deadlines shall apply to examinations and are required by a facility director to supplement examinations prior to admission.

Re-examination will be a part of the required periodic review and will be done at least annually. It will include a diagnosis of a client's physical and mental condition and an evaluation of the current plan of service.

All clinical results of examinations and re-examinations will be kept in the same record as the client's written plan of service.

CHANGE IN TYPE OF TREATMENT

This subject is designed to assure a client in a residential setting is receiving the appropriate treatment and care. The following procedures provide opportunity for the client/parent/guardian to request and receive a review of the appropriateness of the type of treatment and care being provided in a residential program.

A client shall remain in a residential program until a discharge is required by law, or until the client has, in the judgment of his/her treatment team, received the maximum benefit from the program and a determination is made that a less restrictive setting would be more appropriate.

Justification for a change from one type of treatment and care to another within the program shall be in writing and made part of the client's treatment plan and case record.

A new treatment plan will be developed at least annually or as needed during the course of treatment. Annual review and development of a new treatment plan is documented through the annual client status report. If major changes occur prior to the annual date, a new treatment plan may be developed and will be labeled as an "updated treatment plan" (Treatment Plan Addendum). The treatment plan will be consistently reviewed and shall contain the specific date or dates that the overall plan and any of its subcomponents will be formally reviewed for possible modification or revision.

The client shall be informed orally and in writing of his or her clinical status and progress at reasonable intervals established in the treatment plan appropriate to his or her clinical condition.

A client shall be informed when it is determined by his/her treatment team that he/she is ready for a change to another type of treatment and care or has received the maximum benefit from the program.

The reason(s) for a change in service and expected benefits and risks of the change shall be explained to the client, parent of a minor, or empowered guardian. Written informed consent for changes shall be obtained.

Clients, parents, and guardians may request and receive a review of the appropriateness of the type of treatment and care a client is receiving. This request will be made to the case manager/clinician. The treatment team will provide this review with participation of the client, parents, and/or guardian, and it will be completed within thirty days.

A resident involuntarily admitted or admitted on a formal voluntary or administrative status

based on application of a parent, persons in loco parentis, or guardian shall be provided treatment and care which consists of not less than:

a. Weekly therapeutic consultation with a mental professional for a documented duration.
b. Habilitation or rehabilitation services.

RESIDENTS OF A SPECIALIZED RESIDENTIAL HOME PROPERTY AND FUNDS:

This subject is designed to assure the client's right to receive, possess, and use all personal property unless limited pursuant to regulations in the Mental Health Code. Any limitations shall be removed when the circumstances justifying its adoption cease to exist.

PROPERTY:

A client may receive, possess, use and dispose of his/her personal property. Certain properties can be excluded from a residential program by house rules and/or Resident Lease Agreement. These include:

a. Weapons, such as firearms, knives, explosives, and sharp objects;
b. Drugs, unless prescribed;
c. Alcoholic beverages.

All exclusions shall be in writing and posted in each residential program or Recipient Lease Agreement.

If a client is admitted to a residential program, items of personal property, which are not subject to an exclusion or limitation, shall be permitted to remain with the client.

All such property will be inventoried during admission. A reasonable amount of storage area will be provided for personal property and clothing. All personal property may be inspected at reasonable times by the client.

An official receipt shall be issued for limited items which are not excluded but which are essential to the client's welfare while in the program, and an individual designated by the client for any property taken into possession by the program. Each residential program shall establish procedures for the disposition of excluded property in the possession of the client at the time of admittance.

A client's right to possess personal property may be limited only if the limitation is essential:

a. In order to prevent theft, loss or destruction of the property, unless a waiver is signed by the client.
b. In order to prevent the client from physically harming his/herself or others.

Limitation on the right to receive, possess, and use personal property which is imposed by the person in charge of a client's plan of service shall be preceded by documentation in the progress notes of the circumstances which indicate that a limitation is the minimal essential step to achieve protection of physical well-being or property. The imposed limitations shall also be incorporated into the client's treatment plan and reviewed at least every 90 days.

Personal belongings of a client shall not be used as community property; exceptions require written informed consent and shall be documented in the case record.

A client's person, belongings, or living area shall not be searched, unless there is reason to believe there is a hidden illegal item or other item excluded by policy or home rules or Resident Lease Agreement. If an illegal item or an item excluded by policy or house rules/Resident Lease Agreement is suspected, the program staff may conduct a search in the presence of the client and a witness. Justification of any search shall be documented in the case record and an Incident Report, See Attachment Packet, filed, and the outcome of the search STATED.

FUNDS:

A client shall retain possession of his/her own funds. This includes notes, drafts, deposit receipts, stocks, bonds, checks, credit cards, as well as cash.

A client with an empowered guardian shall retain possession of his/her money or assets, unless other direction is given by a parent or empowered guardian. Allowances provided by a parent or a guardian shall be spent at the discretion of the client.

A client may be assisted or counseled in budgeting his/her money. However, a client may not be prevented from spending his/her money as he/she chooses.

A client shall not be denied access to or spending of his/her money except when it is essential to prevent unreasonable and significant dissipation of assets. If this becomes necessary, it will be in writing and part of the individual plan of service, and not to exceed 60 days.

Contracted Non-Residential Settings

Contracted non-residential providers will follow internal policy regarding the maintenance and handling of client funds. Clients are to have access to their personal funds when desired, unless specifically restricted within the client's Individual Plan of Service (IPOS). Any restriction to personal funds will be reviewed at least quarterly by the Behavior Treatment Committee (BTC) at BCCMHA.

The client, guardian, and/or their representative may choose to have staff handle client funds for program activities and outings if this option is offered by the contracted provider. If BCCMHA staff notice any issues or discrepancies with a client's fund, Recipient Rights will be consulted, and notices will be made as necessary to the Licensing Department, MDHHS, the client representative, and law enforcement.

General Residential Settings

Client funds are to be held and distributed in accordance with Licensing Rules for Adult Foster Homes based on size. A client shall be provided a locked storage space for money and other valuables kept in the home. Annually, or more frequently as necessary, BCCMHA staff will ensure that homers holding funds for BCCMHA clients are following all aspects of R400.14315 of the Licensing Rules for Adult Foster Care Small Group Homes, see Attachment H. Staff will keep documentation o file documenting that the home has shown that they comply with this standard.

Clients receiving case management/supports coordination services that are residing in general or specialized adult foster care homes will have their funds monitored at least quarterly. If BCCMHA staff notice any issues or discrepancies with a client's funds, the Recipient Rights and Corporate Compliance Officer will be consulted, and notices will be made as necessary to the Licensing Department, MDHHS, the client representative, and law enforcement.

Specialized Residential Settings

Client funds are to be held and distributed in accordance with Licensing Rules for Adult Foster Homes based on size. A client shall be provided a locked storage space for money and other valuables kept in the home. Specialized residential home providers should also follow contractual agreements with BCCMHA regarding holding client funds. All specialized residential providers need to follow the Home and Community Based Final Rule, which indicates that individuals be able to control their own personal resources. Clients are to have access to their personal funds when desired, unless specifically restricted within the client's Individual Plan of Service (IPOS). Any restrictions to personal funds will be reviewed at least quarterly by the Behavior Treatment Committee (BTC) at BCCMHA.

For Specialized Residential Settings, BCCMHA staff will keep documentation of the home's compliance with this standard. If it is found that the home is not in compliance, the home will be given thirty (30) days to present a corrective action plan outlining corrective measures to ensure compliance going forward. The BCCMHA Compliance Officer, in conjunction with the assigned case manager/supports coordinator, will complete a follow-up review

within the initial ninety (90) days of the corrective action plan to ensure that compliance is met.

RESIDENT LABOR:
This subject is designed to protect a client's right to compensation when performing labor, which results in an economic benefit to another person, BCCMHA program, or other agency.

A client who voluntarily performs labor which contributes to the operation and maintenance of the home/apartment for which the program would otherwise employ someone, will be compensated appropriately and be in accordance with applicable laws and minimum wage provisions.

A client who voluntarily performs labor other than described above will be compensated in the appropriate amount if an economic benefit to another person or agency results from his/her labor.

Chores of a personal housekeeping nature or helping with daily household tasks, as permitted under licensing rules, are not covered by the above.

A client may perform labor that contributes to the operation and maintenance of the facility for which the facility would otherwise employ someone only if the resident voluntarily agrees to perform the labor, engaging in the labor would not be inconsistent with the treatment plan for the client, the amount of time or effort necessary to perform the labor would not be excessive and that in no event shall discharge or privileges be conditional upon the performance of labor.

One-half of any compensation paid to a client for labor performed shall be exempt from collection for payment of mental health services provided.

FREEDOM OF MOVEMENT:
This section is designed to ensure a client's freedom of movement is not restricted any more than is necessary to provide mental health services to him or her, to prevent injury to him or her or to others, or to prevent substantial property damage, except that security precautions appropriate to the condition and circumstances of an individual admitted by order of a criminal court or transferred as a sentence–serving convict from a penal institution may be taken.

A program may have rules, which restrict the freedom of movement for all clients for reasons of health, safety, privacy, etc. These rules shall be in writing and posted.

Individual limitation or modification on freedom of movement shall be documented in the

client's treatment plan. This documentation will include:

1. Justification of the limitation, including a brief description of less restrictive methods, which have been tried.
2. Authorization of the limitation.
3. Duration of the limitation.
4. Review date for the limitation.
5. When and by whom the limitation was explained to the client, and when applicable, to the parent of a minor or empowered guardian.

The client, and when applicable, parent of a minor, or empowered guardian, shall be informed of:

1. General restrictions in program rules.
2. Individual limitations in the treatment plan.

A facility shall provide for a rational and fair manner in which a resident may request leaves and appeal denial of requests.

Any restriction on freedom of movement of a recipient is removed when the circumstances that justified its adoption ceases to exist.

If it is believed that a client should be receiving services in a more or less restricted setting, the case manager will convene an Interdisciplinary Team meeting to determine the least restrictive treatment setting appropriate to meet the needs of the client and to develop a plan to meet these needs.

A facility shall assure that residents are not transferred to settings which increase restraints on personal liberty unless the resident has committed or is expected to commit an act or acts which if committed by a person criminally responsible for his conduct, would constitute homicide or felonious assault or is so dangerous to a mentally disabled or intellectually developmentally disabled person that his presence in a facility is dangerous to the safety of other residents, employees, the community, or himself. Procedures for this determination shall be consistent with the applicable statutes, rules, policies, and procedures relating to transfers and appeals of transfer or shall provide substantially similar procedures, which permit a client to challenge such a move.

COMMUNICATION, TELEPHONE, VISITING RIGHTS AND MAIL:

The purpose of this section is designed to assure that all clients will have reasonable access to private telephone conversations; private, unopened, uncensored mail; and visitation rights except when limited in the individual plan of service or by written program policy when receiving residential services. If reasonable times and places for use of telephone and for isits are established, these shall be in writing and posted in each program or in the Resident

Lease Agreement or IPOS in adherence to HCBS guidelines.

A residential program shall provide a client, unless otherwise restricted, all of the following:

a. Correspondence will be conveniently and confidentially received and mailed and all writing materials and postage are provided in reasonable amounts.
b. Non-letterhead stationary, envelopes, and pens or pencils, upon request.
c. A postal box or daily pickup and deposit of mail.

Mail for a client or outgoing mail from a client shall not be opened, destroyed, or delayed unless one of the following conditions are met:

1. Without written consent of the client, a legally empowered guardian, or the parent of a minor.
2. There is a reasonable belief that the mail is in violation of an authorized limitation in the client's written treatment plan.

Instances of opening or destruction of mail by staff shall be recorded and placed in the client's record.

All limitations shall meet the following criteria:

a. The limitation is the minimum essential action to achieve the purposes proposed.
b. There is supporting documentation of the reasons, which justify the limitations, and the extent of the limitation. The documentation must contain significant evidence to support the expected harm (mental or physical), the violation of law, or harassment. The documentation will also include an assessment of any immediately preceding limitation.

The specific criteria for a limitation on incoming and outgoing mail are:

a. The Behavior Treatment Review Committee shall approve each limitation on a client's outgoing or incoming mail, telephone calls, or visits.
b. The limitation is essential to prevent serious physical or mental harm. Mental harm may include mail that, in the opinion of the professional staff, would interfere with ongoing treatment or habitation or would substantially upset the client.
c. There is good reason to believe that the mail contains items excluded by the written policies of the program or are limited in the client's written plan of service.
d. The limitation is essential to prevent a client from violating a law.

A client shall be able to place and receive telephone calls and to talk on the telephone in private during the times posted in program rules. These times shall not be less than daily daytime shift hours and at least two evening hours. The telephone shall be reasonably

accessible and funds for such telephone usage are available in reasonable amounts.

Specific criteria for a limitation on incoming and outgoing calls are:

a. A limitation is essential to prevent substantial and serious physical or mental harm.
b. A limitation is essential to prevent a resident from violating a law.
c. A limitation is essential to prevent reasonably expected future telephone harassment by a client of an individual previously harassed and who has complained. A limitation to prevent harassment shall require a written request from the victim of the harassment.

A client shall be able to have visitors he/she wishes to see during hours posted in program rules and space shall be made available for such visits.

Limitations on visitors may be made to prevent a client from being seriously hurt, physically or mentally. Mental harm may include a visit that, in the opinion of clinical staff, would substantially upset the client and interfere with ongoing treatment or habilitation. A visit may be limited or prohibited to prevent mental harm only if the person and the limitations are specifically identified in a plan of service.

The program may refuse to admit visitors who have previously abused persons or property or who have been disruptive to clients. This abuse or disruption shall be documented in an Incident Report.

Any limitations on a client's right to private phone calls, mail, and visitors must be clearly justified, meet the criteria outlined and be stated in writing in the client's plan of service.

Current limitations shall not exceed 90 days and shall be reviewed in conjunction with other reviews of the content of a written plan of service to assure ongoing justification for the limitation.

A client will be promptly informed of a limitation on mail, telephone calls, or visits. On request, the client shall be informed of the purpose a limitation is intended to achieve, the persons or entities involved and additional information deemed appropriate.

A client may contest the justification, extent, or duration of a limitation by contacting the Office of Recipient Rights.

Mail, calls to or from, and visits from a client's private physician or attorney, a mental health professional, a court, or other person when the communication is or may be the subject of legal inquiry shall not be limited.

a. "Legal inquiry" includes any matter concerning civil, criminal, or administrative law.
b. A client's request to see their private physician or legal counsel will be promptly facilitated by program staff.
c. Non-emergency visits of a private physician or mental health professional may be limited to reasonable times, which do not seriously tax the effective functioning of the program.

A client may voluntarily limit incoming phone calls or visits while working to stabilize a crisis or for other personal reasons.

DIGNITY AND RESPECT:

A. All recipients of mental health services in hospitals and centers operated by the Department of Health and Human Services and their family members shall be treated with dignity and respect.

B. **DEFINITIONS**:
1. Dignity – to be treated with esteem, honor, politeness; to be addressed in a manner that is not patronizing, condescending or demeaning; to be treated as an equal; to be treated the way any individual would like to be treated.
2. Respect – to show deferential regard for; to be treated with esteem, concern, consideration or appreciation; to protect the individual's privacy; to be sensitive to cultural differences; to allow an individual to make choices.

C. Treatment with dignity and respect shall be further clarified by the recipient or family member, and considered in light of the specific incident, treatment goals, safety concerns, laws and standards, and what a reasonable person would expect under similar circumstances.

D. Examples of treating a person with dignity and respect include but are not limited to calling a person by his or her preferred name, knocking on a closed door before entering, using positive language, encouraging the person to make choices instead of making assumptions about what he or she wants, taking the person's opinion seriously, including the person in conversation, allowing the person to do things independently or to try new things.

E. All department employees, volunteers, contractual service providers and employees of contractual service providers shall treat recipients and their family members with dignity and respect, being sensitive to conduct that is or may be deemed offensive to the other person.

F. In addition to the above, showing respect for family members shall include:
   1. Giving family members an opportunity to provide information to the treating professionals.
   2. Providing family members an opportunity to request and receive educational information about the nature of disorders, medications and their side effects, available support services, advocacy and support groups, financial assistance and coping strategies.

G. Information shall be received from or provided to family members within the confidentiality constraints of Section 748 of the Mental Health Code.

MEDICATION PROCEDURES/USE OF PSYCHOTROPIC DRUGS

A. Definition – Psychotropic Drug: Any medication administered for the treatment or amelioration of disorders of thought, mood or behavior.

B. Standards/Procedures: Prescription medication shall be administered only at the written order of a physician.

Order for medication will be effective for the specific number of days only as indicated by the prescribing physician. The physician or psychiatric nurse must directly examine the client quarterly and the physician may re-write the medication order.

Clients are scheduled for medication reviews as dictated in their Treatment Plan, or more often as indicated by the clinical staff, psychiatric nurse and the BCCMHA staff psychiatrist. Medication reviews are scheduled at a minimum of once every three months.

RESIDENTIAL FACILITIES

In a residential setting, medication shall be administered by personnel who are qualified and trained pursuant to Act. No, 368 of the Public Acts of 1978, as amended, being 333.1101 et seq. of the Michigan Compiled Laws. Residential living units for developmental disabilities shall be equipped with adequate medication areas with ability to securely lock, which provide appropriate and sufficient space for dosage preparation.

When a qualified and trained staff supervises the taking of medication by a resident, he or she shall comply with all of the following provisions:

a. Be trained in the proper handling and administration of medication.
b. Identify in a medication log that the correct resident received the correct dose of the correct medication via the correct route (i.e., oral, inhalation, subcutaneously, intramuscularly, sublingually, topically, etc.) at the correct time. The medication log will also contain the

correct documentation, including a legend of all employee initials and signatures.

c. Initiate a review process to evaluate a resident's condition if a resident requires the repeated and prolonged use of medication that is prescribed on an as needed basis. The review process shall include the resident's prescribing physician, the resident or guardian, and the responsible agency.
d. Not adjust or modify a resident's prescription medication without instructions from a physician who has knowledge of the medical and mental health needs of the resident. Staff shall record, in writing, any instructions regarding a resident's prescription medication.
e. Contact the appropriate health care professional if a medication error occurs or when a resident refuses prescribed medication or procedures, and follow and record the instructions given.
f. When psychotropic medications that are prescribed as "PRN" or "AS NEEDED" are dispensed to a client as a result of worsening psychiatric symptoms, an Incident Report must be filled out by the staff person who dispensed the medication. See Attachment Packet. Incident Reports will then be forwarded to the Recipient Rights Officer. If frequent use of "PRN" or "AS NEEDED" medications is noted by the Recipient Rights Officer, this information will be forwarded to the BCCMHA nurse who will coordinate with the prescribing physician to discuss appropriateness of scheduling medication.

Medication shall not be used as a means of punishment, as a substitute for other appropriate treatment or for the convenience of staff.

The administration of medication will be recorded in the resident's medical record. Any medication errors or adverse drug reactions will be reported immediately to the home supervisor and primary care doctor with appropriate Release of Information, see Attachment Packet, and will be recorded in the client's clinical record and documented on an Incident Report.

Upon leave or discharge from services, a client shall be given only the medication that is authorized in writing by a physician and that enough medication be made available to ensure the recipient has an adequate supply until he/she can become established with another provider.

a. Medication given to a client upon leave or discharge shall be performed in compliance with state rules and federal regulations pertaining to labeling and packaging.

Psychotropic chemotherapy shall not be administered unless:

a. The recipient, parent/guardian of a minor child, gives informed consent.
b. Administration is court ordered.
c. On a case-by-case basis and with appropriate legal consultation and advice, and only when there is clear evidence to suggest that the recipient poses a risk to harm himself, herself or others, a provider may choose to administer chemotherapy to prevent physical harm or injury.

In which case, the following would also have to be evident and documented:

1) Detailed justification and medical rationale must be documented in the clinical record.
2) Present dangerousness to self or others will be assessed and will include assaultive and aggressive behaviors.
3) Initial administration of psychotropic chemotherapy may not be extended beyond 48 hours, unless there is consent. Medication administration shall be immediately documented in the recipient's clinical record.
4) The initial period of treatment shall be as short as possible, shall be terminated as soon as the physician determines that there is little likelihood that the recipient will quickly return to an actively aggressive or assaultive state, and shall be the smallest possible dosage needed.

BCCMHA clients prior to initiating medication treatment from the agency psychiatrist will be advised as to medication effects, side effects, unusual effects and contraindications as feasible and appropriate.

REFERENCES

Act 258, Public Acts of 1974, as amended, being MCL 330.1001 through 300.2106
Rule 330.7001 through 330.7254, Administrative Rules of the Department of Community Health
Appropriate Department of Community Health Administrative Manual Sections
1982 Guidelines for Community Mental Health Recipient Rights System
BCCMHA
CARF
CMS
Department of Health and Human Services
Michigan Mental Health Code
Office of Recipient Rights
Administrative Rules
HCBS

ATTACHMENTS

10-E Recipient Rights attachments.pdf

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 with be followed.

APPROVED BY:

Richard Thiemkey — Date
Executive Director

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