

SANILAC COUNTY COMMUNITY MENTAL HEALTH AUTHORITY

CLINICAL POLICY

NUMBER: RR035

NAME: APPEAL PROCESS

INITIAL APPROVAL DATE:	05/28/1997	BY: Sanilac CMH Board
STAKEHOLDER REVIEW:	06/20/2023	BY: Recipient Rights Advisory Committee
(LAST) REVISION DATE:	09/12/2023	BY: Recipient Rights Advisory Committee
(LAST) REVIEW DATE:	09/21/2023	BY: Policy Committee
DISCONTINUED DATE:	N/A	REPLACED BY: NA

I. **PURPOSE**

To establish access for further review to complainants, individuals receiving services, parents or guardians who feel that the rights of a individual receiving services have been or are being violated and do not agree with the substantiation or non-substantiation of their complaint or the administrative action taken or the timeliness of the investigation.

II. **APPLICATION**

Populations: **ALL**
Programs: **Direct - ALL**
Contracted - ALL

III. **POLICY**

An individual receiving services, or another individual on behalf of an individual receiving services, who feels that their rights are being violated in any Sanilac County Community Mental Health Authority program or contract program may file a Recipient Rights Complaint with the Recipient Rights Officer or Recipient Rights Advisor. Posters at each service site give information for easy access to recipient rights staff.

This policy establishes access for further review to individuals receiving services, or other individuals on behalf of a individual receiving services, who feel that their rights have been violated, do not agree with the substantiation, timeliness of the Recipient Rights Officer's report or the outcome that the complainant is seeking as a resolution to the complaint.

IV. **DEFINITIONS**

V. **STANDARDS**

WHO CAN APPEAL

The complainant [person filing the complaint], the individual receiving services [if different from the complainant], a parent or a guardian.

GROUNDS FOR APPEAL

- A. The conclusion reached by the Rights Office is inconsistent with facts, law, rules, policies or guidelines.
- B. The action taken or plan of action is inadequate to redress the violation.
- C. An investigation was not initiated or completed on a timely basis.

The Office of Recipient Rights shall 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 shall assist the complainant in meeting procedural requirements of a written appeal. The office shall also inform the complainant of the option of mediation under Section 786. The office shall also inform the individual receiving services or other individual of the option of mediation and under what circumstances and when it may be exercised. Information regarding mediation will be sent with the complaint acknowledgment letter and with the Summary Report. Appeal rights will be included in the Summary Report submitted by the Chief Executive Officer.

WHEN TO FILE APPEAL

Not later than forty-five [45] days after receipt of the Summary Report under Section 782, the complainant, individual receiving services, guardian and/or parent (if different than the complainant) may file a written appeal with the Recipient Rights Appeals Committee with jurisdiction over the Office of Recipient Rights that issued the Summary Report.

If the Summary Report contains a plan of action to be completed at a future date, the complainant, individual receiving services and guardian would be notified when the corrective action took place. The forty-five (45) days to appeal would begin upon receipt of such notice. The Summary Report would include this information, together with notice to contact the Office of Recipient Rights if they have heard nothing in ninety (90) days.

WHERE TO FILE APPEAL

Complaints are filed with the Appeals Committee. Within five (5) business days after receipt of the written appeal, either the full committee, two individual members, or a sub-committee of at least three (3) members designated by the full Committee, will review the appeal to determine whether it meets the criteria for grounds for appeal. Within five business days of receipt of the appeal, written notice will be sent to the appellant regarding acceptance or denial of the appeal. A copy of the appeal shall be provided to the respondent and Sanilac County Community Mental Health within five (5) business days. The Committee shall maintain a log of all appeals received and the disposition of each.

THE APPEALS COMMITTEE

Sanilac County Community Mental Health Authority shall appoint the Recipient Rights Advisory Committee as the Appeals Committee.

If a member of the Appeals Committee has a personal or professional relationship with the person filing an appeal, they must abstain from participation in that appeal. Employees of

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Sanilac County Community Mental Health Authority cannot be members of the Appeals Committee.

The meeting to review the appeal is a closed session and is not subject to the Open Meetings Act. Information is not subject to Freedom of Information Act release.

Additional allegations that were not part of the original complaint are not considered in the Appeals process. The Appeals Committee should advise the appellant of their right to file another Recipient Rights Complaint. The Committee may request additional supporting documentation from any party involved in the appeal. At its discretion, the Committee may also request the personal appearance of any party or witness involved in the appeal who may provide supporting evidence.

Within thirty [30] days after receipt of a written appeal, the Appeals Committee shall meet and review the facts as stated in all complaint investigation documents. The Appeals Committee shall document its decision in writing. Within ten (10) working days after reaching its decision, it shall provide copies of the decision, including justification for the decision, to the respondent, appellant, individual receiving services (if different than the appellant), the individual receiving services' legal guardian, the responsible mental health agency and the Office of Recipient Rights. The letter will also include a statement of the appellant's right to file an appeal with the Dept. of Community Health (see "The Appellant" section of this policy.) The Appeals Committee may:

- A. Uphold the investigative findings of the office and the action taken or plan of action proposed by the respondent.
- B. Return the investigation to the office and direct that it be reopened or reinvestigated.

The Office of Recipient Rights shall submit another investigative report within thirty (30) days of receipt of the written decision of the Appeals Committee. The thirty (30) day time frame may be extended at the discretion of the Appeals Committee upon a showing of good cause by the office. At no time shall the time frame exceed ninety (90) days. Within ten (10) days of receipt of the investigative report, the Chief Executive Officer shall issue another Summary Report to the appellant, individual receiving services (if different than the appellant), the individual receiving services' legal guardian, the office and the Appeals Committee. The Summary Report must include all of the necessary information regarding appeals, advocacy organizations and assistance from the Office of Recipient Rights in the absence of assistance from an advocacy organization.

If the findings remain the same, the appellant may file a further appeal to the Department of Community Health. If the investigative findings result in the substantiation of a previously unsubstantiated rights violation, but the appellant disagrees with the adequacy of the action or plan of action taken, the appellant may file an appeal on such grounds to the Appeals Committee.

- C. Uphold the investigative findings of the office but direct that the respondent take additional or different action to remedy the violation. The Appeals Committee shall use the following criteria in its determination: (1) The action taken or proposed did not correct or remedy the violation; (2) the action taken or proposed was or will not be taken in a timely manner, or (3) the action taken or proposed did or will not prevent a future recurrence of the violation.

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Within thirty (30) days of receipt of this determination, the respondent shall provide written notice to the Appeals Committee that the action has been taken or justification as to why it was not taken. The written notice shall also be sent to the appellant, individual receiving services (if different than the appellant), the individual receiving services' legal guardian, the office and the Appeals Committee. If the action taken is determined by the Appeals Committee and/or the appellant to still be inadequate, the appellant shall be informed of his/her right to file a complaint against the agency Chief Executive Officer.

- D. Recommend that the Sanilac County Community Mental Health Authority Board request an external investigation by the Department of Community Health Office of Recipient Rights. If the committee notifies the board of a recommendation to seek an external investigation from MDHHS-ORR, the board will send a letter of request to the director of MDHHS-ORR within 5-business days of receipt of the request from the appeals committee. The CEO will be responsible for the issuance of the summary report which will identify the grounds and advocacy information and MDHHS-ORR Appeals Committee will be listed as the committee for any related Appeal.
- E. Confirm the investigation was not initiated or completed in a timely manner and recommends the Chief Executive Officer take appropriate supervisory action with the investigating Recipient Rights Officer/Advisor. Documentation of such supervisory action is to be provided to the appellant, individual receiving services (if different than the appellant), individual receiving services' legal guardian, and the Appeals Committee within ten (10) days of the Appeals Committee decision.
- F. In any of the above situations, if the Chief Executive Officer does not take action, a complaint can be filed against the Chief Executive Officer.

THE APPELLANT

Within forty-five [45] days after receiving written notice of the decision of an Appeals Committee under section 785, the appellant may file a written appeal with the Department of Community Health. 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.

The written appeal shall be mailed to: Department of Health and Human Services, Administrative Tribunal, P.O. Box 30195, Lansing, MI 48909.

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

Upon receipt of an appeal, the Department of Health and Human Services 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 of Health and Human Services has access to all necessary documentation and other evidence cited in the complaint.

The Department of Health and Human Services shall review the record based on the allegation described in Subsection 1. The Department of Health and Human Services shall not consider

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additional evidence or information that was not available during the appeal under Section 784 although the Department may return the matter to the Board and the local Office of Recipient Rights holding the record.

Within 30 days after receiving the appeal, the Department of Health and Human Services will review the appeal and do one of the following:

1. Uphold the findings of the Office of Recipient Rights
2. Affirm the decision of the Appeals Committee;
3. Return the matter to the Chief Executive Officer of Sanilac County Community Mental Health Authority with instruction for additional investigation or consideration.

DHHS shall provide copies of its action to the respondent, appellant, individual receiving services (if different than the appellant), the individual receiving services' legal guardian, the Board of Sanilac County Community mental Health Authority, and the Office of Recipient Rights holding the record. If the appeal involves the findings of a DCH-ORR Rights Advisor, the DHHS-ORR Director shall also be provided copies of the action. If DCH upholds the findings of the office, notice shall be provided to the appellant of his/her legal right to seek redress through the circuit court.

If DCH instructs that additional investigation be conducted, the Chief Executive Officer of Sanilac County Community Mental Health Authority shall assure that such investigation is completed in a fair and impartial manner within thirty (30) days of his/her receipt of the written notice from DCH. The thirty (30) day time frame may be extended at the department's discretion upon a showing of good cause by the Chief Executive Officer, but at no time shall it exceed ninety (90) days. The investigating agency will be responsible for the submission of the investigative report to the Chief Executive Officer. Within ten (10) days of receipt of the investigative report, the Chief Executive Officer of Sanilac County Community Mental Health Authority shall issue a Summary Report in compliance with section 782 of the Code to the department, appellant, individual receiving services (if different than the appellant) and the individual receiving services' legal guardian.

If the findings remain the same, the department shall inform the appellant of their right to seek redress through circuit court. If the findings substantiated a previously unsubstantiated violation, but the appellant, individual receiving services (if different than the appellant), or individual receiving services' legal guardian, disagrees with the adequacy of the action taken or plan of action, the department shall inform the individuals of their right to appeal to the Sanilac County Recipient Rights Appeals Committee.

VI. ATTACHMENTS

VII. REFERENCES

Michigan Mental Health Code 330.1784, 330.1786
MDHHS Technical Advisory-Recipient Rights Appeal Process