

NORTHEAST MICHIGAN COMMUNITY MENTAL HEALTH AUTHORITY

POLICY & PROCEDURE MANUAL

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PERSONNEL
(Manual Section)

RECIPIENT RIGHTS: RIGHTS OF SUBSTANCE USE DISORDER RECIPIENTS – POLICY 3860

Approval of Policy

Dated:

Original Inception Date:

July 13, 2006

Policy Last Reviewed:

June 17, 2024

Last Revision of Policy Approved:

September 11, 2017

•1 POLICY:

Northeast Michigan Community Mental Health shall adhere to the following recipient rights standards in the provision of substance use disorder services in compliance with Administrative Rules for Substance Use Disorders Services Programs in Michigan, Public Act 368 of 1978 as amended Section 6231(1) and with Federal Law and rules found in 42 USC 290(d)(2) and 42 CFR Section 2.

The Authority's Recipient Rights Officer is designated as the Substance Use Disorder Program Recipient Rights Officer.

The Rights of Substance Use Disorder program recipients include:

- A. **RIGHT TO NON-DISCRIMINATION:** An individual served by the Agency as defined in the 1981 Administrative Rules for Substance Use Disorder Service Programs in Michigan shall not be denied appropriate service on the basis of race, color, national origin, religion, sex, age, mental or physical handicap, marital status, sexual preference, or political beliefs.
- B. **CIVIL RIGHTS:** The admission of a recipient to this program or the provisions of prevention services, shall not result in the recipient being deprived of any rights, privileges, or benefits which are guaranteed to individuals by state or federal law or by the state or federal constitution.
- C. **GRIEVANCE RIGHTS:** An individual served by the Agency may present grievances or suggested changes in program policies and services to the program staff, to governmental officials, or to another person within or outside the program. In this process, the program shall not in any way restrain the individual served.
- D. **RIGHT TO CONFIDENTIALITY:** An individual served by the Agency has the right to receive treatment in confidence. The records of the identity, diagnosis, prognosis, and treatment of an individual served for substance use disorder treatment services are

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confidential and may be disclosed only for the purposes and under the following circumstances authorized by the following sections:

1. An individual served by the Agency may consent in writing to the disclosure of the content of the record to:
 - a. Health professionals for the purpose of diagnosis or treatment of the individual.
 - b. Governmental personnel for the purpose of obtaining benefits to which the individual is entitled.
 - c. Any other person specifically authorized by the individual.
 2. The individual served by the Agency consenting under subsection (1.) may revoke the authorization for the disclosure at any time, unless expressly prohibited by federal legislation on confidentiality of alcohol and drug abuse patient record, by giving written notice to the licensee of the substance use disorder service. The revocation shall be in a form specified by the United States Department of Health, Education, and Welfare, and the Special Action Office for Drug Abuse Prevention.
 3. If an individual served by the Agency has not given written consent, the content of the record may be disclosed only as follows:
 - a. To medical personnel to the extent necessary to meet a bonafide medical emergency;
 - b. To qualified personnel for the purpose of conducting scientific statistical research, financial audits, or program evaluation, but the personnel shall not directly or indirectly identify an individual in a report of the research audit or evaluation or otherwise disclose an identity in any manner;
 - c. Upon application, a court of competent jurisdiction may order by subpoena, specific disclosure of whether a specific individual is under treatment by an agency. In all other respects the confidentiality shall be the same as the physician-patient relationship provided by law;
 - d. If necessary to comply with another provision of law, such as child or adult abuse and neglect reporting requirements per Michigan "Child Protection Law," Act 238, P.A. of 1975 or "Adult Protective Services Law," Act 519 of 1982;
 - e. If there is a compelling need for disclosure based upon a substantial probability of harm to the recipient or to other individuals.
- E. **RIGHT TO ACCESS RECORD:** An individual served by the Agency has the right to review, copy, or receive a summary of his or her program records, unless in the judgment of the Authority Director/or designee, such actions will be detrimental to the individual served or to others for either of the following reasons:
1. Granting the request for disclosure will cause substantial harm to the relationship between the individual served and the program or to the program's capacity to provide services in general;
 2. Granting the request for disclosure will cause substantial harm to the individual served.

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All requests to review records will be directed to the Office Manager/or designee. If the treating clinician believes the disclosure would be detrimental to the individual, the request will be submitted to the Authority Director for decision based on the above criteria. If the Authority Director/or designee determines that such action will be detrimental, the individual served is allowed to review non-detrimental portions of the record or a summary of the record. If an individual served by the Agency is denied the right to review all or part of his or her record, the reason for the denial shall be stated to the individual. An explanation of what portions of the record are detrimental and for what reasons shall be stated in the client record and shall be signed by the Authority Director/or designee.

The Authority Director/designee shall inform the Recipient Rights Officer when a decision has been made not to disclose any portion of a recipient's record.

- F. **RIGHT TO FREEDOM FROM ABUSE OR NEGLECT:** A program staff member shall not physically or mentally abuse or neglect or sexually abuse an individual served as the term "abuse " and "neglect" are defined in the Substance Abuse Quality Assurance & Licensing Section Administrative Rules.
- G. **FINANCIAL RIGHTS:** An individual served by the Agency has the right to review the Agency's Ability to Pay procedure per the Michigan Mental Health Code, Chapter 8. A financial intake worker will give each individual served a copy of the Financial Determination upon admission, and annually thereafter.

A recipient is entitled to receive an explanation of his or her bill upon request, regardless of the source of payment. The request for this should be made to the Reimbursement Department.

- H. **RIGHT TO INFORMED CONSENT TO TREATMENT:** An individual served by the Agency has the right to refuse treatment and to be informed of the consequences of that refusal. When a refusal of treatment prevents this program from providing services according to ethical and professional standards, the relationship with the individual may be terminated, with the program director's written approval, upon reasonable notice. Reasons for termination will be recorded in the individual's case file in the discharge summary.

An individual served by the Agency has the right to give prior informed consent, consistent with federal confidentiality regulations, for the use and future disposition of products of special observation and audiovisual techniques, such as one-way vision mirrors, tape recorders, television, movies, or photographs.

Should the Authority engage in any experimental or research procedure, any or all individuals served will be advised as to the procedures to be used, and have the right to refuse participation in the experiment or research without jeopardizing their continuing services. State and federal rules and regulations concerning research involving human subjects will be reviewed and followed.

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Upon admission, each individual is provided with program rules, which are also posted in public places in the program. These program rules inform new recipients of the infractions which can lead to discharge. The rules also describe the mechanism for appealing a discharge decision and which staff has authority to discharge. The individual served signs a form documenting a written copy of program rules has been received and questions about it answered. This form is maintained in the individuals's file. Discharge is for a period of at least 30 days.

- I. **RIGHT TO PERSON CENTERED PROCESS:** An individual served by the Agency shall participate in the development of his or her person centered plan.
- J. **MEDICATION RIGHTS:** An individual served by the Agency shall have the benefits, side effects, and risks associated with the use of any drugs fully explained in language, which is understood by the recipient. The prescribing physician is responsible for providing this explanation or for designating staff to do so. Any individual prescribed medications must sign an informed consent form.
- K. **RIGHTS REGARDING FINGERPRINTING:** Fingerprints may be taken and used in connection with treatment or research or to determine the name of an individual served only if expressed written consent has been obtained from the individual. Fingerprints shall be kept as a separate part of the individual's record and shall be destroyed or returned to the individual when the fingerprints are no longer essential to treatment or research.
- L. **RIGHT TO COMPLAINT AND APPEAL:** An individual served by the Agency has the right to complain to the Recipient Rights Officer if he or she believes a right has been violated. The individual has the right to a fair and timely investigation of the complaint and to remedial action taken regarding any substantial violation of a right (written notification within 30 working days). The individual has the right to appeal within 15 working days of his/her receipt of the investigative report.

•2 APPLICATION:

All employees, all individuals served by the Agency.

•3 DEFINITIONS:

“Case finding” means a process of systematically interacting with the community for the purposes of identifying persons in need of services, alerting persons and their families to the availability of services, locating needed services, and enabling persons to enter the service delivery system.

“Follow-up” means activities designed to determine the present status of persons previously discharged by a program or referred by that program to services from another program.

“Individual served” means an individual who receives services from a licensed substance use disorder program in the state of Michigan.

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“Intimate parts” means the primary genital area, groin, inner thigh, buttock, or female breast of a human being.

“Recipient abuse” means either of the following:

1. An intentional act by a staff member which inflicts physical injury upon an individual served or which results in sexual contact with the individual;
2. A communication made by a staff member to an individual served, the purpose of which is to curse, vilify, intimidate, or degrade the individual or to threaten the individual with physical injury.

“Recipient” means an individual who receives services from a licensed substance use disorder program in the state of Michigan.

“Sexual contact” means the intentional touching by a staff member, of the individual’s intimate parts or the intentional touching of the clothing covering the immediate area of the individual’s intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification.

“Staff” means an individual who is not a client and who works with or without remuneration, for a licensed substance use disorder program.

“Substantial violation” means an infraction of a rule or a provision of the act which is damaging to the intent of the rule or provision of the act which may be evidenced by any 1 of the following:

1. The violation is continuing, repetitive, intentional, or has proved damaging to specific individuals served by the Agency.
2. The violation is likely to result in damage to the individual served.
3. The violation is likely to retard or prevent progress in the individual’s rehabilitation.
4. The violation does not conform to essential components of a rule.

•4 CROSS-/REFERENCES:

•5 FORMS AND EXHIBITS:

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Administrative Approval of Procedure:

Dated:

September 11, 2017

•6 PROCEDURE:

Rights of Individuals Served by the Agency Receiving Substance Use Disorder Services

•6.1 APPLICATION:

All employees and all individuals providing and receiving substance use disorder services

•6.2 OUTLINE / NARRATIVE:

This policy and procedure shall be provided to each staff member providing substance use disorder services. Each staff member shall review this material and shall sign a form, which indicates that he or she understands, and shall abide by this program's recipient rights policy and procedures. It is the responsibility of each departmental supervisor to insure that each staff member fully comprehends the intent of the policy and procedure. A copy of the signed form will be maintained in the staff member's personnel file; the staff member will retain a second copy.

1. The Recipient Rights Officer shall:
 - a. Attend Substance Abuse Quality Assurance & Licensing training pertaining to recipient rights.
 - b. Receive and investigate all recipient rights complaints independent of interference or reprisals from program administration.
 - c. Communicate directly with the regional Prepaid Inpatient Health Plan Rights Consultant when necessary.
2. The Recipient Rights Officer shall not be a provider of counseling services.
3. The Poster: "Rights of Recipients of Substance Use Disorder Services" shall be displayed in a public place. The poster will indicate the designated Rights Officer's name and telephone number and the regional rights consultant's name, address and phone number.
4. As part of the intake process, each individual served by the Agency will receive a brochure, which summarizes recipient rights. The brochure will either be provided or approved by the Bureau of Substance Abuse Services.
5. It is the responsibility of the intake worker or designee to explain each right listed on the brochure to the individual. The individual served will then be asked to sign the rights acknowledgment form to indicate his/her understanding of the rights. If he or she refused to sign, then the refusal and reason given is noted in the client file by the intake worker.

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6. If the individual served is incapacitated, he or she shall be presented with the previously mentioned brochure, explanation of rights, and opportunity to document understanding of the rights as soon as feasible, but not more than 72 hours after admission.
7. Staff should always try to ensure that recipient rights violations are prevented. However, when an individual contacts a staff member and believes his/her rights have been violated, the staff member shall give the individual a recipient rights complaint form (or offer to assist the individual in completing the form) and refer the individual served to the Recipient Rights Officer. In addition, any person may file a recipient rights complaint on the individual's behalf.
8. When the rights officer receives a formal complaint he/she shall follow the procedures described in detail in the January 1982 Recipient Rights Procedure Manual published by the Office of Substance Abuse Services.
9. The Authority's Recipient Rights Advisory Committee (RRAC) shall oversee recipient rights activities to insure compliance with R325.14301 to R325.14306 of the Administrative Rules for Substance Use Disorder Service Programs in Michigan. The RRAC shall review this policy and procedure annually. Documentation of this annual review shall become a part of the administrative record, as shall other pertinent findings of the committee.

•6.3 CLARIFICATIONS:

•6.4 CROSS-/REFERENCES:

Administrative Rules for Substance Use Disorder Services Programs in Michigan,
P.A. 368 of 1978 as amended, Section 6231(1)
42 USC 290(d)(2)
42 CFR Section 2
Mental Health Code, P.A. 258 of 1974, as amended

•6.5 FORMS AND EXHIBITS: