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<b>Title</b>	<b>Northern Lakes CMH Policies</b>
<b>Part 105</b>	<b>Recipient Rights Protection System</b>
<b>Subpart A</b>	<b>Recipient Rights Protection System</b>
<b>Policy No.</b>	<b>105.101</b>
<b>Subject</b>	<b>Definitions</b>

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## Applicability

Policy applies to all Northern Lakes CMHA activities, operations and sites and to all employees except members of the governing body. Policy also applies to any Network Provider and its employees, volunteers, or agents that has elected to adopt and adhere to Northern Lakes CMHA policies and procedures pertaining to Recipient Rights under the terms of its Participating Provider Agreement.

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## Policy

**Accident/Injury.** Any accident or injury requiring a visit to the emergency room, medicenter or urgent care clinic or admission to the hospital.

**Advocacy.** In the context of Recipient Rights Protection, advocacy refers to actions taken by the Office of Recipient Rights or its designees that are designed to empower recipients to exercise their rights, to solve problems, and to navigate the service delivery system.

**Allegation.** An assertion of fact made by an individual that has not yet been proved or supported with evidence.

**Appeal.** The term appeal has different meanings depending on the complaint resolution mechanism being utilized. In the context of a Recipient Rights complaint, the findings, remedy, or timeliness of Recipient Rights Complaint investigation may be appealed to the community mental health services program (CMHSP) Recipient Rights Appeals Committee and then the findings may be appealed again to the Administrative Tribunal at MDHHS.

**Appeals Committee.** A committee appointed by the MDHHS Director or by the board of a CMHSP. The governing board of a licensed private psychiatric hospital unit (LPH/U) shall designate the appeals committee of the CMHSP to hear appeals brought by or on behalf of a recipient of that CMHSP. For non- CMHSP recipients, the LPH/U may appoint its own Appeals Committee in compliance with section 774(4)(a) of the Code or, by agreement with MDHHS, designate the MDHHS Appeals Committee to hear appeals against the LPH/U under section 774(4)(b) of the Code.

**Appellant.** The complainant or, if different than the complainant, parent, the recipient or his/her legal guardian, if any, who seeks review by an appeals committee or the MDHHS pursuant to sections 784 and 786 of the Code.

**Appropriate Remedial Action.** Action taken by a respondent to a substantiated Recipient Rights violation that is all of the following:

- a. Corrects or provides a remedy for the rights violations and;
- b. Is implemented in a timely manner and;
- c. Attempts to prevent a recurrence of the rights violation and,
- d. Is documented, provided to the Office of Recipient Rights, and made part of the investigative record.

**Appropriate Disciplinary Action.** A remedial action taken by a respondent upon substantiated rights violations involving abuse, neglect or retaliation or harassment, or other violation of sufficient severity, including penalties of official reprimand, demotion, suspension, reassignment, or dismissal given to an employee, volunteer, or agent of a provider. Appropriate disciplinary action taken regarding a contract provider may include sanctions or termination of a contract.

**Breach of Privacy.** Issues involving breaches in confidentiality, privacy or security of confidential mental health records or information or other protected health information as prohibited by the Michigan Mental Health Code or the Health Insurance Portability and Accountability Act.

**Chief Executive Officer.** The Executive Director of a Community Mental Health Services Program (CMHSP).

**Child Abuse.** As defined under Section 622 of Michigan Child Protection Law (Public Act 238 of 1975) as "harm or threatened harm to a child's health or welfare, that occurs through non-accidental physical or mental injury. sexual abuse. sexual exploitation, or maltreatment, by a parent, a legal guardian, or any other person responsible for the child's health or welfare or by a teacher, a teacher's aide, or a member of the clergy".

**Child Neglect.** As defined under Section 622 of Michigan Child Protection Law (Public Act 238 of 1975) "harm or threatened harm to a child's health or welfare by a parent, legal guardian, or any other person responsible for the child's health or welfare that occurs through either of the following: (i) Negligent treatment, including the failure to provide adequate food, clothing, shelter, or medical care. (ii) Placing a child at an unreasonable risk to the child's health or welfare by failure of the parent, legal guardian, or other person responsible for the child's health or welfare to intervene to eliminate that risk when that person is able to do so and has, or should have, knowledge of the risk."

**Code Protected Right.** A right that is guaranteed in the Michigan Mental Health Code (Public Act 258 of 1974, as amended), the Administrative Rules of MDHHS, or other applicable law.

**Complainant.** An individual who files a recipient rights complaint.

**Compliance Violation.** Any other incident not otherwise indicated by this policy involving or potentially involving a violation of a standard of care by a state-licensed or registered Northern Lakes CMHA or network provider professional as defined by Northern Lakes CMHA Policies or Procedures, the Northern Lakes CMHA Code of Conduct, professional codes of

ethics, conditions for state licensure or certification, or a professional's credentials or clinical privileges.

**Criminal Acts.** Any action by employee or consumer that is an alleged criminal offense and is committed in an area or activity under Northern Lakes CMHA supervision, criminal abuse of a recipient as defined by MCL 330.1723, or a "duty to warn" report made in compliance with MCL 330.1946. **Note:** Arrests and convictions for consumers living in a specialized residential setting or child-caring institution OR living in their own home and receiving ongoing (one or more times per week) and continuous (six months or longer) assistance with ADLs are reported under separate categories.

**Death.** The death of a consumer receiving services or an applicant waiting for services, expected or unexpected, by any cause. **Note:** While all deaths must be reported and are reviewed, only those deaths of consumers who reside in a specialized residential setting or a child-caring institution; or live in their own homes and receive ongoing (one or more times a week) and continuous (six months or longer) in-home assistance with ADLs, AND all suicides of consumers who were active cases known to the Board must be reported to MDHHS.

**Employee Injury.** Any on-the-job injury that is sustained by an employee, intern or volunteer.

**Exposure Incident.** Any incident resulting in an individual being exposed to blood borne pathogens. This includes both employees and consumers.

**Grievance.** An expression of dissatisfaction about any matter relative to a Medicaid or non-Medicaid covered service, other than an action as defined above, which does not involve a rights complaint or an allegation of a right protected by the Mental Health Code.

**Homicidal Threat/Attempt.** An actual attempt to cause great bodily harm or death to another individual. Reportable threats include those situations in which it is the first time the individual has made such a threat, or in which the person hearing the threat assesses the individual to have a plan, or to be serious in the threat to cause great bodily harm or death to another individual.

**Illness.** A physical illness resulting in admission to a hospital. Does not include planned surgeries, whether inpatient or outpatient or admissions directly related to the natural course of the person's chronic illness or underlying condition.

**Intervention.** A complaint resolution method where an allegation of a code protected right is reviewed by the ORR, when that the facts are clear such that the allegation can either be substantiated or not substantiated, and when there is a clear resolution.

**Investigation.** A detailed inquiry into and systematic examination of an allegation made in a rights complaint.

**Legal Guardian.** A judicially appointed guardian or parent with legal custody of a minor recipient.

**Medication Error.** Any error in the delivery or administration of a medication to a consumer that results in death or serious physical or psychological injury or risk thereof, e.g. a Sentinel Event. **Note:** ALL medication errors are reported on AFC Licensing or NLCMH Incident Reports forms.

**Monitoring.** The routine assessment of services conducted by the Office of Recipient Rights through site visits, records audits, review of incident reports, employee and consumer interviews, or by any other means necessary to assure rights are protected through a uniformly high standard.

**Not Substantiated.** A determination by the Office of Recipient Rights that an alleged violation of a right was not substantiated based upon a preponderance of evidence.

**Office of Recipient Rights.** An office of a CMHSP established under the authority of Chapter 7 of the Michigan Mental Health Code subordinate only to the Chief Executive Officer, which receives reports of and investigates apparent violations of code-protected rights, acts to resolve disputes relating to apparent violations, acts on behalf of recipients and otherwise endeavors to a safeguard code-protected rights.

**Other Critical Incident -** Any incident not previously defined which poses a possible threat to employees, consumers, or guests of the agency.

**Preponderance of Evidence.** A determination that the weight of evidence supports that it is more probable that a right was either violated or not violated.

**Prevention.** In the context of Recipient Rights Protection, training, consultation, or other activity conducted by the Office of Recipient Rights to attempt to avoid violations of rights.

**Provider.** Each CMHSP and their employees, volunteers, and contractual agents.

**Recipient.** An individual receiving mental health or substance abuse services or supports from a CMHSP, or from a provider that is under contract with the CMHSP, or from a licensed substance abuse provider under contract with the Substance Abuse Coordinating Agency.

**Recipient Abuse.** Serious or non-serious physical or emotional harm to a consumer, sexual contact with or sexual penetration of a consumer, or the use of language or other communication to degrade, threaten, or sexually harass a consumer, or exploitation of a consumer that is caused or contributed to by a non-accidental act committed by an employee or volunteer of the agency, or an employee or volunteer of a service provider under contract with the agency. **NOTE:** Recipient Abuse is defined in greater detail in accordance with MDHHS Administrative Rule 7001 in Northern Lakes CMHA Policy and Procedure, "Recipient Abuse and Neglect." Failure to report an apparent or suspected incident of Recipient Abuse pursuant to those definitions is a violation of recipient rights and may constitute neglect.

**Recipient Neglect.** An act of commission or omission by an employee or volunteer of the agency or a service provider under contract to the agency that is in non-compliance with a standard of care or treatment to which a consumer is entitled under the Mental Health Code or other law, rule, policy, procedure, written guideline or directives, or the consumer's Person-Centered Plan of Services and that causes, contributes to serious or non-serious

physical harm to a consumer, or that places or could have placed a recipient at risk of harm. **NOTE:** Recipient Neglect is defined in greater detail in accordance with MDHHS Administrative Rule 7001 in NCLMH Policy and Procedure, "Recipient Abuse and Neglect." Failure to report an apparent or suspected incident of Recipient Neglect pursuant to those definitions is a violation of recipient rights and may constitute neglect.

**Recipient Rights Advisory and Appeals Committee.** A committee appointed by the board of a CMHSP to protect the office of recipient rights (ORR) from pressures that could interfere with impartial performance of functions, serve in an advisory capacity to the Executive Director and Director of the ORR, and serve as the appeals committee for appeals received with respect to an appeal of a decision on a recipient rights matter. Unless otherwise provided by contract with the local CMHSP, each licensed psychiatric hospital/unit (LPH/U) shall appoint a recipient rights advisory committee, who may also serve of an appeals committee.

**Recipient Rights Complaint.** A written or oral statement that meets the requirements of Section 776 of the Michigan Mental Health Code alleging a violation of rights under an applicable statute or rule. A rights complaint may be filed by a recipient or by any person acting on behalf of the recipient. It does not require the prior exhaustion of, and may be utilized concurrently with, other complaint resolution mechanisms.

**Recipient Rights Director.** A person employed by a CMHSP acting as director of the Office of Recipient Rights with the statutory authority to manage the rights protection system.

**Recipient Rights Violation.** Any incident involving an apparent or suspected violation of a right guaranteed by Chapters 4, 7, and 7a the Michigan Mental Health Code (Public Act 258 of 1974) or as further defined by Northern Lakes CMHA policy and procedures.

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

**Responsible Mental Health Agency (RMHA).** An MDHHS hospital, center or special facility; a community mental health services program; a licensed private psychiatric hospital or unit.

**Restraint.** The use of a physical device to restrict an individual's movement. Restraint does not include the use of a device primarily intended to provide anatomical support.

**Rights Protection System.** Those elements (including but not limited to complaint investigation/resolution, prevention, and monitoring) required in the establishment of an Office of Recipient Rights by the Michigan Mental Health Code.

**Restrictive Procedures.** Any procedure that limits the rights of recipients as guaranteed by the Michigan Mental Health Code.

**Safety.** Employee injuries, blood borne exposures of an employee, fires, gas leaks, or other facility-related incidents, and agency vehicle accidents.

**Seclusion.** The temporary placement of a recipient in a room, alone, where egress is prevented by any means.

**Sentinel Event.** An event which has resulted in an unanticipated death or major permanent loss of function, or “the risk thereof”, not related to the natural course of the patient's illness or underlying condition.

**Service.** A mental health or substance abuse service that meets the definition of an element of service in accordance with Medicaid under Title 19 of the Social Security Act, with MDHHS/CMHSP Master Contract, or as authorized by a CMHSP.

**Employee Injury.** Any on-the-job injury that is sustained by an employee, intern or volunteer.

**Substantiated.** A determination by the Office of Recipient Rights that an alleged violation or a right was violated based upon a preponderance of evidence.

**Suicide Attempt/Threat.** Attempts to self inflict bodily injury or death. Reportable threats include those situations where the individual has made such a threat, and the person hearing the threat assesses the individual to have a plan, or to be serious in the threat and that threatening behavior or situation is not included in a properly developed treatment plan. Suicides are reported for any consumer known to have received services.

**Treatment Issue.** Treatment issues not otherwise classified by type or by population served (for example, Serious Challenging Behavior), or unusual reaction or problem requiring attention of treating professional or team. This may include a consumer reaction or problem expressed in one setting but not in all settings or behaviors which may put the individual, employee or the community at risk, but which are not addressed in the treatment plan.

**Unauthorized LOA.** A consumer that is missing without being found within the specified time allowed in the Health and Safety section of that individual's Plan of Service.

**Unplanned Program Suspension.** The unplanned removal and/or suspension of an individual from a treatment program.

**Unusual or Unexpected Incident.** An occurrence involving a consumer that adversely disrupts the normal routine of treatment, program or living unit management or facility administration, or that is not in compliance with the standard of care required by Northern Lakes CMHA, and that, in most instances, is NOT already addressed in the person's Individual Plan of Services.

**Vulnerable Adult Abuse.** As defined by Section 400.11 of the Michigan Social Welfare Act (Public Act 280 of 1939) “harm or threatened harm to an adult's health or welfare caused by another person. Abuse includes, but is not limited to, non-accidental physical or mental injury, sexual abuse, or maltreatment.”

**Vulnerable Adult Neglect.** As defined by Section 400.11 of the Michigan Social Welfare Act (Public Act 280 of 1939) “harm to an adult's health or welfare caused by the inability of the adult to respond to a harmful situation or by the conduct of a person who assumes

responsibility for a significant aspect of the adult's health or welfare. Neglect includes the failure to provide adequate food, clothing, shelter, or medical care.”

**Vehicle Accident.** Any motor vehicle accident involving either an agency vehicle or a personal vehicle being driven for reimbursable agency business. This does not include driving a personal vehicle to and from work.

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## Procedures

None.

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