

**/BARRY COUNTY COMMUNITY MENTAL HEALTH AUTHORITY
POLICY AND PROCEDURE MANUAL**

Policy: 7-M Complaint and Appeal Process		Application: BCCMHA Staff
Approved: <u>Richard S. Thiemkey, M.A.</u> <small>Richard S. Thiemkey, M.A. (Feb 4, 2026 15:57:15 EST)</small> Richard Thiemkey, MA Executive Director		
Reviewed 1/21/2026	Revised 12/17/2025	First Effective 5/14/1996

PURPOSE

This policy is designed to outline procedures for the handling of complaints received by the Office of Recipient Rights (ORR), the resulting investigations, written complaint investigation reports, appeal/dispute resolution and the storage of the complaint reports.

DEFINITIONS

Appeals Committee: A committee appointed by the Michigan Department of Health and Human Services (MDHHS) Director, by the board of a Community Mental Health Services program (CMHSP), or by the governing board of a licensed psychiatric hospital (LPH).

Appellant: The complainant, the recipient (if different than the complainant), the legal guardian of the recipient (if any), or the parent of a minor who seeks review by an appeals committee or the MDHHS pursuant to MCL 330.1784 and MCL 330.1786.

Code Protected Rights: A right that is guaranteed by the Michigan Mental Health Code (Act 258 of 1974), Administrative Rule of the Department of Health and Human Services, or other applicable law.

Complainant: The individual who files a recipient rights complaint.

Complaint: Either an oral or written statement of a code protected right within the jurisdiction of BCCMHA. The rights complaint will include a statement of allegations that gives rise to the dispute, a statement of the right or rights that may have been violated, and the outcome that the complainant is seeking as a resolution to the complaint.

Disciplinary Action: The Mental Health Code requires: "Abuse or neglect of a recipient by an employee, volunteer, or agent of a provider shall subject the employee, volunteer, or agent of a provider, upon substantiated reports, to an appropriate penalty, including official reprimand, demotion, suspension, reassignment, or dismissal.

Intervention: To act on behalf of a recipient to resolve a complaint alleging a violation of a code protected right when the facts are clear and the remedy, if applicable, is clear, easily obtainable within 30 days, and does not involve statutorily required disciplinary action. Interventions, at a minimum, must contain the following elements: the specific action taken by ORR on behalf of the complainant to resolve the complaint, identification of the code protected right, a statement

indicating whether the allegation of a rights violation is substantiated or MDHHS/CMHSP Managed Specialty Supports and Services Contract: Attachment C6.3.2.4 Revision Date: 10/1/2025 not substantiated. Additionally, if the allegation is substantiated, the specific remedial action taken is identified.

Investigation: A detailed inquiry into and systematic examination of an allegation raised in a rights complaint, as outlined in section 778 of the Code.

Preponderance of Evidence: Means a standard of proof which is met when based upon all of the available evidence, it is more likely that a right was violated than not; greater weight of evidence, not as to quantity (number of witnesses), but as to quality (believability and greater weight of important facts).

Not Substantiated: A determination made by the Recipient Rights Officer (RRO) that the recipient rights complaint was not a violation.

Remedial Action: Appropriate action taken to correct or provide remedy for a rights violation that is implemented in a timely manner, attempts to prevent reoccurrence of the rights violation and is documented and made part of the record maintained by the rights office. [MCL 330.1780(1-2)]

Respondent: The service provider that had responsibility at the time of an alleged rights violation for the services with respect to which a rights complaint has been filed.

Responsible Mental Health Agency (RMHA): The hospital or community mental health services program that has primary responsibility for the recipient's care or for the delivery of services or supports to that recipient.

Substantiated: A determination made by the RRO that the recipient rights complaint was a rights violation.

POLICY

To establish and maintain a simple mechanism for recipients and others to report complaints.

To establish and maintain a system for determining whether violations have occurred and ensure a firm and fair disciplinary action that will be utilized in the event of confirmed violations.

There will be appropriate forms for reporting recipient rights violations readily available to recipients, parents of minors, guardians and others who wish to act on their behalf (including staff). These reporting forms include the Recipient Rights Complaint forms, See Attachment A.

COMPLAINTS

The Your Rights booklet, a summary of rights, will be placed in all Orientation Folders given to BCCMHA consumers during the intake process and will be offered annually thereafter. [MHC 1706] Complaint forms will be at all service sites.

Recipient Rights information will be explained to all BCCMHA recipients, parents of minors, guardians, or other legal representatives and applicants of services regarding rights guaranteed in Chapter 7 and 7a, in an understandable manner during the intake process and periodically during the time services are provided. If alternative methods, such as an interpreter for a different

language is needed, documentation of the alternative methods as well as the interpreter's name used will be documented in the clinical record. [MHC 1755(5)(b); AR 7011]

Any individual who thinks a client's rights have been violated shall make a verbal or written complaint to the ORR. The BCCMHA Recipient Rights Office assures that consumers, parents of minors, guardians, and others have ready access to Recipient Rights Complaint Forms. [MHC 1776(1)]

A rights complaint will contain all of 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. [MCL330.1776(2)]

Each rights complaint will be recorded upon receipt by the office, and acknowledgment of the recording shall be sent along with a copy of the complaint to the complainant within 5 business days. [MCL 1776(3)] All complaints will be numbered and recorded by the rights office on a compliant log and the acknowledgment letter, including a copy of the written complaint, to the complainant, recipient, parent or a minor child and/or guardian.

The acknowledgement letter will include a copy of the written complaint and a determination of whether the Office of Recipient Rights will complete an intervention or investigation.

Within 5 business days after the complaint is received, the rights office will notify the complainant if it determines that no investigation of the rights complaint is warranted. [MHC 1776(4)] The complainant will be referred to the appropriate agency.

The Office of Recipient Rights shall determine if the alleged rights violation involves abuse, neglect, serious injury, or death of consumer involving an apparent or suspected rights violation and if so, will immediately initiate an investigation, and:

1. Assures all mandatory reporting to external agencies and required written reports are completed within specified time frames.
2. Secures a written statement from the complainant and anyone else involved in or with knowledge of the allegation.
3. Informs the Director/Supervisor of the employee named in the alleged rights violation to take steps necessary, such as reassignment of the employee, to prevent contact between the employee and the consumer named in the complaint, or if this is not possible, suspend the employee with or without pay until the investigation is complete.
4. For verbal complaints that involve code-protected rights, but not abuse or neglect, the Office of Recipient Rights has the complainant describe the alleged violation and then puts the complaint in writing.

The right office will be made available to assist in the complaint process, as necessary. The office will advise the recipient or other individual that there are advocacy organizations available to assist in preparation of a written rights complaint and will offer to refer the recipient or other

individual to those organizations. In the absence of assistance from an advocacy organization, the office will assist in preparing a written rights complaint. The office will inform the recipient or other individual of the option of mediation under section 786.

[MHC 1776(5)]

If a rights complaint has been filed regarding the conduct of the Executive Director, the rights investigation will be conducted by the office of another community mental health services program or by the state office of recipient rights as decided by the board. [MHC 1776(6)]

Rights complaints filed by consumers or anyone on their behalf will be provided to BCCMHA ORR in a timely manner.

Any employee making a complaint in good faith with the ORR is protected by the Michigan Whistleblower's Protection Act (460 PA 1980) and will not be discharged, threatened, or otherwise discriminated against for doing so.

Barry County Community Mental Health Authority (BCCMHA) will endeavor to ensure that complainants, staff of the ORR, and any staff acting on behalf of a client will be protected from harassment or retaliation resulting from recipient rights activities. Appropriate disciplinary action will be taken if there is evidence of harassment, retaliation, and/or humiliation against anyone who files a recipient rights complaint. [MHC 1755(3)(a)]

Allegations of retaliation and/or harassment involving a recipient will be investigated by the rights office and appropriate disciplinary action will be taken. Allegations of retaliation and/or harassment involving direct/contracted staff will be investigated by Human Resources.

If the complaint is related to the Rehabilitation Act of 1973 or the Americans with Disabilities Act of the 1990 the RRO will accept such complaints and may assist/refer for further action.

INVESTIGATIONS OF COMPLAINTS

The Office of Recipient Rights shall determine if the complaint will be investigated or handled as an intervention. The investigation will be initiated in a timely and efficient manner, with initial contact via letter to the complainant within five business days of receipt of complaint.

The office will initiate investigation of apparent or suspected rights violations in a timely and efficient manner. Subject to delays involving pending action by external agencies as described in subsection (5), the office will complete the investigation not later than 90 days after it receives the rights complaint. Investigation shall be initiated immediately in cases involving alleged abuse, neglect, serious injury, or death of a recipient involving an apparent or suspected rights violation. [MHC 1778(1)] Allegations will be investigated with priority assigned to the allegation concerning safety or personal injury.

The rights office will inform the staff of the recipient rights allegation if he/she has not already been informed by the provider/employer.

The rights office will:

- a. Identify all people who may have information about the allegation
- b. Interview all person identified and where appropriate secure a written statement in regard to the recipient rights allegation.
- c. Review all the pertinent records and applicable MDHHS, BCCMHA, Board, and contractual provider's policies, and document the necessary information.
- d. Assure the investigation is conducted in a manner consistent with BCCMHA personnel policies and employee contracts and is not in violation of employee rights.

Investigation activities for each rights complaint will be accurately recorded by the office. [MHC 1778(2)]

The office shall determine whether a right was violated by using the preponderance of the evidence as its standard of proof. [MHC 1778(3)] The rights office will make an independent determination, using the preponderance of evidence as its standard of proof, of whether or not the available facts lead to a conclusion that the allegation can be substantiated or not substantiated.

The office shall issue a written status report every 30 calendar days during the course of the investigation. The report shall be submitted to the complainant, the respondent, and the responsible mental health agency. A status report shall include all of the following: (a) Statement of the allegations. (b) Statement of the issues involved. (c) Citations to relevant provisions of this act, rules, policies, and guidelines. (d) Investigative progress to date. (e) Expected date for completion of the investigation. [MHC 1778(4)(a-e)]

Subject to delays involving pending action by external agencies, (i.e., Department of Health and Human Services, law enforcement), the office shall complete the investigation no later than 90 days after it receives the rights complaint.

Upon completion of the investigation, the office will submit a written investigative report (RIF) to the respondent and to the responsible mental health agency. Issuance of the written investigative report may be delayed pending completion of investigations that involve external agencies, including law enforcement agencies and the department of social services. The report will include all of the following: (a) Statement of the allegations. (b) Statement of the issues involved. (c) Citations to relevant provisions of this act, rules, policies, and guidelines. (d) Investigative findings. (e) Conclusions. (f) Recommendations, if any. [MHC 1778(5)(a-f)]

The rights office will distribute a copy of the Investigative Report to the respondent and responsible mental health agency. On substantiated rights violations the respondent's written corrective action plan will meet all of the following requirements for remedial action: a. Correct or provide remedy for the rights violation. b. Is implemented in a timely manner. c. Attempt to prevent a reoccurrence of the rights violation.

The corrective action plan/remedial action will be documented and made a part of the record maintained by the Office of Recipient Rights. Other involved investigatory agencies (APS, CPS, Licensing and/or law enforcement) will receive a report as applicable.

The Executive Director will review the submitted corrective action to assure the respondent took appropriate remedial action that meets the following requirements: a. Corrects or provides remedy for the rights violation. b. Is implemented in a timely manner. c. Attempts to prevent recurrence of the rights violation.

The Executive Director will review the submitted corrective action to assure the respondent took appropriate firm and fair disciplinary action for all substantiated abuse and neglect allegations, including failure to report.

BCCMHA and all providers of service will ensure that appropriate disciplinary action was taken against those who engaged in abuse or neglect, or retaliation and harassment. Abuse or neglect of a recipient by an employee, volunteer, or agent of a provider shall subject the employee, volunteer, or agent of a provider, upon substantiated reports, to an appropriate penalty, including official reprimand, demotion, suspension, reassignment, or dismissal. [MCL 330.7035(1)] A provider shall do both of the following: (b) Provide for a prompt and thorough review of charges of abuse that is fair to both the recipient alleged to have been abused and the charged employee, volunteer, or agent of a provider. [MCL 330.7035(2)(b)]

The Executive Director will submit a written summary report to the complainant and recipient, if different than the complainant, within 10 business days after the executive director receives a copy of the investigative report under section 778(5). The summary report will include all of the following: (a) Statement of the allegations. (b) Statement of issues involved. (c) Citations to relevant provisions of this act, rules, policies, and guidelines. (d) Summary of investigative findings. (e) Conclusions. (f) Recommendations made by the office. (g) Action taken, or plan of action proposed, by the respondent. (h) A statement describing the complainant's right to appeal and the grounds for an appeal. [MCL 1782(1)(a-h)]

All potential appellants must be informed in the Summary Report issued by the executive director or hospital director of the right to appeal to the designated appeals committee. Notice must include the address for filing the appeal, the grounds for appeal, the time frame for submission of the appeal, information on advocacy organizations that may assist with filing the written appeal, and, in the absence of assistance from an advocacy organization, an offer of assistance by the office of recipient rights. [CMHSP Contract C6.3.2.4]

Notification when the Summary Report Contains a Plan of Action A Summary Report which contains a plan of action must indicate a date the action is expected to be completed. Once the action has been completed the executive director or hospital director must send an amended summary report with a notice to appeal as described above. [CMHSP Contract C6.3.2.4]

If the letter indicating the plan of action describes an action that differs from the plan, the letter must indicate that an appeal may be made within 45 days of the “action.”

Information in the summary report shall be provided within the constraints of sections 748 and 750 and shall not violate the rights of any employee. MCL 330.1782(2)]

Therefore, the Office of Recipient Rights will obtain written informed consent from the consumer to reveal results of an investigation, to a complainant when the complainant is not the consumer, parent of a minor, guardian, or provider. If consent cannot be obtained, the complainant's copy of the Recipient Rights Summary Report should state whether the allegation was substantiated or not substantiated and contain only non-confidential information.

Information in the summary report will not violate the rights of any employee (i.e. Bullard-Plawecki Employee Right to Know Act, Act No. 397 of the Public Acts of 1978, MCL 423.501 et. seq. etc.) and will be within the constraints of the confidentiality/privileged communications sections of the Michigan Mental Health Code.

When either a CMH staff or provider personnel fail to report suspected violations of rights, appropriate administrative action will be taken.

A rights investigation may be reopened or reinvestigated by the office if there is new evidence that was not presented at the time of the investigation. [MHC 1778(6)]

Rights Interventions:

All other rights issues, besides abuse and neglect, can be handled as interventions and resolved to the mutual satisfaction of all parties involved. Records will be maintained of all such cases.

Interventions are completed by the Office of Recipient Rights on behalf of a consumer to resolve a complaint alleging a violation of a code protected right when the facts are clear, and the remedy, if applicable, is clear, easily obtainable and does not involve statutorily required disciplinary action.

APPEAL PROCESS

Local appeal

The Recipient Rights Advisory Committee has been designated by the BCCMHA Board to act as the Appeals Committee. [MHC 1774(2)] None of the members shall be employed by the community mental health service provider or MDHHS.

All appeals filed involving a CMHSP recipient are in the jurisdiction of the CMHSP ORR Appeals Committee. The CMHSP Appeals Committee must have jurisdiction for all appeals of investigations involving recipients receiving treatment in an LPH for which the CMHSP is the RMHA. For non-CMHSP recipients, the LPH may appoint its own appeals committee in compliance with section 774(4)(a) of the Code or, under agreement with MDHHS, designate the MDHHS Appeals Committee to hear appeals of investigations of the LPH ORR under section 774(4)(b) of the Code. [MHC 1774(3)/CMHSP Contract C6.3.2.4)]

The Appeals Committee may request consultation and technical assistance from MDHHS-ORR. [MHC 1774(5)]

Not later than 45 days after receipt of the summary report or Amended Summary Report under section 782, the complainant may file a written appeal with the appeals committee with jurisdiction over the office of recipient rights that issued the summary report based on one of the following grounds: (a) The investigative findings of the office are not consistent with the facts or with law, rules, policies, or guidelines. (b) The action taken or plan of action proposed by the respondent does not provide an adequate remedy. (c) An investigation was not initiated or completed on a timely basis. [MCL 1874(1)(2)/CMHSP Contract C6.3.2.4]

The rights office will advise the complainant that there are advocacy organizations available to assist the complainant in preparing the written appeal and shall offer to refer the complainant to those organizations. In the absence of assistance from an advocacy organization, the office will assist the complainant in meeting the procedural requirements of a written appeal. The office will also inform the complainant of the option of mediation under section 786. [MCL 1874(3)]

Notice of Preliminary Review Within 5 business days of receipt of the request for appeal, at least two members of the appeals committee must review the request for appeal to determine if the appellant has standing to appeal and the appeal request meets the timeframe and grounds for appeal. If the appeal is denied, the appellant must be notified in writing, the reason for not accepting the request for appeal (standing to appeal, grounds or timeliness). If the appeal is accepted the appellant must be notified in writing and a copy of the appeal must be provided to the respondent, the RMHA, and the rights office. The appeals committee must maintain a log of all appeals received and the disposition of each. [MCL 1874(4)/CMHSP C6.3.2.4]

A member of an appeals committee who has a personal or professional relationship with an individual involved in an appeal must abstain from participating in that appeal. [MCL 330.1874(6)/CMHSP C6.3.2.4]

If the appeal is accepted, no later than 30 calendar days after receipt of a written appeal the appeals committee must meet in closed session to review the facts as stated in complaint investigation documents in light of the reason for appeal. The appeals committee must not consider allegations that were not part of the original complaint but must inform appellant of their right to file a new complaint with the office. Upon completion of their review, the appeals committee must do one of the following:

- i. Uphold the investigative findings of the office and the action taken or plan of action proposed by the respondent.

- ii. If the appeal concerns the investigative findings of the office, either:
 - a. Return the investigation to the office and direct that it be reopened or reinvestigated, or
 - b. Recommend that the board (CMHSP) or governing body (LPH) request an external investigation by the MDHHS Office of Recipient Rights.
- iii. If the appeal concerns the action taken, recommend that the respondent take additional, or different, action to remedy the violation. The appeals committee must base its determination upon remedial action as defined in section 780 of the Code.
 - a. Action taken or proposed does not correct or remedy the rights violation.
 - b. Action taken or proposed action was not completed in a timely manner.
 - c. Action taken or proposed action does not attempt to prevent a future recurrence of the violation.Written notice of this recommendation for additional or different action to be taken by the respondent must also be provided to the RMHA, if different than the respondent, and the the office of recipient rights.
- iv. If the appeals committee determines the investigation was not initiated or completed in a timely manner per chapter 7A, recommend that the director of the state office of recipient rights, executive director of the CMHSP or hospital director of the LPH address the lack of timeliness with staff completing the investigation. [MCL 1874(4)/CMHSP C6.3.2.4]

The appeals committee shall document its decision in writing. Within 10 working days after reaching its decision, it shall provide copies of the decision to the respondent, appellant, recipient if different than the appellant, the recipient's guardian if a guardian has been appointed, the responsible mental health agency, and the office. [MCL 1874(5)]

If the appeals committee upholds the investigative findings of office of recipient rights and the action taken or plan of action proposed by the respondent, the notice must include level 2 appeal contact information, grounds for appeal as stated in section 784(2) of the Code, the timeframe for submission of the appeal, advocacy organizations that may assist with filing the written appeal, and an offer of assistance by the office of recipient rights in the absence of assistance from an advocacy organization. [CMHSP C6.3.2.4]

If the appeals committee returns the investigation to the office of recipient rights to be reopened or reinvestigated, documentation must include justification for the decision made by the appeals committee. If the appeals committee returns the investigation to be reopened or reinvestigated, the office of recipient rights must complete the reinvestigation within 45 calendar days of receipt of the written decision of the appeals committee and submit to the executive director or hospital director. [CMHSP C6.3.2.4]

Within 10 business days of receipt of the reinvestigation report, the executive director or hospital director must issue a new Summary Report in compliance with section 782 of the Code. The Summary Report must be submitted to the appellant, recipient if different than the appellant, the recipient's legal guardian, if any, the office of recipient rights and the appeals committee. The Summary Report must include level 2 appeal contact information, grounds for appeal as stated in section 784(2) of the Code, the time frame for submission of the appeal, advocacy organizations

that may assist with filing the written appeal, and an offer of assistance by the office of recipient rights in the absence of assistance from an advocacy organization. [CMHSP C6.3.2.4]

If the appeals committee recommends the respondent take additional or different action, the respondent must provide written notice within 30 days of different or additional action taken or justification as to why it was not taken. The written notice must be sent to the appellant, recipient if different than appellant, the recipient's legal guardian, if any, the RMHA if different than the respondent, the office of recipient rights and the appeals committee. [CMHSP C6.3.2.4]

If the appeals committee recommends that the board (CMHSP) or governing body (LPH) request an external investigation by MDHHS Office of Recipient Rights (ORR), the board or governing body may make the request to MDHHS ORR, in writing, within 5 business days of receipt of the request from the appeals committee.

a. Within 10 business days of receipt of the investigative report from MDHHS ORR, the executive director or hospital director must issue a Summary Report in compliance with section 782 of the Code. The Summary Report must be submitted to the appellant, recipient if different than the appellant, the recipient's legal guardian, if any, the office of recipient right and the appeals committee.

b. The complainant, recipient if different than the complainant, and the recipient's legal guardian, if any, must be informed in the Summary Report issued by the executive director or hospital director of the right to level 2 appeal per section 786 of the Code. Notice must include level 2 appeal contact information, grounds for appeal as stated in section 784(2) of the Code, the time frame for submission of the appeal, advocacy organizations that may assist with filing the written appeal, and an offer of assistance by the office of recipient rights in the absence of assistance from an advocacy organization. [CMHSP C6.3.2.4]

Level 2 Appeal contact information:

Level 2 Appeal

MDHHS Legal Affairs Administration Appeals Division

PO Box 30807 Lansing, MI 48909

FAX: (517) 241-7973

mdhhs-appeals@michigan.gov

2nd level appeal

Within 45 days after receiving written notice of the decision of an appeals committee under section 784(5), the appellant may file a written appeal with the department. The appeal shall be based on the record established in the previous appeal, and on the allegation that the investigative findings of the local office of recipient rights are not consistent with the facts or with law, rules, policies, or guidelines. [MCL 330.1786(1)]

Upon receipt of an appeal under subsection (1), the department shall give written notice of

receipt of the appeal to the appellant, respondent, local office of recipient rights holding the record of the complaint, and the responsible mental health agency. The respondent, local office of recipient rights holding the record of the complaint, and the responsible mental health agency shall ensure that the department has access to all necessary documentation and other evidence cited in the complaint. [MCL 330.1786(2)]

The department shall review the record based on the allegation described in subsection (1). The department shall not consider additional evidence or information that was not available during the appeal under section 784, although the department may return the matter to the board or the governing body of the licensed hospital requesting an additional investigation. [MCL 330.1786(3)]

Within 30 days after receiving the appeal, the department shall review the appeal and do 1 of the following: (a) Affirm the decision of the appeals committee. (b) Return the matter to the board or the governing body of the licensed hospital with instruction for additional investigation and consideration. [MCL 330.1786(4)]

The department shall provide copies of its action to the respondent, appellant, recipient if different than the appellant, the recipient's guardian if a guardian has been appointed, the board of the community mental health services program or the governing body of the licensed hospital, and the local office of recipient rights holding the record. [MCL 330.1786(5)]

STORAGE AND DISTRIBUTION OF RECIPIENT RIGHTS REPORTS

One copy of the complaint report with a request for corrective action will go to the Director of the contract agency, or internally to the Executive Director.

Persons receiving these reports are responsible for assuring their confidentiality. These reports are to be maintained in a locked storage area or shredded when no longer needed.

These reports are only to be shared on a “need to know” basis, consistent with any applicable BCCMHA or contract agency personnel policies and Section 748 of the Mental Health Code.

A copy of the report will not be given to staff involved in an allegation.

REFERENCES

Act 258, Public Acts of 1974, as amended, being MCL 330.1001 through 300.2106

Rule 330.7001 through 350.7254, Administrative Rules of the Department of Health and Human Services

Appropriate Department of Health and Human Services Administrative Manual Sections 1982
Guidelines for Community Mental Health Recipient Rights System
2026 Technical Requirement

2026 Contract attachment/technical requirement

ATTACHMENTS

Recipient Rights Complaint Form

Complaint and Appeal Process attachments.pdf