

**BAY-ARENAC BEHAVIORAL HEALTH AUTHORITY
POLICIES AND PROCEDURES MANUAL**

Chapter: 3	Member Rights and Responsibilities		
Section: 1	Recipient Rights Systems		
Topic: 1	Statutory Establishment		
Page: 1 of 8	Supersedes Date: Pol: 9-20-01,6-18-98 Proc: 6-27-16, 6-15-09, 3-11-08, 8-1-06, 6-3-02, 5-21-02, 7-28-98	Approval Date: Pol: 6-3-02 Proc: 2-18-2021	<hr/> <i>Board Chairperson Signature</i> <hr/> <hr/> <i>Chief Executive Officer Signature</i>
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Policy

It is the policy of Bay-Arenac Behavioral Health Authority (BABHA) that in addition to the rights, benefits, and privileges guaranteed by other provisions of the law, the Constitution of 1963, and the Constitution of the United States, a recipient of Mental Health Services shall have his/her rights guaranteed by P.A. 258, 1974, Chapter 7 and 7A, which provides a system for determining whether, in fact, violations have occurred; and shall ensure that firm and fair disciplinary and appropriate remedial action is taken in the event of a violation. BABHA shall establish procedures to address the complaint process and the appeal process.

The Chief Executive Officer (CEO) will ensure that BABHA has written policies and procedures for the operations of the rights system on file with the Michigan Department of Health and Human Services (MDHHS) – Office of Recipient Rights (ORR). Education and training in Recipient Rights policies and procedures are provided to its Recipient Rights Advisory Committee and its Appeals Committee.

Further, it is the policy of BABHA that the Recipient Rights Officer shall report to and serve as a consultant to the CEO for matters pertaining to Recipient Rights.

And, further, it is the policy of BABHA that the Recipient Rights Officer shall take necessary actions to assure a uniform process of implementing Recipient Rights protection to recipients of services from directly provided as well as contractually provided services to recipients. This shall include, at a minimum, annual site visits, with site visit checklists, to each service delivery site (direct or contracted), assurance that all persons receiving services outside of BABHA’s catchment area are provided the same level of Recipient Rights protection and services, and that contracts for services with provider agencies contain Michigan Mental Health Code (MMHC) protected Recipient Rights assurances.

BABHA and the Recipient Rights Advisory Committee shall approve an annual budget that assures adequate provision of Recipient Rights services to BABHA’s recipients.

The Officer of Recipient Rights with authority from BABHA and the CEO shall intervene as necessary to protect recipient rights within the Community Mental Health Services Program (CMHSP) system.

Furthermore, it is the policy of BABHA that:

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- A. The complainants, staff or the ORR, and any staff acting on behalf of a recipient, shall be protected from harassment or retaliation resulting from recipient rights activities.
- B. Appropriate disciplinary action shall be taken in accordance with agency policy and procedure if there is evidence of harassment or retaliation.

Purpose

This policy and procedure is established to ensure that the rights of all recipients are protected.

Education Applies to

- All BABHA Staff
- Selected BABHA Staff, as follows:
- All Contracted Providers: Policy Only Policy and Procedure
- Selected Contracted Providers, as follows:
 - Policy Only Policy and Procedure
- BABHA's (Affiliates): Policy Only Policy and Procedure

Definitions

Harassment: Words, gestures, or actions which threaten an individual; unreasonably interfere with an individual's work performance; or create an intimidating, hostile, or offensive work environment.

Retaliation: Unjustified negative actions taken against an individual. Examples include but are not limited to: discharge; deterioration in performance evaluations; changes in job classification, job responsibilities, compensation, benefits, classification, compensation, benefits, location, number of hours assigned, or specific shift assigned.

Procedure

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In the performance of its duties, the ORR shall provide for the safeguarding of code-protected rights in a manner that does not violate employee rights. The ORR will be protected from pressures that could interfere with the impartial, even-handed, and thorough performance of its duties. Upon receipt of substantiated violation reports, the CEO will implement the appropriate personnel action.

The CEO shall select a director of the rights office who has the education, training and experience to fulfill the responsibilities of the office.

The CEO shall ensure adequate Recipient Rights coverage. In the absence of the Recipient Rights Officer, the CEO may request aid from another CEO in the affiliation for a Rights Officer to serve in the Rights Officer’s absence as outlined in the Letter of Agreement for Reciprocal Aid among offices of Recipient Rights.

Each provider under contract with BABHA will follow the written policies and procedures established by BABHA that are consistent with Chapter 7 of the MMHC, and are designed to protect recipients from, and prevent repletion of, violation rights guaranteed by Chapter 7 and 7A.

It shall be responsibility of the Recipient Rights Office to receive reports of and investigate complaints in accordance with requirements of Chapter 7A, P.A. 2258, alleged or suspected violations of rights guaranteed by Chapter 7, P.A. 258, 1974; act to resolve disputes relating to apparent violations; act on behalf of recipients of mental health services to resolve alleged complaints; and safeguard the rights guaranteed in a timely manner.

BABHA’s Rights Officer shall:

1. Provide or coordinate the protection of recipient rights for all directly operated or contracted services.
2. Ensure that recipients, parent(s) with legal custody of a minor, and guardians or other legal representatives have access to summaries of the rights guaranteed by Chapter 7 and 7A of the MMHC in a language they can understand. The receipt shall be documented in the case record. The Recipient Rights system shall be verbally explained.If the recipient is unable to read or understand the material, every effort shall be made to assist in that explanation, and this will be noted in the case record.

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3. Ensure that all recipients, guardians, parents or other concerned parties have ready access to rights complaint forms. The name, address, and phone number of the Rights Officer shall be conspicuously posted in all service sites.
4. Investigate complaints of rights violations with assistance from other staff when necessary. BABHA employees and contract staff shall cooperate in investigations as needed.
5. Ensure that those reports of alleged or suspected rights violations that did not warrant investigation are recorded in accordance to Chapter 7A.
6. Maintain a record system for all reports of apparent or suspected rights violation received and secure storage of all investigative documents and evidence. All complaints shall be logged in upon receipt.
7. Make an independent determination of whether each allegation is substantiated or not substantiated and recommend to the CEO appropriate remedial action when an allegation is substantiated. The preponderance of evidence standard shall be used in making this determination.
8. Assure that appropriate remedial action to a complaint is implemented timely and that complaints and their dispositions are recorded on appropriate complaint forms.
9. Inform complainants of substantiated violations of the action taken in a manner that does not violate employee rights.
10. Review incident reports to determine if they involve possible rights violation.
11. Assure that when the complainant is neither the recipient nor guardian that written consent be obtained from the recipient prior to the disclosure of confidential information.
12. Inform the complainant when an allegation is outside of the agency jurisdiction and assist the recipient in contacting the appropriate agency.
13. Assure that records compiled in the course of investigating alleged violations are maintained independent of client case records and subject to all applicable confidentiality safeguards. All investigative documents and evidence shall be secured.

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14. Act as a consultant to the CEO and staff to assure compliance in rights matters and shall be subordinate only to the CEO.
15. Ensure that all rights complainants, rights staff, and other advocates shall not be harassed or retaliated against due to the investigation or determination of a rights complaint. Any actions construed to be harassment or retaliation shall be reported immediately to the CEO and appropriate disciplinary action shall be taken.
16. Ensure that all BABHA sites and contracted service sites, where BABHA has responsibility to provide recipient rights services, are visited on site with the frequency necessary for protection of rights but in no case less than annually. Ensure unimpeded access to all programs and services operated by or under contract to BABHA and all staff employed by or under contract and all evidence necessary to conduct a thorough investigation or to fulfill its monitoring function.
 - a. Recipients will be protected from rights violations while they are receiving services under the contract.
 - b. Policies and procedures require employee cooperation in recipient rights investigations.
17. Participate in development and review of policy and procedure pertinent to rights of recipients.
18. Assure that both staff and recipients are aware of their due process rights, specifically:
 - a. The nature of the complaint/investigation
 - b. The opportunity to provide evidence on their behalf
 - c. Their ability to secure outside legal or law enforcement assistance, if desired
19. Ensure that all individuals employed by, or a contract agency of, BABHA shall receive a training related to recipient rights protection before, or within 30 days after being employed.
20. Review the Recipient Rights policies and the rights system of each provider under contract with BABHA to ensure that the rights protection system is in compliance with the MMHC and is of uniformly high standards.

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21. Review and comment as needed on all CMHSP and contract provider policies impacting on rights of recipients.
22. Attend Behavior Treatment Committee meetings, Performance Improvement Committee meetings, executive staff meetings, Board meetings, and individual case meetings when rights related matters are discussed.
23. Semi-annually provide summary complaint data consistent with the required annual report together with a summary of remedial action taken on substantiated complaints by category to MDHHS and to the Recipient Rights Advisory Committee on the effectiveness of the rights system.
24. Report to the CEO and the Recipient Rights Advisory Committee on the effectiveness of the rights system.

Should a complainant wish to appeal a decision made by the ORR, they shall follow appeals procedures of BABHA.

It will be the policy of this agency, stated in an appropriate policy manual section, that all services are available to handicapped and nonhandicapped individuals on the same basis. This agency will provide services in handicapped accessible locations. Any individual who alleges a violation of Section 540 and grievances related to the Americans with Disabilities Act may file a complaint with BABHA's Rights Officer.

The CEO shall submit to the Board of the CMHSP and the MDHHS an annual report prepared by the Recipient Rights office on the current status of recipient rights in the CMHSP and a review of the operations of the rights office.

- a. The report is to be submitted no later than 12/30, unless an extension has been granted by MDHHS, of each year for the preceding fiscal year. The report shall include, at a minimum, all of the following: summary data by category including complaints received, number of reports filed, number of reports investigated by provider, number of substantiated violations by category and provider, training received by staff of the rights office, training provided by rights office to contract providers, desired outcomes established for the rights officer and progress toward these outcomes, and recommendations to the CMHSP Board.

Retaliation and Harassment:

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Complainants, rights office staff, and any staff acting on behalf of a recipient shall be protected from harassment of retaliation resulting from recipient rights activities. Appropriate remedial action will be taken to resolve violations of rights.

Attachments

Letter of Agreement for Reciprocal Aid among Offices of Recipient Rights

Related Forms

N/A

Related Materials

N/A

References/Legal Authority

- A. Act 258, of the Public Acts of 1974, as amended (Mental Health Code) Section 755
- B. Act 469 of the Public Acts of 1980 (Whistleblowers Protection Act)

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SUBMISSION FORM				
AUTHOR/ REVIEWER	APPROVING BODY/COMMITTEE/ SUPERVISOR	APPROVAL /REVIEW DATE	ACTION (Deletion, New, No Changes, Replacement or Revision)	REASON FOR ACTION - If replacement list policy to be replaced
Sara Heyden Linda Maze	Robert Blackford	3/11/08	Revision	Revisions/Additions are due to changes Administrative Rules/corrected Grammatical errors
Vicki Atkinson	Linda Maze	6/15/09		
Linda	Robert Blackford	12/31/12	Revision	Triennial Review/minor grammatical changes
Melissa Prusi	Christopher Pinter	6/27/16	Revision	Triennial Review-minor changes to reflect agency name changes
Melissa Prusi	Christopher Pinter	07/01/2019	Revisioin	Annual and triennial review. Minor formatting changes
Melissa Prusi	Christopher Pinter	08/01/2020	Revision	Remove mediation from RR process