

Table of Contents

Section III. Recipient Rights

- A. Abuse and Neglect Reporting Procedure – Rev. 5/2/11**
- B. Access to Case Records Procedure
- C. Admission and Discharge Procedure
- D. Appeals/Appeals Committee Procedure – Rev. 5/2/11**
- E. Code of Responsibilities Procedure
 - 1. Recipient Code of Responsibilities Poster
- F. Communication, Mail, Telephone, Visits Procedure – Rev. 5/2/11**
- G. Death Reporting Procedure
 - 1. Report of Death of LifeWays Recipient Form
- H. Duty to Warn Procedure
- I. Fingerprinting, Photographs, Audiotape, or Use of 1-Way Glass Procedure
- J. Incident Report Process Procedure – Rev. 5/2/11**
 - 1. Indicator Codes for Incident Reporting – Revised 1/7/11
 - 2. Incident Report Form
 - 3. Definitions and Determining a Sentinel Event
- K. Intervention Complaints Procedure
- L. Investigation of Recipient Rights Complaints Procedure – Rev. 5/2/11**
 - 1. CMHSP Rights System Assessment
- M. Personal Property Procedure
- N. Protection of Recipients of LifeWays Services Procedure
- O. Recipient Rights Advisors Procedure
- P. Recipient Rights Advisory Committee (RRAC) Procedure
- Q. Resident Labor Procedure
- R. Rights Protection/Contract Agreements Procedure
- S. Seclusion, Restraint, Freedom of Movement Procedure
- T. Sterilization, Abortion and Contraception Procedure
- U. Subpoena Procedure
- V. Suitable Services, Treatment Environment, Person Centered Planning Procedure – Rev. 5/2/11**
- W. Recipient Rights Training Procedure
 - 1. RR Training Schedule 2011
- X. Reporting Requirements of Abuse & Neglect: Excerpt of Child Protection Law Act 238 of 1975

Section Links:**Mental Health Code:**

[http://www.legislature.mi.gov/\(kwviyo3azgdaed55munpwpv2\)/mileg.aspx?page=getobject&objectname=mcl-258-1974-7&highlight](http://www.legislature.mi.gov/(kwviyo3azgdaed55munpwpv2)/mileg.aspx?page=getobject&objectname=mcl-258-1974-7&highlight)

Recipient Rights Complaint Form:

http://www.michigan.gov/mdch/0,1607,7-132-2941_4868_4901-14825--,00.html

Michigan Dept. of Community Health Recipient Rights Handbook:

http://www.michigan.gov/mdch/0,1607,7-132-2941_4868_4901---,00.html

Department of Human Services Reporting Form: Report of Actual or Suspected Child Abuse or Neglect:

www.michigan.gov/documents/FIA3200_11924_7.pdf

LifeWays
Community Mental Health

02.04.04 ABUSE AND NEGLECT REPORTING

PURPOSE: To ensure the protection of the rights of recipients of service in compliance with all Laws, Rules, Policies and Guidelines.

DEFINITIONS:

Abuse Class I means a non-accidental act or provocation of another to act by an employee, volunteer, or agent of a provider that caused or contributed to the death, or sexual abuse of, or serious physical harm to a recipient [MHC 100 (2)]; [AR 7001 (a-c)].

Abuse Class II means any of the following:

- A non-accidental act or provocation of another to act by an employee, volunteer, or agent of a provider that caused or contributed to non serious physical harm to a recipient.
- The use of unreasonable force on a recipient by an employee, volunteer, or agent of a provider with or without apparent harm.
- Any action or provocation of another to act by an employee, volunteer or agent of a provider that causes or contributes to emotional harm to a recipient.
- An action taken on behalf of a recipient by a provider who assumes the recipient is incompetent, despite the fact that a guardian has not been appointed, that results in substantial economic, material or emotional harm to the recipient.
- Exploitation of a recipient by an employee, volunteer, or agent of a provider.

Abuse Class III means the use of language or other means of communication by an employee, volunteer, or agent of a provider to degrade, threaten, or sexually harass a recipient [MHC 100 (2)]; [AR 7001 (a-c)].

Emotional Harm means impaired psychological functioning, growth, or development of a significant nature as evidenced by observable physical symptomatology or as determined by a mental health professional.

Exploitation means an action by an employee, volunteer, or agent of a provider that involves the misappropriation or misuse of a recipient's property or funds for the benefit of an individual or individuals other than the recipient.

Neglect Class I – means either of the following:

1. Acts of commission or omission by an employee, volunteer, or agent of a provider that result from non-compliance by employee(s) with a standard of care or treatment required by law, rules, policies, guidelines, procedures, written directives, or individual plan of service that causes or contributes to the death, or sexual abuse of, or serious physical harm to a recipient [MHC 100(18)]; [AR 7001 (g-i)].

2. The failure to report apparent or suspected abuse class I or neglect class I of a recipient.

Neglect Class II: means either of the following:

1. Acts of commission or omission by an employee, volunteer, or agent of a provider that result from non-compliance with a standard of care or treatment required by law, rules, policies, guidelines, procedures, written directives or individual plan of service that cause or contribute to non-serious physical harm or emotional harm to a recipient [MHC 100(18)]; [AR 7001 (g-i)].
2. The failure to report apparent or suspected abuse class II or neglect class II of a recipient.

Neglect Class III: means either of the following:

1. Acts of commission or omission by an employee, volunteer, or agent of a provider that result from non-compliance with a standard of care or treatment required by law, rules, policies, guidelines, procedures, written directives or individual plan of service that either placed or could have placed a recipient at risk of physical harm or sexual abuse [MHC 100(18)]; [AR 7001 (g-i)].
2. The failure to report apparent or suspected abuse class III or neglect class III of a recipient.

Non-Serious Physical Harm means physical damage or that could reasonably be construed as pain suffered by a recipient that a physician or registered nurse determines could not have caused, or contributed to, the death of a recipient, the permanent disfigurement of a recipient, or an impairment of his or her bodily functions.

Physical management means a technique used by staff as an emergency intervention to restrict the movement of a recipient by direct physical contact to prevent the recipient from harming himself, herself, or others.

Serious Physical Harm means physical damage suffered by a recipient, which a physician or registered nurse determines caused, or could have caused the death of a recipient, caused the impairment of his/her bodily function(s), or caused the permanent disfigurement of a recipient.

Sexual abuse means any of the following:

- Criminal sexual conduct as defined by section 520b to 520e of 1931 PA 318, MCL 750.520b to MCL 750.520e involving an employee, volunteer, or agent of a provider and a recipient.
- Any sexual contact or sexual penetration involving an employee, volunteer, or agent of a department operated hospital or center, a facility licensed by the department under section 137 of the act or an adult foster care facility and a recipient.
- Any sexual contact or sexual penetration involving an employee, volunteer, or agent of a provider and a recipient for whom the employee, volunteer, or agent provides direct services.

Sexual contact means the intentional touching of the recipient's or employee's intimate parts or the touching of the clothing covering the immediate area of the recipient's or employee's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, done for a sexual purpose, or in a sexual manner for any of the following:

- Revenge.
- To inflict humiliation.
- Out of anger.

Sexual harassment means sexual advances to a recipient, requests for sexual favors from a recipient, or other conduct or communication of a sexual nature toward a recipient.

Sexual penetration means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required.

Unreasonable force means physical management or force that is applied by an employee, volunteer, or agent of a provider to a recipient in one or more of the following circumstances:

- There is no imminent risk of serious or non-serious physical harm to the recipient, staff or others.
- The physical management used is not in compliance with techniques approved by the provider and the responsible mental health agency.
- The physical management used is not in compliance with the emergency interventions authorized in the recipient's individual plan of service.
- The physical management or force is used when other less restrictive measures were possible but not attempted immediately before the use of physical management or force.

PROCEDURE

Statements of alleged abuse or neglect may not be discounted nor used to deprive a recipient of their rights/benefits.

Allegations of abuse or neglect shall be reported and investigated in accordance with Recipient Rights Complaint procedures [MHC 778 (1)].

Incidents that, from initial observation of the reporting person(s), appear to have resulted from accidental causes or self-abuse shall be reported to the LifeWays Recipient Rights Office [AR 7035] on an Incident Report Form marked Critical. Failure to report suspected violations of rights may result in additional substantiated rights violations and administrative, disciplinary and/or corrective action [MHC 752(1)].



Persons who report allegations of abuse and neglect to the Office of Recipient Rights [AR 7035] are also responsible to report pursuant to the provisions of; the Department of Human Services Child Protection Act (P.A. 238 of 1975); the Adult Protective Services Act (P.A. 519 of 1982); the Vulnerable Adult Protection Act (P.A. 149 of 1994) [MHC 723]; the Michigan Mental Health Code (P.A. 258 of 1974 as amended); and local law enforcement [MHC 723]. Additionally, staff are required to immediately report to their administration, any suspicion of abuse or neglect of a recipient to ensure immediate remedial or corrective action to protect the recipient and prevent repetition of violations of guaranteed rights. [MHC 752(1)]

Any staff having suspicions of criminal abuse and/or neglect, including child abuse and vulnerable adult abuse shall report suspicions immediately to applicable law enforcement agencies and follow-up in writing [MHC 723(2)]. Documentation of the notification of law enforcement shall be forwarded to the Rights Office.

REFERENCES	
*previously included in the "Protection of Rights of LifeWays Recipients" Procedure	
HISTORY	
Effective 04/2005	Rev. *02/06, 03/07, 09/07, 03/08, 09/09, 04/10, 2/11, 4/11

02.03.01 ACCESS TO CASE RECORDS/CONFIDENTIALITY

PURPOSE: To ensure the recipient their rights of access and confidentiality.

DEFINITIONS

Confidentiality and Disclosure - All information related to consumers is confidential as outlined in Board Policy (Access to Case Records), the Mental Health Code, Administrative Rules, and the Public Health Code regarding privileged information [MHC 748(1)].

Confidential Information - means all information in the record of a consumer and all information acquired in the course of providing services [MHC 748(1)], including:

- Information acquired in diagnostic interviews or examinations;
- results and interpretations of tests ordered by a mental health professional or given by a facility;
- progress notes or other entries by mental health professionals concerning the consumer's condition or progress.

Privileged Communications - means that communication referred to in Section 330.1750 of Public Act 258 [Mental Health Code], substance abuse treatment information referred to in 42 CFR Part 2, and HIV information except as provided by statute.

Subpoena - means a written legal order directing a person to appear in court or before an administrative body to testify and/or produce certain documents relevant to the matter under consideration.

Record - a confidential file of information maintained for each recipient of mental health services. The record shall contain, at a minimum, information pertinent to the services provided to the recipient, information pertinent to the legal status of the recipient, information required by the Mental Health Code or other provision of the law, and information required by rules and policies.

Disclosure shall be in accordance with Board Policy (Access to Case Records), the Mental Health Code, Administrative Rules, and the Public Health Code

PROCEDURE

The records, data, and knowledge collected for or by individuals or committees assigned a peer review function including the review function under section 143a(1) of the Mental Health Code are confidential, are used only for the purpose of peer review, are not public records, and are not subject to court subpoena [MHC 748 (9)].

CONSUMER ACCESS TO CASE RECORD

The Agency or office holding the recipient's case record or which provides the most recent service, or who maintains a closed case record, shall respond to a completed written request as expeditiously as possible but in no event later than 30 days of receipt of the request. The response shall take one of the following forms:

- Grant access to the information, with the review/release to occur in the presence of the supervisor or his/her designee.
- Grant access to a portion of the information, with documentation of material withheld being inserted in the case record, with the review/release [AR 7051(3)].
- Deny access in writing, with documentation of the reasons for the decision being provided to the individual who submitted the request.
- Issue a written notice extending the response period by five (5) days to permit the case record information to be copied by and received from records if the record has been converted to microfilm or has otherwise been placed in long-term storage.

For case records made subsequent to March 28, 1996, information made confidential by Section 748 of the Mental Health Code shall be disclosed to a competent adult recipient as expeditiously as possible but in no event later than 30 days from the request or prior to release from treatment [MHC 748 (4)].

Requested information shall be disclosed under one or more of the following circumstances [MHC 748(5)(a-g)]:

- Upon order(s) or subpoenas of a court of record, or subpoenas of the legislature, unless the information is made privileged by some provision of law. Substance abuse information must be specifically requested and release is subject to stricter standards including that subpoena alone is not sufficient and release requires special rules be followed as in Attachment D.
- To a prosecuting attorney as necessary for him to participate in a proceeding governed by the Mental Health Code or Administrative Rules [AR 7051 (6)(a-c)]. Substance abuse information is protected from release by law.
- To an attorney for the consumer, when the recipient has given consent.
- To a representative of Michigan Protection and Advocacy Services, pursuant to section 330.1748 of the Mental Health Code [MHC 748 (8)].
- When otherwise necessary in order to comply with another provision of law.
- To Family Independence Agency/Children's Protective Services, within 14 days after receipt of a written request from them for on-going open "cases", pursuant to section [330.1748(a)] of the Mental Health Code.
- To Protective Services immediately upon receipt of a contact indicating the information is required for an "active investigation".
- To the Department of Community Health when the information is necessary for the office to

discharge a responsibility placed upon it by law.

- To the office of the Auditor General when the information is necessary for that office to discharge its constitutional responsibilities.
- To enable a recipient to apply for or receive benefits without the consent of the recipient or legally authorized representative only if the benefits shall accrue to the provider or shall be subject to collection for liability for mental health service [MHC 748(7)(a); [AR 7051(7)].
- To a surviving spouse, or if none, closest relative of the recipient in order to apply for and receive benefits, but only if spouse or closest relative has been designated the personal representative or has a court order [45CFR 164.502(g)(4)].
- To the recipient's guardian with authority to consent, or the parent with legal and physical custody of a minor recipient.
- To the recipient's guardian with authority to consent, or the parent with legal and physical custody of a minor recipient.
- The entire medical and clinical record may be disclosed to providers of mental health services if the holder of the record and the consumer, parents with legal custody of a minor, a legally appointed guardian, a court approved personal representative or executor of the estate of a deceased recipient consent [MHC 748(6)].
- To the recipient or any other person or agency, provided that in the judgment of the holder the disclosure would not be detrimental to the consumer or to others.
- To the Michigan Concealed Weapons Licensing Board upon the execution of a LifeWays Consent for the Mutual Release of Confidential Information form (LW#1009)
- Information may be disclosed at the discretion of the holder of the record:
- As necessary in order for the consumer to apply for or receive benefits.
- As necessary for the purpose of outside research, evaluation, accreditation, or statistical compilation, provided that the person who is the subject of the information can be identified from the disclosed information only when such identification is sought or when preventing such identification would clearly be impractical, but in no event when the subject of the information is likely to be harmed by such identification.
- To providers of mental or other health services or a public agency when there is a compelling need for disclosure based upon a substantial probability of harm to the consumer or to other persons.

Appeals of a decision to withhold information contained in the case record of a recipient must be submitted in writing, stating the reason(s) for the appeal, to the CMHSP-Office of Recipient Rights [AR 7051(3)].

Customer Service Specialists shall be available to assist the recipient (parent/guardian) by the Application for Access to Recipient Case Record Information form, and, if necessary help in the completion of the application form.

PROCESS FOR RESPONDING TO A REQUEST FOR CASE RECORD

A Written request for access to a recipient's case record submitted by Recipient/parent/guardian to his/her therapist/case manager or office supervisor shall include:

- name of requestor or name of recipient (if different)
- (identification such as a driver's license and/or Social Security number should be provided to ensure protection of confidentiality)
- relationship to recipient
- nature of the request (review/copy/both) and recognition of the qualified right of the holder to limit access

The Recipient's Supervisor/therapist shall review the request. (File/material entered prior to March 29, 1996 is reviewed by the recipient's therapist/case manager to determine if disclosure of any of the material is, or may be, detrimental to the recipient or to others). If there is a finding by the supervisor and the therapist/case manager of no detriment to the recipient or others from disclosure as requested:

- Within three working days of the request, release as requested and notify the recipient (parent/guardian) with the explanation of the confidential nature of the information and the limitations placed on the disclosure of the information.
- If there is a finding by the supervisor and the therapist/case manager of substantial and documented reason to believe disclosure would result in detriment to the recipient and/or others, the recipient (parent/guardian) shall be informed of such within three working days of the request; and not later than 30 calendar days, of the decision to limit/deny access to the material requested. An appointment should be scheduled for the review/release of any materials authorized for disclosure.
- If there is a delay in processing the request for information, the Director of the Provider shall review the request and make a determination, within three business days of the request if the record is on-site and within 10 business days if the record is off-site, whether disclosure would be detrimental to the recipient or others [AR 7051(3)].

The Supervisor/therapist shall prepare a list of any materials which are to be withheld from the materials to be made available to the recipient (parent/guardian) and of appropriate statements of justification for the action to withhold materials on the basis of detriment to the recipient or others likely to result if disclosure had been permitted.

Within one working day, notification to authorize/limit/deny access is issued, as requested. The notification shall be in writing, with explanation of the decision provided.

The Supervisor/therapist shall explain to the recipient (parent/guardian), if appropriate, that the decision may be appealed to the CMHSP-Office of Recipient Rights [AR 7051(3)].

Recipient (parent/guardian) may accept the decision to authorize or limit access to the requested materials and may schedule an appointment for the review/release of the authorized information or may appeal the decision limiting/denying access by submitting a written request for review, stating the reason(s) for the appeal, to the CMHSP-Office of Recipient Rights.

When Family Independence Agency requests information from a LifeWays Provider, the Customer Services Representative shall respond by forwarding the request to involved Providers and responding to the request for closed records within 14 days after receipt of the written request. [MHC 748a]

Requests for release of information may be accepted via Facsimile (FAX). LifeWays shall not send information to non-authorized requesting parties via FAX. If consumer information is urgently needed, a faxed authorization will be accepted if verified and the requested information will be sent out by mail the next day. In a true medical emergency, information may be communicated by telephone on a call-back basis according to policy.

PROVIDER NETWORK COMMUNICATION VIA FAX

Faxing mental health records should be limited to information regarding OBRA reporting requirements or bona fide emergency situations. Faxing should be limited to only times when it is absolutely necessary to get information that is needed immediately. A valid authorization is generally required before faxing requested information, with the exception of faxes between Network Providers. Before sending the information, always verify by phone the availability of the receiver to receive the information before beginning the transmission.

Submit the approved Facsimile Transmission Cover Sheet form along with the request information. The form must be completed in its entirety.

A Copy of the "statement of receipt" shall be filed with the original cover sheet in the Correspondence section of the consumer's record, along with the authorization (if appropriate) and any other pertinent documentation.

PROCESS FOR DISCLOSURE OF CASE RECORD BY SUBPOENA

See LifeWays Operating Procedure 02-03.02 Subpoena

STANDARDS

A summary of Section 330.1748 of Public Act 258 (Mental Health Code) will be included in each consumer's case record [AR 7051(1)]. A summary of confidentiality of substance abuse records shall be included in each record where the consumer receives treatment or has a substance abuse diagnosis.

A Consent for the Mutual Release of Confidential Information form (LW#1009) signed by the consumer or his/her parent, if a minor, or legally appointed guardian will be obtained whenever the recipient, parent or guardian will consent to and there is a need for having confidential information released to another person or agency.

Consent for the Mutual Release of Confidential Information form (LW#1009) shall contain:

- consumer's name and birth date;
- the name of the program authorized to release the information;
- the agency or person to whom the information is to be released;
- the specific information to be disclosed;
- the purpose for which the information is to be used and the need for this use;
- the date at which the authorization is to expire;
- a notice to the receiver of the disclosed information that further disclosure is prohibited per 42 CFR Part 2.
- verification that the person authorizing the release has been informed of the conditions under which the information may and shall be released as set forth in Section 330.1748 of Public Act 258 and 42 CFR Part 2.

The separate programs of LifeWays, including contractors and network provider agencies, may share information within its own system of services when there is a need to know, without compromising the consumer's right to confidentiality.

All consumers will be given an opportunity to object to disclosure consented to on a consumer's behalf, such as by a parent or guardian.

Confidential information shall not be released for a consumer's record when that information requested is found in documents from or correspondence with other agencies for which the consumer's original consent to release the information is not valid; it is these other agencies from which the information should be requested.

In order to coordinate healthcare and benefits, Medicaid beneficiaries shall sign an Assistance Application Form used by Michigan Department of Human Services (MDHS), which allows Medicaid Providers to share necessary clinical information between the managed care health plans and programs providing quality coordinated healthcare while maintaining compliance with HIPAA regulations. Programs/Agencies that are subject to the federal confidentiality law, 42 CFR, Part 2 (Alcohol and Substance Abuse programs), need to comply with its requirements and are subject to the regulations and requirements within the law and cannot disclose any patient-identifying information to managed care plans unless specific conditions are met and/or proper releases are signed.

Information shall be provided to private physicians and certified consulting psychologist appointed or retained to testify in civil, criminal, or administrative proceedings as follows [AR 7051(5)(a-b)]:

- those who present identification and a certified true copy of a court order appointing them to examine a consumer for the purpose of diagnosing the consumer's present condition shall be permitted to review on the program's premises a record containing information concerning the consumer
- they shall be notified prior to their review of the record when the records contain privileged communications which cannot be disclosed in court under Section 330.1750(2) of Public Act 258, as amended (Mental Health Code) and 42 CFR Part 2.

Information may be disclosed to enable a consumer to apply for, or receive, benefits which will accrue to the community mental health board or will be subject to collection for liability for mental health service [MHC 748(7)(a); [AR 7051(7)].

Non-identifying information may be disclosed for purposes of outside research, evaluation, accreditation, or statistical information when policies and procedures for such disclosure have been established by the Chief Executive Officer/designee.

A record shall be maintained of all information disclosures, including:

- The information released
- To whom it was released
- The purpose stated by the person requesting the information for the release
- A statement indicating how disclosed information is germane to the stated purpose
- The subsection of Section 330.1748, or other law, under which the disclosure was made

Persons receiving the disclosed information may only further disclose consistent with the authorized purpose for which it was released [AR 7051 (2)(a-e)].

Information may be disclosed without authorized consent, if it is necessary to provide emergency treatment (only that information necessary to provide the emergency treatment may be disclosed). Information may also be disclosed without authorized consent and in consultation with the Rights Office if there is substantial probability of harm to the recipient or others should the information not be released. In either case where information is released, the person releasing the information shall document to whom the information was released, the purpose for the release and what information was released. If the Rights Office is not available for consult (weekends/holidays), staff are to use their best judgment given the circumstances, document as directed above and contact the Rights Office the next business day or leave a voice mail message giving the details of the situation and a telephone number where staff can be reached if further information is needed.

The Chief Executive Officer/designee shall be consulted in every event where the news media is

requesting information. Written consent by the consumer (or parent of a minor or a guardian) shall be obtained before disclosing any information, even if the consumer is not to be identified in the media.

Challenging Content of Record: A recipient, guardian or parent of a minor recipient, after having gained access to the treatment records, may challenge the accuracy, completeness, timeliness or relevance of factual information in the recipient record. The recipient, guardian or parent of a minor recipient shall be allowed to insert into the record a statement correcting or amending the information at issue. The statement shall become part of the record (MHC 749).

COPY FEES

A reasonable copy fee may be assessed. The amount of the fee shall be determined by the number of pages copied and actual cost of staff time. Waiver of copy fees, for subpoenas served upon LifeWays, requires prior approval of the Chief Executive Officer/designee. Copies will not be released to recipients or other parties so designated by the recipient unless the appropriate copy fee has been received prior to the release.

CLINICAL RECORD SECURITY

The Office of Recipient Rights shall secure and maintain a chain of custody of Clinical records for:

- consumers who have died unexpectedly or whose death is suspicious
- consumers involved in critical incidents which imply potential legal risk to the LifeWays or upon notice of legal action related to a consumer, and;
- (upon request) employees or family members of employees receiving services within the provider network.

The purpose for securing a Clinical record may include, but is not limited to, the following:

- to prevent changes to the record
- to prevent destruction of the record
- to protect information in the record

Upon the advice of the CEO, Medical Director, Clinical Director, Rights Director, or upon such other information or belief that a clinical record should be secured, the Office of Recipient Rights shall take custody of the record and shall release same or relevant portions thereof only as necessary to complete investigations of suspected violations of recipients' rights, reports of deaths, and to coordinate the referral of potential legal claims with the appropriate liability insurance carriers.

Upon request clinical records of LifeWays' employees and/or family members shall be retained and secured in the Office of Recipient Rights and shall be provided limited release to providers of services in accordance with the following procedures:

The service provider's designee shall contact the Rights Office at least one day prior to needed access of the specified consumer's record, unless there is a crisis situation and the record is needed immediately.

The provider's designee shall be responsible for the return of the consumer's record to the Rights Office before the end of the business day.

REFERENCES	
<u>Michigan Public Act 258 of 1974</u> Section 330.1748 and Section 330.1750, as amended	
<u>Michigan Public Act 381 of 2000</u>	
HISTORY	
Effective 09/17/97	Rev. 08/98, 12/98, 02/01, 01/03, 03/03, 06/04, 10/05, 02/06, 03/07, 09/07, 10/07, 03/10/08, 07/08, 04/10, 02/11, 4/11

02.01.13 ADMISSION AND DISCHARGE

PURPOSE: To ensure that recipients are admitted and discharged in compliance with all Laws, Rules, Policies and Guidelines.

PROCEDURE

Each consumer shall have impartial access to treatment regardless of race, religion, sex, sexual orientation, ethnicity, age, or handicap.

Admission to service shall not be based solely upon a consumer's ability to pay.

Each consumer has the right to appeal admission or discharge recommendations through the established Treatment Dispute/Appeals/Grievance procedure.

LifeWays shall require proof of custody/guardianship for minors and/or dependent adults at the time of admission, upon annual review, and at other times when necessary to protect consumer, parental, and others' civil rights.

Minors - A minor, 14 years of age or older, may request and receive mental health services on an outpatient basis (excluding pregnancy termination referral services and use of psychotropic drugs) of not more than 12 sessions or 4 months per request after these expire, without the consent or knowledge of the minor's parent, guardian, or person in loco parentis unless the treating mental health professional determines a compelling need for disclosure based upon substantial probability of harm to minor or another. The treating mental health professional must notify the minor of intent to inform if the latter is to occur. Further outpatient service would require the minor's consent to obtain consent for treatment from the parent, guardian, or person in loco parentis [MHC 707 (1); (3)].

REFERENCES	
<u>LifeWays Policy</u> 5-02 Clinical Risk Management 5-05 Psychiatric Services 5-07 Treatment Culture	
HISTORY	
Effective 02/10/06	Rev. 02/07, 10/08, 09/09, 04/10, 2/11

SUBJECT: 02.02.02 Appeals/Appeals Committee

GOVERNING AGENCY POLICY: 02.02 Recipient Rights Advisory Committee

PURPOSE: To ensure the Complainant's, Recipient's, Guardians (if applicable, and Parents of Minor Children are afforded their right to due process under the Mental Health Code.

PROCEDURE

Appeals Committee - The Recipient Rights Advisory Committee shall serve as the Appeals Committee for all Recipient Rights Complaint appeals [MHC 774 (2)]. Mediation through the local Community Dispute Resolution Program is an alternative option to filing an appeal [MHC 784 (3)]. No member of the Recipient Rights Advisory Committee shall participate in the appeals process in the event that they appear to have any monetary, professional or personal interest with regard to the parties involved, issues presented or outcome of the appeal. Members are responsible to divulge any such conflict of interest to the Recipient Rights Office and excuse themselves from any involvement in the specific appeal. [MHC 774 (6)]

Not later than forty-five (45) days after receipt of the Summary Report, the complainant may file a written appeal with the Appeals Committee. The grounds for appeal are [MHC 782 (1)]; [MHC 784 (2)]:

- The investigative findings are not consistent with the facts, laws, rules or guidelines;
- The action taken or plan of action proposed by the respondent does not provide an adequate remedy;
- An investigation was not initiated or completed on a timely basis.



Within five (5) business days after receipt of a written appeal, members of the Appeals Committee shall review the appeal to determine whether it meets criteria (see above).

If the appeal is denied, the Appellant shall be notified in writing within 5 business days. If the appeal is accepted for review, the Appellant shall be notified within 5 business days. A copy of the appeal shall be provided to the Respondent and the LifeWays CEO (CMHSP) within 5 business days as well. [MHC 784 (4)]

Within thirty (30) days after the receipt of the written appeal, the appeals committee shall meet and review the facts as stated in all complaint investigation documents and do one of the following:

- uphold the investigative findings of the ORR and the action taken or plan of action proposed by the respondent;
- return the investigation to the office and request that it be reopened or reinvestigated;
- uphold the investigative findings of the ORR but recommend that the respondent take

additional or different action to remedy the violation;

- request an external investigation by the State Office of Recipient Rights. Minutes of appeal meetings shall be recorded, to minimally include:
 - Date and time of meeting;
 - Names of those present;
 - Brief summary of discussion and committee decision [MHC 784 (5)].

The Appeals Committee may prepare its own minutes or may request support staff assistance with this task. Minutes shall be approved by Committee members in attendance and shall be retained in the Recipient Rights Office.

The Appeals Committee shall document the decision in writing. [MHC 784 (6)] Within ten (10) working days after reaching a decision the committee shall provide copies of the decision to the respondent, appellant, recipient (if different from the appellant), the recipient's guardian (if applicable), the responsible mental health agency and the Office of Recipient Rights [MHC 784 (6)].

The Appeals Committee decision shall include a statement of the appellant's right to appeal to the MDCH Administrative Tribunal, the time frame for appeal (45 days from receipt of the decision) and grounds for appeal (investigative findings of the rights office are inconsistent with facts, rules, policies or guidelines).

If a request for Appeal to the LifeWays Appeal Committee is received after the initial 45 day timeframe, the Rights Office shall commence a new investigation, (excluding appeals based upon timeliness). If the Appeal is based upon timeliness issues, the appeal will be forwarded to the Recipient Rights Director/Supervisor for necessary action or follow-up.

The Recipient Rights Staff shall assist the Recipient Rights Advisory Committee in meeting the timelines set forth in Section 330.1784 of the Michigan Mental Health Code and shall monitor and document all timelines for reporting purposes.

REFERENCES

Michigan Department of Community Health Administrative Rules
#7037(1)
Michigan Mental Health Code
Sections 330.1757 and 330.1784

LifeWays Provider Manual

HISTORY

Effective date: December 5, 2005

Revised: 02/10/06, 09/28/07, 03/10/08
Reviewed: 02/22/07, 10/30/08, 09/16/09, 04/09/10, 2/11, 4/11

02.01.12 CODE OF RESPONSIBILITIES

PURPOSE: To ensure all recipients are aware of their responsibility to conduct themselves appropriately.

PROCEDURE

The Code of Responsibilities shall be posted in each program waiting/reception area and residential settings.

Code of Responsibility violations shall be documented in the consumer's medical record, either by Progress Notes or LifeWays Incident Report form (Form #LW/237). If a violation is serious enough or if a series of minor violations occur that warrant sustained action, the Person Centered Planning Team who participated in the development of the consumer's Individual Plan of Service shall be convened. The consumer and the team shall discuss the violation(s) and any limitations or sanctions that shall be imposed for the consumer to participate in services without violating the Code of Responsibility.

If the Person Centered Planning Team recommends discharge from services, the recommendation shall be forwarded to the LifeWays Chief Executive Officer for final approval. The Chief Executive Officer may approve or recommend other action after receiving the Person Centered Planning Team report.

The final sanctions shall be incorporated as an addendum to the Person Centered Plan of Service or, in the case of discharge, clearly indicated on the Discharge Summary form. Violations, which are also deemed criminal acts, may need to be reported to the appropriate law enforcement agency. Staff shall contact the Recipient Rights Director or his/her designee prior to making or causing to make any such criminal activity report.

An appeal relative to any action taken as a result of a violation of the Code of Responsibility may be made to Customer Services to initiate a Grievance/Appeal since actions taken would be limiting treatment or access to treatment.

REFERENCES	
<u>LifeWays Provider Manual</u> Standards and Best Practice Guidelines, RR 6.0 (Provider Manual, Section J) Attachment: Recipient Code of Responsibilities	
HISTORY	
Effective 09/17/97	Rev. 02/01, 08/02, 06/04, 09/06, 09/07, 10/08, 04/10, 02/11



Welcome

As a Recipient of behavioral health services through the LifeWays Provider Network, you have many rights which are granted to you by the Michigan Mental Health Code. In addition to responsibilities identified through the Person Centered Planning process and your Individual Plan of Service, please review these responsibilities to ensure everyone's comfort and safety.

WE ARE REQUESTING THAT YOU:

- Be respectful and courteous of others
- Be free of illegal drugs, alcohol and any medications not prescribed to you
- Be free of weapons or dangerous objects
- Behave in a manner that does not harm you, others or property
- Behave in a manner that is not offensive to others
- Be responsible for your personal property. We are not responsible for lost or stolen property
- Smoke in designated areas only
- Apply for any and all benefits or insurances for which you qualify
- Notify us if you are not satisfied with the services you are receiving
- Actively participate in achieving the goals and objectives in your person centered plan
- Discuss with your primary clinician, if you disagree with your recommended/approved services. If that does not work for you, you have the right to file a Grievance with Customer Services

Services may be limited, restricted, or discontinued if you choose not to abide by the above responsibilities.

Your Rights Staff are located at:

LifeWays
Community Mental Health

1200 N. West Ave.
Jackson, MI 49202

Customer Services - 517- 780-3332
Jill Bevier, Director- 517-796-4516
Kent Rehmann, Specialist - 517-780-3325

02.01.04 COMMUNICATION, MAIL, TELEPHONE, VISITS

PURPOSE: To ensure consumers' right to personal privacy, communication, mail, telephone and visits are respected.

PROCEDURE



Privacy:

All consumers of LifeWays have the right to personal privacy. Suitable areas shall be provided for consumers to meet with staff or visitors in private [MHC 726 (2)], unless such privacy is contraindicated by the consumer's individual plan of service.

Communication, Mail, Telephone, and Visits:

Consumers' family and significant others, regardless of age, may visit a consumer, unless such visits are clinically contraindicated and restricted in the consumers Person Centered Plan of Service. Limitations of visits can be made only when essential to prevent substantial or serious physical or mental harm or interference with ongoing habilitation or treatment as identified in the consumer's Person Centered Plan of Service. Reasonable times and places for the use of telephones and for visits may be established and, if established, shall be in writing and posted in each living unit of a residential program. [MHC 726 (3)]

Non-emergency visits for physicians or mental health professionals may be limited to reasonable times (MHC 715).

Reasonable times is defined as not seriously taxing the effective functioning of the program. The program shall assure prompt access to private physicians or legal counsel. Residential and inpatient settings may establish reasonable house rules for liberal hours for visits. Rules shall be in writing and posted in each living unit [MHC 726 (3)].

Residents are allowed to send and receive mail without hindrance. Staff shall not open mail without the consent of the resident or guardian [MHC 726 (2)]. Mail may not be limited except to prevent serious physical or mental harm, to prevent violations of law, to identify items of contraband or as limited by the resident's Person Centered Plan of Service when there is probable cause to believe such items are present. If, in the judgment of staff, there is a concern regarding allowing certain mail to proceed to the resident, whether because the mail is suspected to contain contraband or materials which could cause emotional harm or otherwise distress the resident, the staff may set aside the item pending a consultation with, minimally, the Provider Director or designee, parent (if minor resident) or guardian (if any), case manager (if any) and the Office of Recipient Rights. Such consultation shall occur with deliberate promptness. Any instances of opening or destruction of mail shall be immediately documented with the Office of Recipient Rights and in the resident's record [MHC 726 [2], MHC 752).

In reasonable amounts, residents shall be provided, non-letterhead stationery, envelopes, postage, pens and pencils [MHC 726 (2)].

Residents shall also have access to daily receipt and pick up of mail [MHC 726 (2)] and to entertainment materials and information, including the daily news [AR 7139 (6)(b)]. A provider:

- shall not prevent a resident from acquiring entertainment materials, information and news at his or her expense, or from reading written or printed material, or from viewing or listening to television, radio, recordings, or movies made available at a facility for reasons of, or similar to, censorship [AR 7139(1)];
- may limit access to entertainment materials, information, or news only if such a limitation is specifically approved in the resident's individualized plan of service [AR 7139(2)(3)];
- shall document each instance when a limitation is imposed in the resident's record [AR 7139(2)(3)];
- shall not limit access to entertainment materials, information or news when such limitations can no longer be clinically justified. [AR 7139(4)];
- shall assist the Recipient, Guardian or parent of a minor child in filing an appeal and/or Recipient Rights Complaint if they feel the denial of their access to entertainment materials, information and/or news has been improperly restricted [AR 7139 (6)(a-e)].

Material not prohibited by law may be read or viewed by a minor unless there is an objection by the minor's parent or guardian who has legal custody of the minor [AR 7139(5)]. If the recipient is a minor, the Case Manager shall be permitted to persuade the parent or guardian of the minor to withdraw objection to material desired by the minor [AR 7139 (6)(c)].

Residents are permitted to conduct private telephone conversations with family and friends, unless clinically contraindicated and restricted in the Person Centered Plan of Service. Telephones shall be reasonably accessible and funds for telephone usage shall be available in reasonable amounts [MHC 726 (2)]. Telephone use may be limited only:

- when essential to prevent substantial and serious physical or mental harm;
- to prevent violation of law; to prevent harassment of another if future harassment is expected, frequency of past harassment is established, and the victim of harassment has requested the limitation in writing; by the Person Centered Plan of Service.

If therapeutic indications necessitate restrictions on visitors, telephone calls or other communications, those restrictions are evaluated for therapeutic effectiveness by the clinically responsible staff at least every seven days.

If limitations on visitors, telephone calls, or other communications are indicated, such limitations are determined with the participation of the resident and the resident's family and shall be documented in the Person Centered Plan of Service (MHC 726 [4]).

All such restrictions are to be fully explained to the resident and the resident's legal representative.

Communication in any form with a private physician, mental health professional, court, attorney representing the resident, or other person who are or may be the subject of legal inquiry shall not be limited (MHC 726 [5]).

Limitations or restrictions to the entire living unit must be reviewed annually and posted within the unit or residential setting [AR 7139 (6)(a & e)].

Any limitation to the rights in this section must be the minimum necessary to achieve the proposed purpose and must be accompanied by documentation in the Recipient's Person Centered Plan including:

- justification for the limitation;
- evidence supporting expected harm,
- violation of law, harassment, etc.;
- evidence that the limitation is the minimum amount necessary;
- expiration of the limitation.

Any restrictions or limitations of the recipient's rights, or any aversive or intrusive behavior treatment techniques shall be reviewed and approved by the Behavior Risk Committee and shall be justified, time-limited, and clearly documented in the plan of service. Documentation shall be included that describes attempts that have been made to avoid such restrictions as well as what actions will be taken as part of the plan to ameliorate or eliminate the need for the restrictions in the future.

When the justification for any limitation and/or restriction of the rights set forth in this section ceases to exist, the limitation and or restriction shall expire.

REFERENCES	
HISTORY	
Effective 02/10/06	Rev. 03/07, 09/07, 03/08, 07/08, 10/08, 04/10, 2/11, 04/11

SUBJECT: 02.04.01 Death Reporting

PURPOSE: To review all deaths of recipients in 24-hour care and supervision and any unexpected or unattended deaths of active consumers whose functioning level requires the services of an I-Team and to review all suicides regardless of functioning level.

GOVERNING AGENCY POLICY: 02.04 Recipient Rights Reporting

PROCEDURE:

Upon learning of a consumer's death, the consumer's primary clinician shall contact the Recipient Rights Office (RRO) and the Chief Executive Officer/designee's office, by telephone, and provide as much of the following information as is known:

- Name, gender, date of birth.
- Time and place of death.
- Diagnosis - both medical and psychiatric.
- Cause of death - if known/circumstances of death.
- Recent changes in medical/psychiatric diagnosis.
- Summary of condition, treatment services, and date of last hospitalization preceding death.
- Medications prescribed by LifeWays in the last thirty (30) days.
- Any other relevant history or information.
- Whether or not an autopsy is being performed.
- Time next of kin or guardian was notified.

The Rights staff shall record all necessary/available information on a Death Report Worksheet form and forward it to the responsible Recipient Rights staff, the Chief Executive Officer, the Rights Director, the Clinical Director, the Medical Director, the QM Director, and the Access Director, as necessary. The Responsible Recipient Rights staff shall record the following information in the Death Report Log.

Necessary information includes:

- Date (of initial notification of death)
- Name
- All providers/clinicians/AFC home treating the recipient Case number
- Date of birth/age
- Date of death
- Cause of death and whether the death was initially categorized as;

- Suicide, Homicide, Accidental, or Natural Causes
- Date Critical Incident Report was received by RRO
- Date Death Report was received by RRO

The Primary Clinician shall assure the Rights Office receives a Critical Incident Report within 2 business days.

The Primary Clinician shall submit a thoroughly completed Report of Death form (including signature of primary psychiatrist if applicable) and any supporting documentation including a copy of the Recipient's death certificate [if obtainable] and the Recipient's Clinical/Medical record, within 2 weeks of their knowledge of the death, to the Rights Office. Completion of the Report of Death form shall include review of:

- All assessments of the physical and mental status of the person during the specified time period.
- The interdisciplinary treatment plan of service (including all amendments and QMRP/QMHP reports).
- All physician orders and progress notes (including community hospital records) for the specified time period.
- All nursing notes (including community hospital records) for the specified time period.
- All laboratory and x-ray reports (including community hospital records) for the specified time period.
- Each community hospital discharge summary for the specified time period.
- Detailed description of each pertinent episode which occurred prior to and possibly contributed to the terminal event.
- The Recipient's last known visit to their primary care physician and any medications prescribed by their primary care physician.
- Death certificate.

Upon receipt of the completed Incident Report , "Report of Death" form, the Death Certificate and the Clinical Record, they will be reviewed by any or all of the following LifeWays Directors: the Medical Director, the Clinical Director, the Rights Director, and the QM Director to determine:

- Whether the death was attributable to natural causes.
- Whether the death was expected or unexpected.
- If the death was attributable to suicide, homicide, neglect, or other suspicious cause.
- Whether the record reflected best practices on the part of the staff and providers of services.
- If the record and other evidence provided sufficient cause to commence a formal Recipient Rights investigation or referral/coordination with other investigatory or regulatory agencies (Adult Protective Services, AFC Licensing, Department of Public Health, Law Enforcement, or others).

Upon satisfactory completion of the death review, the Medical Director, the Clinical Director and the Recipient Rights Director shall sign the "Report of Death" form.

The Responsible Rights staff shall:

- Review all documents to ensure appropriate signatures have been obtained.
- Attempt to obtain a Death Certificate if one has not been provided. If the Death Certificate indicates the death was suicide, homicide, accidental or unknown, the QM Director will be notified so as to commence the Sentinel Event process as necessary.
- Complete necessary entries in the Death Report Log and the Incident Report Log.
- Supply statistics related to deaths of consumers to DCH through semiannual reports generated by the Quality Management Department.
- Report the findings and conclusions of the death review to the Chief Executive Officer. Findings/Conclusions are expected to be completed within 90 days of the notification of death.

Reports of Death shall be forwarded to the DCH upon their request.

REFERENCES

Michigan Mental Health Code

Public Act 258 of 1975 as amended - Chapter 7

Michigan Administrative Code

Rule 330.1274

Children's Foster Care Technical Assistance Manual

LifeWays Policy Manual

ATTACHMENTS

[Click here to Open Report of Death form](#)

HISTORY

Effective date: May 29, 1998

Revised:	12/28/98, 11/07/00, 08/01/02, 05/27/03, 06/03/04, 09/15/05, 10/13/05, 08/23/06, 09/28/07, 10/6/10, 02/11
Reviewed:	10/17/01, 10/30/08, 09/16/09

REPORT OF DEATH of LIFEWAYS RECIPIENT

DATE OF REPORT:	CASE NO.	D.O.B.
NAME:	RACE:	SEX:
LIVING SITUATION: <input type="checkbox"/> Residential <input type="checkbox"/> Independent <input type="checkbox"/> Nursing Home <input type="checkbox"/> Other:	DATE/TIME OF DEATH:	

PLACE OF DEATH (ADD UNIT OR RESIDENCE):	LEGAL ADMISSION STATUS:
	GUARDIAN (IF APPLICABLE):
AUTOPSY REQUESTED: YES NO AUTOPSY PERFORMED: YES NO IF NO, EXPLAIN WHY:	EXPECTED DEATH: ___ CRITICALLY ILL ___ SERIOUSLY ILL ___ CHRONICALLY ILL ___ OTHER: _____ UNEXPECTED DEATH (Explain):
PRELIMINARY REPORT ON CAUSE:	

DIAGNOSIS: (Please Write Out)
AXIS I: _____
AXIS II: _____
AXIS III: _____

RECENT CHANGES IN MEDICAL, PSYCHIATRIC AND PSYCHOLOGICAL STATUS:

ANY UNUSUAL CIRCUMSTANCES SURROUNDING DEATH: Was the resident in restraint or seclusion? _____ (If accidental death include type of accident and how it occurred, if suicide include indication of need for precautions, precautionary measures taken, and methods used by the resident)

SUMMARY OF MEDICAL, PSYCHIATRIC AND PSYCHOLOGICAL CONDITION AND TREATMENT IMMEDIATELY PRECEDING DEATH (Including any life support measures taken). IF TRANSFERRED TO A GENERAL HOSPITAL INCLUDE DATE AND TIME:

MEDICATIONS: (Dose, route, and time administered)	
LAST 30 DAYS:	LAST 24 HOURS:
Prescribed by:	Prescribed by:

TENTATIVE CAUSE OF DEATH:

Consumer: _____

ATTACH ADDITIONAL SHEETS AS NEEDED. SEND ORIGINAL REPORT TO THE RECIPIENT RIGHTS OFFICE AS SOON AS POSSIBLE WITH THE MEDICAL RECORD AND CRITICAL INCIDENT REPORT. IF ABLE TO OBTAIN A DEATH CERTIFICATE, PLEASE ATTACH TO THIS REPORT.

IF INFORMATION REQUESTED IS "UNKNOWN" AND/OR "UNAVAILABLE", PLEASE NOTE REASON.

PLEASE FILL OUT THIS FORM IN CONSULTATION WITH THE RECIPIENT'S LIFEWAYS PSYCHIATRIST, IF APPLICABLE.

Primary Clinician Signature:	Date:
Treating Psychiatrist Signature:	Date:
Medical Director Signature:	Date:
Clinical Director Signature:	Date:
Recipient Rights Director	Date:

[\[click here to return to top\]](#)

02.04.06 DUTY TO WARN

PURPOSE: To ensure professionals initiate "duty to warn" in a timely manner when a recipient of service communicates a threat of physical violence toward a third person and has apparent intent and ability to carry out that threat.

PROCEDURE

If a Recipient communicates to a treating mental health professional a threat of physical violence against a reasonably identifiable third person and the recipient has the apparent intent and ability to carry out that threat in the foreseeable future, the mental health professional has a duty to take action as described below. A mental health professional does not have a duty to warn a third person of a threat if the mental health professional, subsequent to the threat, does 1 or more of the following in a timely manner:

- Hospitalizes the Recipient or initiates proceedings to hospitalize the patient under chapter 4 or 4a of the Mental Health Code.
- Makes a reasonable attempt to communicate the threat to the third person and communicates the threat to the local police department or county sheriff for the area where the third person resides or for the area where the patient resides, or to the state police.
- If the mental health professional has reason to believe that the third person who is threatened is a minor or is incompetent by other than age, takes the steps set forth above and communicates the threat to the Department of Community Health in the county where the minor resides and to the third person's custodial parent, noncustodial parent, or legal guardian, whoever is appropriate and in the best interest of the third person.

A mental health professional who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 750.

In addition to completing an Incident Report (LW/#237), the mental health professional shall:

- Complete the Duty to Warn Record form, Form #621 and
- Forward one (1) copy of to Duty to Warn form to Recipient Rights Office
- File the original form in the consumer's medical record.

REFERENCES

Michigan Mental Health Code

Public Act 258 of 1974, as amended

Department of Community Health

Administrative Rules

<u>Standards and Regulatory Compliance Guidelines</u> <u>LifeWays Operating Procedures</u> Recipient Rights Operating Procedure Manual, Section 1	
HISTORY	
Effective 09/17/97	Rev. 02/01, 08/02, 06/04, 09/05, 09/06, 05/07, 07/08, 09/09, 04/10, 2/11

02.01.07 FINGERPRINTING, PHOTOGRAPHS, AUDIOTAPE OR USE OF ONE-WAY GLASS

PURPOSE: To ensure the protection of the rights of recipients of service in compliance with all Laws, Rules, Policies and Guidelines.

Any use of photography, audio and/or video tape recordings shall require a signed release with evidence of full disclosure and prior informed consent. Photographs, audio and/or videotapes shall be returned to the consumer or shall be destroyed when the purpose of their use is no longer essential or when the consumer revokes his/her consent for their use [AR 7003 (1)(d)]. A review for the use of photographs, audio and/or video use will be reviewed at least annually during the Person Centered Planning Process [MHC 724(5)].

Fingerprints, photographs or audiotapes may be taken and used and one-way glass may be used in order to provide services to a consumer only when prior informed written consent has been obtained [MHC 724(7)(a-c)]. Fingerprints, photographs, or audiotapes taken in order to determine the name of a consumer shall be kept as part of the record of the consumer and shall be given to the consumer or destroyed when they are no longer essential [MHC 724(4)] [AR 7003 (1)(d)]. If photographing, video or audio-taping, or one-way glass are utilized for training purposes, prior informed consent must be obtained [MHC 724(2)] [AR 7003(1)(c)]. The provider must ensure consumer confidentiality, including storage and safeguarding of video/audio tapes [MHC 724(4)].

Photographs may be taken for purely personal or social purposes. A photograph of a recipient shall not be taken or used if the recipient has indicated his/her objection [MHC 724(6)].

Photographs include by definition "pictures, motion pictures, and video tapes."

LifeWays may use recording video surveillance cameras in common areas (lobbies, hallways, parking lots) for security purposes only, provided that notice of their use is conspicuously posted in the area where such security devices are in use.

Non-recording video cameras may not be used in private clinical settings where their purpose is to monitor the behavior, actions, verbalizations or demeanor of a recipient without prior notice, unless informed consent, and express written consent has first been obtained. A review for the use of monitoring cameras must be conducted at least annually during Person Centered Planning or sooner if justification for its use ceases to exist [MHC 724(5)].

REFERENCES

Michigan Mental Health Code,
Public Act 258 of 1974 as amended (MHC 724, 752)
Department of Community Health Administrative Rules

(AR 7003) <u>LifeWays Policies</u> 05-02 Clinical Risk Management 05-07 Treatment Culture	
HISTORY	
Effective 02/23/06	Rev. 01/07, 09/07, 03/08, 10/08, 04/10 Reviewed: 2/11

02.04.02 INCIDENT REPORT PROCESS

PURPOSE: To assure proper documentation of unusual and critical incidents and adequate protection for the rights of recipients receiving mental health services

DEFINITIONS

Incident Reports - Incident Reports are legal documents and cannot be destroyed. They are a means by which an out-of-the-ordinary and serious occurrence involving a recipient of mental health services is reported in a uniform way and in a timely manner. These include but are not limited to:

- Death
- Serious physical injury
- Serious illness
- Serious challenging behavior
- Alleged Abuse, neglect, or sexual abuse
- Significant medication error: i.e., an error which could have caused or did, in fact, cause impairment of bodily function, permanent disfigurement, or death
- Suspected criminal offenses involving a recipient
- Vehicular accidents
- Bio-hazardous accidents
- Use of physical management

A Provider may require their staff to use Incident Reports to document other incidents not identified by LifeWays. The Provider's policies and procedures should be clear on those expectations for staff.

An incident may also constitute a rights complaint violation for which a Recipient Rights complaint may need to be filed.

Attending Medical Staff - The person in charge of medical evaluation and/or treatment of injuries to the recipient which occurred as a result of the incident.

Case Manager or Supports Coordinator - The person in charge of case management for the recipient involved in the incident.

Consumer/Recipient - A person receiving mental health services in one or more LifeWays programs.

Chief Executive Officer - The chief administrator in charge of LifeWays.

Clinical Director - The person who reviews incidents that suggest systemic problems posing a current or future risk of adverse occurrences to consumers.

Recipient Rights Director - The rights staff person in charge of the LifeWays Office of Recipient Rights responsible for monitoring incident reports.

Staff - Staff member or members involved in or observing the incident/accident or occurrence, or observing the effects of an injury or possible injury of unknown origin to a recipient.

Supervisor - The supervisor in charge of the staff and program or service responsible for the recipient at the time the incident occurred.

PROCEDURE

Staff involved in or observing the incident/accident shall complete the top half of the Incident Report form (LW/#237) and include:

- Identifying information (name, case number, age, sex);
- Report date, time, agency name, and program;
- Dates, times, and location of incident, if known;
- Recipients and staff involved and/or present;
- A description of what happened and action taken by staff;
- Indication of whether there is an apparent physical injury.

If recipient injury/illness is involved and medical attention has been applied or sought:

- Have attending medical staff (nurse, physician, etc.) complete middle section of form or attach a copy of the discharge instructions or other documentation supplied by the attending medical staff.
 - Attending medical staff (if injury to recipient occurred as a result of the incident or if symptoms of an illness are present) shall:
 - Describe injury and care given.
 - Note date, the time care was given and extent of injury.
 - When applicable, contact home to obtain treatment or diagnostic information, noting the existence of contagious/infectious condition on the report form.
 - In the event the symptom(s) is of an unknown origin and is suspected to be contagious, the recipient shall be referred to his primary physician for diagnosis and treatment. Prior to distribution, the attending medical staff shall report any findings on the incident report form, within twenty-four (24) hours or the next working day.
 - Sign, date, and return incident report to staff.
 - Additional pages may be added if more space is required for completed documentation.

If Physical Management or other Intrusive or Restrictive technique is used:

- If no Behavior Treatment Plan [BTP] is in place, note that on the IR and then continue to “When reporting an incident” below.
- If they have a BTP, fill out the Behavior Treatment Plan Intervention Data Sheet or other documentation required by the Behavior Psychologist/Behavior Risk Committee.

When reporting an incident:

- Report verbally to the Rights Office immediately following the incident, those which have been identified with an asterisk [*] on the Indicator Code sheet. (See code sheet below)
- As appropriate, it may also be necessary that some of the following be notified: parent or guardian, Department of Human Services, the appropriate licensing authority, Adult or Children’s Protective Services, state or local police, Department of Public Health, County Medical Examiner. Notification is to be documented on the Incident Report form. If reporting to Protective Services a 3200 form should be filled out and mailed to them and a copy of the form should be attached to the Incident Report form.
- Complete a Progress Note or other documentation that summarizes the incident. This document is to be a fact based description of what occurred and is to be placed in the Recipient’s medical record. Incident Reports are NOT to be filed in the medical/clinical record. Incident Reports should be retained for a period of at least three (3) years. Forward the completed IR to the Supervisor before leaving shift.

Within 24 hours of the incident the Supervisor shall:

- Ensure proper documentation and signatures and indicate action taken to prevent recurrence of the incident, or improper handling of the incident.
- Indicate date and time the Rights Office was notified.
- Note name of staff assigned to recipient at time of incident.
- Sign incident report form and forward to the Rights Advisor.

Provider Rights Advisor shall:

- Read the incident report and verify completion of required information (including follow-up regarding suspected contagious conditions).
- Identify and assign appropriate indicator code.
- Write the provider assigned code in the appropriate space provided
- Initial to verify completion.
- Assure that Incident Reports are distributed as directed on the bottom of the Incident Report form (LW/#237). The Recipient Rights copy of the Incident Report shall be received by the Rights Office within two business days of the incident.
- Assure that the Incident Report is kept separate from the medical record. Incident Reports are considered peer review documents and are protected from disclosure in accordance with MCL 330.1748 (9) [This includes release to Guardians who may receive a copy of the progress note summarizing the incident, but not the Incident Report itself].

Recipient Rights staff shall:

- Conduct a review ensuring that there is sufficient information to explain the incident, proper documentation, and that adequate protection, comfort, and care were provided to the recipient;
- Contact Agency staff for further information/action, possibly converting the incident report to a Recipient Rights Complaint/Investigation, if necessary;
- Continually monitor for additional incidents on recipients;
- Refer incidents of physical intervention/management where there is NO Behavior Treatment Plan in place to the Behavior Risk Committee;
- Refer individual incidents which are felt to indicate patterns impacting negatively on recipient rights or quality of care within the Agency to the Quality Management Department, Contract Management and/or the Clinical Director for evaluation and recommendations;
- Report incidents of possible Sentinel Events to the LifeWays Quality Management Department or designated individual. (For definitions, see attachment B).
- Enter data into the Incident Reporting data base including:
 - the Consumer's case number
 - the date of the incident
 - the location code
 - the indicator code
- Sort and file processed Incident Reports in designated file folders.
- Purge and shred Incident Reports no sooner than six (6) months.
- Assign new/additional Indicator and/or Location Codes as the need arises. Any changes, additions or deletions of Indicator Codes shall be immediately relayed to all Rights Advisors and to the Quality Management Department.

REFERENCES
<p><u>Michigan Mental Health Code</u> Public Act 258 of 1975, as amended - Chapter 7</p> <p><u>Department of Community Health Administrative Rules</u></p> <p><u>Department of Social Services (DSS) Child Protection Law</u> (Public Act 238 of 1975) Adult Protective Services Act (Public Act 149 of 1994)</p> <p><u>Vulnerable Adults Protection Act</u> (Public Act 149 of 1994)</p> <p><u>Rehabilitation Act Amendments of 1986</u> (Public Law 99-506)</p> <p><u>Michigan Penal Code</u> Section 750.136(b)</p> <p>Attachment A: INDICATOR CODES FOR INCIDENT REPORTING</p> <p>Attachment B: DEFINITIONS</p>

Attachment C: LIFEWAYS INCIDENT REPORT	
HISTORY	
Effective 05/29/98	Rev. 05/00, 03/01, 07/02, 06/04, 09/05, 09/06, 11/06, 09/07, 03/08, 09/09, 10/09, 12/09, 04/10, 2/11

Attachment A: INDICATOR CODES FOR INCIDENT REPORTING

INDICATOR CODE	DESCRIPTION
Death – 100*	
110 *	Suicide
120 *	Homicide
130 *	Accident
140 *	Natural Causes
Serious/Non-Serious Injury - 200	
210 *	Consumer was so seriously injured that they visited/admitted to the hospital or emergent/urgent care center
220	Incidents involving serious injury, explained or unexplained
230	Incidents involving non-serious injury, explained or unexplained
Serious Illness - 300	
310 *	Consumer was so seriously ill that they visited/admitted to the hospital or emergent/urgent care center
320	Unplanned Surgery
340 *	Communicable Disease
350	Infection Control
Medication Incidents - 400	
410	Errors - wrong medication/wrong dosage, including double dose, missed dose
420 *	Errors - [wrong medication/wrong dosage, double dose, missed dose] causing serious risk of death or injury
430	Refusals [unless addressed in a plan of service]
Vehicular Accidents - 500	
510	No injury apparent
520 *	Injury sustained
Biohazardous Accidents – 600 *	
610 *	Bio-hazardous accident
Alleged Abuse or Neglect – 700 *	
710 *	Consumer was so seriously abused/neglected that they visited/admitted to the hospital or emergent/urgent care center
720 *	Suspected Abuse or Neglect of Consumer
Criminal Behavior/Offenses - 800	
810 *	Recipient was arrested, booked, jailed or convicted because of problem behavior
820 *	Use or possession of weapons
830	Unauthorized use or possession of licit or illicit substances
840 *	Sexual offences
Serious Challenging Behavior - 900	
910	Behavior NOT addressed in plan of service
920	Behaviors addressed in plan but Not relieved by intervention of the plan of service
930	Significant property damage (>\$100) NOT addressed in plan of service
940	Attempted Self Injurious Behavior (SIB) NOT addressed in plan of service
950 *	Attempted Suicide
951	Suicidal Threat NOT addressed in plan of service
960 *	Attempted harm to others NOT addressed in plan of service
961	Homicidal Threat NOT addressed in plan of service
970	Unauthorized leave or Elopement NOT addressed in plan of service
980	Any use of physical management
990	Search and Seizure
Other	
999	Other Critical Incident- NOT described by a category above

* Requires a call to the Rights Office immediately after the incident and all measures for ensuring the safety of Recipients have been taken. All IRs are to be reviewed by a Supervisor/Administrator of the person completing the IR and the IR is then due to the Rights Office within two business days of the event.

Definitions:

1. Sentinel Event is an unexpected occurrence involving death or serious physical or psychological injury, or the risk thereof. Serious injury specifically includes loss of limb or function. The phrase, >or the risk thereof= includes any process variation for which a recurrence would carry a significant change of a serious adverse outcome@ (JCAHO, 1998).
2. Injuries include those resulting from abuse or accidents.
3. Serious challenging behaviors include property damage, attempts at self-inflicted harm or harm to others, or unauthorized leaves of absence.
4. Medication Errors mean a)wrong medication; b) wrong dosage; c)double dosage; or d)missed dosage. It does not include instances in which consumers have refused medication.

Notes:

1. Reporting is **required** for 1) persons living in 24-hour specialized residential settings; 2) persons living in their own homes receiving ongoing (one or more times a week) and continuous (6 months or longer) in-home assistance with activities of daily living; and 3) persons receiving Targeted Case Management or Habilitation Supports Waiver Supports Coordination.
2. Accidents treated at medi-centers and urgent care clinics/centers should be included in the injury reporting along with those treated in emergency rooms. In many communities in the state where hospitals do not exist, medi-centers and urgent care clinics/centers are used in place of emergency rooms.
3. Planned surgeries, whether outpatient or inpatient, are not considered unexpected occurrences and therefore are not included in the reporting of illnesses requiring admissions to hospitals.
4. Report arrests and convictions as separate incidents.

MICHIGAN DEPARTMENT OF COMMUNITY HEALTH MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES *GUIDANCE ON SENTINEL EVENT REPORTING*

I. REQUIREMENT:

“The Michigan [Department of Community Health] will require CMHSPs and CAs to report, review, investigate, and act upon sentinel events for those persons living in 24-hour specialized settings; those persons living in their own homes receiving ongoing and continued assistance with activities of daily living; and those persons receiving Targeted Case Management or Habilitation Supports Waiver Supports Coordination services. This information will be reported to DCH semiannually.” (Health Care Financing Administration approval letter, June 1998)

II. DEFINITIONS:

1. Incident - is any of the following which should be reviewed to determine whether it meets the criteria for sentinel event in #2 below.
 - death of recipient
 - serious illness requiring admission to hospital
 - alleged case of abuse or neglect
 - injury from accident or abuse to the recipient requiring emergency room visit or admission to hospital
 - behavioral episode
 - arrest and/or conviction
 - medication error

2. Sentinel Event - is an “unexpected occurrence involving death or serious physical or psychological injury, or the risk thereof. Serious injury specifically includes loss of limb or function. The phrase, ‘or risk thereof’ includes any process variation for which a recurrence would carry a significant chance of a serious adverse outcome.” (JCAHO, 1998)
3. 24-hour Specialized Setting - means a specialized residential home certified by Michigan Department of Consumer and Industry Services to serve persons with mental illness or developmental disabilities. For purposes of sentinel events reporting by Substance Abuse Coordinating Agencies, it means substance abuse residential treatment programs.
4. Own Home - for purposes of sentinel event reporting means **supported independence program** for persons with mental illness or developmental disabilities regardless of who holds the deed, lease, or rental agreement; as well as **own home or apartment** for which the consumer has a deed, lease, or rental agreement in his/her own name. Own home does not mean a family’s home in which the child or adult is living.
5. Ongoing and continuous in-home assistance - means assistance with activities of daily living provided in the person’s own home at least once a week, and 6 months or longer.
6. Death - that which does **not** occur as a natural outcome to a chronic condition (e.g., terminal illness) or old age.
7. Injuries occurring as a result of accidents or abuse which required visits to emergency rooms, medi-centers and urgent care clinics/centers and/or admissions to hospitals should be included in the injury reporting. In many communities where hospitals do not exist, medi-centers and urgent care clinics/centers are used in place of hospital emergency rooms.
8. Physical illness resulting in admission to a hospital - does **not** include planned surgeries, whether inpatient or outpatient. It also does **not** include admissions directly related to the natural course of the person’s chronic illness, or underlying condition. For example, hospitalization of an individual who has a known terminal illness in order to treat the conditions associated with the terminal illness is not a sentinel event.
9. Serious challenging behaviors - are those not already addressed in a treatment plan and include significant (in excess of \$100) property damage, attempts at self-inflicted harm or harm to others, or unauthorized leaves of absence. Serious physical harm is defined by the administrative rules for mental health (330.7001) as “physical damage suffered by a recipient that a physician or registered nurse determines caused or could have caused the death of a recipient, caused the impairment of his or her bodily functions, or caused the permanent disfigurement of a recipient.”
10. Medication Errors - mean a) wrong medication; b) wrong dosage; c) double dosage; or d) missed dosage, which resulted in death or serious injury or the risk thereof. It does not include instances in which consumers have refused medication.

[Back to Top ↑](#)

1. Indicator Code/Provider Code
2. Your Agency/Organization and Program.
3. Name of the Consumer involved, age, sex, and E-Cura #. Only one consumer per IR. If two consumers are involved in a particular incident, two separate IRs should be written.
4. Name of witnesses (Not including consumer witnesses unless identified by initials)
5. Date of the INCIDENT, time of the INCIDENT, and where the INCIDENT occurred.
6. What happened? Doesn't need to be a novel, but precipitating events and the incident itself should be described in detail. If you are unable to fit the whole "story" in this section, add a second page by using another IR form and writing "page 2 of 2" or "page 2 of 3" on the top of the form and attach the pages. If your employer has created a second IR page form, please be sure the form is copied to go with all of the IR copies. **The IR is no longer allowed to be kept in the medical record.**
7. What action was taken to resolve the situation? Did staff perform TPI? If yes, what steps did staff take? Did staff follow the Recipient's TX/BTP plan(s)? If no, why not? Were there extenuating circumstances? If yes, what were they? Note if there were injuries (if appropriate) and detail if any were found.
8. **The supervisor, of the staff who is filling out the IR**, should fill in this area explaining whether or not staff responded appropriately according to rules, guidelines, procedures, etc. If staff failed to act appropriately, what did the supervisor do to ensure that there would not be a recurrence of their actions?
9. If the Recipient received unexpected treatment from a hospital/physician who was the physician? What hospital? Did the physician issue a diagnosis? Is there on-going treatment, if so, what?
10. Who was notified of the Incident? Were they notified by phone or form? **(Guardians no longer receive a copy of the IR but should be notified of the incident by progress note if needed)**. "Responsible Agency" would be the Recipient's primary provider. If the facility/provider is not a licensed facility, Licensing DOES NOT get a copy of the IR. If the Recipient has a Behavior Treatment Plan the Behavioral Psychologist should receive a copy of the IR.
11. Staff signature, name, title, and date the IR was completed.
12. Supervisor to staff. This can be the Home Manager, Provider Administration, or a Supervisor who has the authority to take necessary action to prevent recurrence including disciplinary action if necessary.

INDICATOR CODE(S)	PROVIDER CODE
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FACILITY/HOME FACILITY ADDRESS CITY STATE ZIP FACILITY LICENSE NUMBER LICENSEE/ORGANIZATION NAME	NAME OF CONSUMER INVOLVED AGE SEX () MALE () FEMALE LIFEWAYS CASE NUMBER
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NAME OF PERSON INVOLVED/WITNESS BUSINESS PHONE	NAME OF PERSON INVOLVED/WITNESS BUSINESS PHONE
---	---

DATE OF INCIDENT, ACCIDENT, ILLNESS, DEATH OR ARREST	TIME	LOCATION
--	------	----------

EXPLAIN WHAT HAPPENED

ACTION TAKEN BY STAFF

ACTION TAKEN TO REMEDY AND/OR PREVENT REOCCURRENCE OF INCIDENT, ACCIDENT, ILLNESS OR DEATH

NAME OF TREATING PHYSICIAN/HEALTH CARE/MEDICAL FACILITY/HOSPITAL	PHONE NUMBER	DATE AND TIME CARE GIVEN () AM () PM
--	--------------	--

PHYSICIAN'S DIAGNOSIS OF INJURY/ILLNESS, CAUSE OF DEATH IF KNOWN

PERSON(S) NOTIFIED (Complete Below)	NOTIFICATION DATE/TIME	PERSON(S) NOTIFIED (Complete Below)	NOTIFICATION DATE/TIME
ADULT FOSTER CARE LICENSING Name: () BY PHONE () BY FORM	() AM () PM	ADULT PROTECTIVE SERVICES (IF APPLICABLE) Name: () BY PHONE () BY FORM	() AM () PM
PHYSICIAN OR RN (IF APPLICABLE) Name: () BY PHONE () BY FORM	() AM () PM	OFFICE OF RECIPIENT RIGHTS (IF APPLICABLE) Name: () BY PHONE () BY FORM	() AM () PM
RESPONSIBLE AGENCY Name: () BY PHONE () BY FORM	() AM () PM	LAW ENFORCEMENT AGENCY (IF APPLICABLE) Name: () BY PHONE () BY FORM	() AM () PM
DESIGNATED REPRESENTATIVE/LEGAL GUARDIAN Name: () BY FORM	() AM () PM	OTHER (PLEASE SPECIFY) Name: () BY PHONE () BY FORM	() AM () PM

SIGNATURE OF PERSON COMPLETING REPORT	PRINT NAME & TITLE	STAFF I.D. #	DATE AND TIME COMPLETED () AM () PM
SIGNATURE OF LICENSEE/ADMINISTRATOR	PRINT NAME & TITLE	DATE	

02.04.03 INTERVENTION COMPLAINTS

PURPOSE: To safeguard the recipients of mental health services from abuse and neglect, to promote the safety, security and well-being of recipients; and to ensure the protection of their person, rights and property.

DEFINITIONS:

Intervention Complaints - include apparent violations or rights issues wherein the facts are clear and; the remedy, if applicable, is clear, easily obtainable and; does not involve statutorily required disciplinary action; and can be resolved within 30 days.

PROCEDURE:

The Intervention Complaint procedure may be used under the following types of circumstances:

- An employee or volunteer acknowledges a violation of a recipient's right.
- Documentation and/or other available evidence clearly establish a violation of a recipient right by a preponderance of evidence standard.
- A rights issue is presented which can be resolved with appropriate corrective action within 30 days.
- The Recipient Rights staff has determined that the rights issue/allegation does not warrant formal investigation.

Upon a determination by Rights Staff that an issue meets criteria for Intervention Complaint resolution, the Rights staff shall:

- Ensure that a written letter acknowledging the complaint is mailed to the Complainant within 5 business days. The acknowledgement letter shall inform the complainant/recipient that there are advocacy organizations available to assist in preparation of a written rights complaint, assist in filing for a treatment dispute resolution, and/or assist them in the mediation process; how to contact the Rights Office for referral to such organizations; that the Rights staff are available to assist them with the complaint and/or mediation process as necessary.
- Assign an Intervention Complaint case number.
- Record all pertinent information on the Intervention Complaint Log and in the Complaint database.
- Collect and review all relevant documentation including incident reports, progress notes, clinical reports, etc.
- Interview recipients, staff, providers, and others as appropriate.
- Review the findings of the intervention complaint with the Provider, Recipient, Guardian, Licensing Authority and/or others as appropriate.

- Establish that expedient corrective action has or shall take place and that the action is acceptable to the recipient, guardian/parents, and others involved.

The intervention information shall be relayed to the Recipient/Complainant by letter including the outcome of the intervention.

Final Intervention information shall be recorded in the "Interventions" log and in the Complaint database established for data monitoring, trending and reporting.

The complaint files shall be stored in a secured area and shall be easily accessible to Rights staff.

Rights staff shall ensure that any additional documentation received from the Respondent-Provider with regard to the completed Intervention shall be placed in the appropriate case file.

REFERENCES	
<u>Legal Authority</u>	
Michigan Mental Health Code Public Act 258 of 1974, as amended.	
Department of Community Health Administrative Rules.	
Section 504, Rehabilitation Act of 1973, Public Law 93-112	
The American with Disabilities Act (ADA) of 1990, Public Law 101-336	
Department of Social Services (DSS) Child Protection Law (Public Act 238 of 1975)	
Adult Protective Services Act (Public Act 519 of 1982)	
Vulnerable Adults Act (Public Act 149 of 1994)	
Michigan Whistleblower's Protection Act, Public Act 469 of 1980	
Rehabilitation Act Amendments of 1986 (public Law 99-506)	
Michigan Penal Code, Section 705.136 (b)	
HISTORY	
Effective 09/17/97	Rev. 12/98, 05/00, 10/01, 08/02, 06/04, 09/05, 02/06, 03/07, 10/08, 09/09, 04/10, 2/11

02.04.05 INVESTIGATION OF RECIPIENT RIGHTS COMPLAINTS

PURPOSE: To safeguard the recipients of mental health services from abuse and neglect, to promote the safety, security and well-being of recipients; and to ensure the protection of their person, rights and property.

PROCEDURE

All staff are to immediately refer all allegations or reasonable suspicions of any and all rights violations to the Office of Recipient Rights for appropriate follow-up [MHC 776 (1); 778 (1)]. Failure of any staff (LifeWays or Provider) to report suspected violations of Recipients' rights are subject to administrative action [MHC 752(1)].

Upon a report, based upon personal knowledge or reasonable suspicion that a recipient's right(s) has been violated, the Office of Recipient Rights shall initiate an Intervention or Investigation or otherwise take action on behalf of recipients to obtain remedy for violations.

Possible violations of rights may come to the attention of the Rights Office in a variety of ways, including but not limited to the following:

- Recipient Rights Complaints may be filed by a recipient or anyone on their behalf. These are to be submitted to the Rights Office immediately upon receipt [MHC 776 (1); 778 (1)].
- Incident Reports filed by provider or LifeWays staff.
- Information in Adult Foster Care Licensing or Protective Services reports on alleged abuse, neglect or other rights violations.
- Information in Department of Community Health reports of licensing and accreditation and other regulatory agency reports.
- Information provided by the designated Rights Advisors or staff with or without a specific complaint allegation.
- Information provided by a recipient or anyone else on behalf of a recipient to indicate possible violations of rights.

Any staff having knowledge of a possible rights violation shall verbally report it to the Rights Office immediately.

Upon receipt of a written Recipient Rights Complaint, verbal complaint, or other information which identifies an issue which seems to violate a recipient's right, the Rights Director/Rights Staff shall assure accurate documentation of the Complaint [MHC 776 (2); MHC 778 (2)].

If the Complaint is received in writing, on a Recipient Rights Complaint form or otherwise, the date received and the Rights Staff initials shall be noted on the written document.

If the Complaint was verbally relayed to the Rights Office, the Rights Staff shall request that the Complainant reduce the Complaint statement to writing for immediate submission to the Rights Office. Upon receipt, the Rights staff will note the date received and shall initial the written document.

If the Complainant refuses or fails to reduce the Complaint statement to writing, the Rights Staff will initiate a written complaint.

A Rights Complaint shall contain the following information [MHC 776 (2)(a-c); (5)]:

- A statement of the factual allegations believed to constitute a rights violation(s);
- A statement of the rights that may, or are believed to have been violated;
- The outcome that the Complainant is seeking as a resolution of the complaint.

Note: If a complaint is filed regarding the conduct of the Chief Executive Officer, it will be referred to the Recipient Rights Office of another Community Mental Health Service Provider (CMHSP) or to the State Office of Recipient Rights as determined by the Board of Directors [MHC 776 (6)].

The Rights staff shall review the written Complaint allegations or summary statement of allegations and shall determine:

- If the Complaint fails to meet criteria for investigation because it fails to set forth an allegation under the Mental Health Code;
- If the Complaint does meet criteria for investigation under the Mental Health Code;
- If the Complaint does not meet criteria for formal investigation but that it does meet criteria for Intervention;
- If the Complaint meets criteria for a Grievance or Appeal in lieu of a Formal Rights Complaint;
- If the Complaint requires other action, such as referral to an appropriate authority, etc.

The assigned Rights investigator shall immediately initiate an investigation for any apparent or suspected rights violations [MHC 778 (1)].

The assigned Rights investigator shall direct the Recipient Rights Administrative Assistant to initiate a case file. The Recipient Rights Administrative Assistant shall ensure that:

- A case number is assigned, using the next number in sequence;
- A case file is prepared;
- A letter of acknowledgement to the complainant (unless the complainant requests anonymity), and the recipient (if different from the Complainant) along with a copy of the complaint is mailed within five (5) business days of receipt of the complaint [MHC 776 (3)];
- Pertinent information is entered into the Recipient Rights Complaint data base/log.

The acknowledgement letter shall inform the complainant/recipient that there are advocacy organizations available to assist them; in preparation of a written rights complaint, in filing for a treatment dispute resolution, and/or in the mediation process. They shall be informed as to how to

contact the Rights Office for referral to such organizations and that Rights staff are available to assist them with their complaint and/or mediation process [MHC 776 (5)]. As a courtesy, a letter to the recipient, the Recipient's guardian and parent of a minor child (if applicable) is also initiated to inform them of the pending investigation and allegations.

For Complaints not meeting criteria for formal investigation the complaint shall be referred for alternative resolution if necessary (Grievance, Appeal, referral to another authority, etc.) and the alternative resolution shall be noted in an acknowledgement letter which is to be mailed to the Complainant and Recipient (if different from the Complainant) within 5 business days of receipt of the complaint [MHC 776 (4)]. The acknowledgement letter shall inform the complainant/recipient that there are advocacy organizations available to assist:

- in the preparation of a written rights complaint;
- in filing for a treatment dispute resolution and or/in the mediation process.

The letter shall also inform the Complainant/Recipient how to contact the Rights Office for referral to such organizations and shall inform them that Rights staff are available to assist them with the complaint and/or mediation process as necessary [MHC 776 (5)].

Investigations shall be conducted in a manner that does not violate employee rights [MHC 755 (3)(b)].

INVESTIGATION OF A COMPLAINT

The Investigator shall make an initial determination as to who is necessary to contact prior to beginning the investigation:

- The Complainant, if necessary to obtain additional information;
- The Recipient, Guardian or Parent of a minor;
- The Providers of services, to insure that any necessary immediate corrective action is taken.
- Other investigative authorities to inform and/or coordinate the investigation (such as: Department of Human Services/AFC Licensing; Adult Protective Services; Law Enforcement, if the allegations involve criminal violations; Children's' Protective Services; Department of Public Health (nursing home violations); Department of Education [Special education or ISD issues]).

The Investigator and other necessary authorities shall establish the expected course of their investigation:

- Whom to interview;
- The order of interviews,
- The location of the interviews,
- Who will make the necessary contacts, etc.;
- What additional evidentiary documentation requires review and analysis (treatment plans, home/program records, Clinical Records, Personnel Records, Provider Records, Licensing studies, etc.);

- Whom to contact to access the evidentiary documentation;
- Whom to contact to interpret clinical information (Nurse, O.T., P.T., M.D., Dietician, etc.);
- What else needs to be done to plan the investigation.

GUIDELINES FOR INVESTIGATION

The investigator shall determine the issues involved. Issues may be framed by a brief restatement of the complaint allegation(s) and any other potential allegations identified or discovered during an investigation.

To phrase an "issue", identify key elements of the investigation and word them in the form of a question ensuring that the citation is included in the question.

The "issues involved" will be a part of the Rights Office Report of Investigation and the Chief Executive Officer's Summary Report of Investigation.

The Investigator shall determine who will be interviewed. It is helpful if written statements from staff, recipients, witnesses, etc. can be obtained prior to the face-to-face interviews. These written statements often support oral interviews, provide information based upon present recollection, and provide findings relevant to the investigation. The Investigator may consider the following order of investigative interviews:

- Complainant: He/she should be first to assess credibility and establish the basis for subsequent interviews;
- Recipient, if different from the Complainant (Unless level of function makes this impossible or impractical);
- Guardian, parents, family members if background, personal information is relevant;
- Witnesses to the event; co-workers; providers; treatment providers (nurses, O.T., M.D. etc. as applicable); other relevant witnesses;
- The Respondent ("the accused") should generally be interviewed last.

The Investigator shall review/analyze physical evidence: pertinent records, documentation; photographs if applicable; environment (care home, day treatment program, etc. where incident occurred); other relevant physical evidence (clothing, wheelchairs, adaptive devices, and other items of relevance) and reference and re-reference applicable authority, such as: The Mental Health Code and Administrative Rules; Michigan Penal Code; AFC Licensing Rules; Americans with Disabilities Act; Policies and Procedures of both LifeWays and the Respondent-Provider; the LifeWays/Provider Contract; other applicable laws, rules, directives, etc.

Upon concluding the investigation the Investigator shall apply the Preponderance of Evidence rule as its standard of proof in determining whether a right was violated [MHC 778 (3)].

Preponderance of Evidence - "means a standard of proof which is met when, based upon all of the available evidence, it is more likely than not that a right was violated. It is a standard of evidence measured by the greater weight of the evidence, not as to the quantity or number of witnesses, but as to the quality of the evidence, i.e., believability and greater weight is given to the important relevant facts."

Prior to writing the investigative report the Rights investigator may choose to debrief with:

- The responsible Respondent-Provider to discuss the general findings of the investigation and what rights violations have been substantiated;
- Co-investigators (Licensing Consultants, Adult Services Workers, etc.);
- Other Rights Staff to obtain their objective perceptions regarding the findings;
- The Rights Director.

PREPARING THE **STATUS REPORTS** OF INVESTIGATION

The Investigator shall prepare Status Reports of investigation every thirty calendar days after commencement of and during the course of the investigation. The Recipient Rights Administrative Assistant shall distribute Status Reports as follows: to the Complainant; the Recipient and if applicable to the Guardian if different from the Complainant; to the Chief Executive Officer/designee; the Respondent Provider; and the Recipient Rights Director [MHC 778 (4)].

Status Reports shall include:

- A statement of the allegations;
- A statement of the issues involved;
- Citations to the Mental Health Code, rules, policies, guidelines, etc.;
- Investigative progress to date; expected date for completion of the investigation;
- Signature of the investigator [MHC 778 (4)].

The original Status Report of Investigation shall be kept in the complaint file.

The "Recipient Rights Complaint Log/Database" shall be updated by the Recipient Rights Administrative Assistant.

PREPARING THE RECIPIENT RIGHTS OFFICE REPORT OF INVESTIGATIVE FINDINGS (RIF)

The RIF is to be completed and ready for publication by the responsible Investigator within ninety days of receipt of the Complaint. Delays involving pending action by external agencies (DHS, law enforcement, etc) are the only exceptions to exceeding the established timeframe [MHC 778 (1)].

The RIF shall include the required DCH standards [MHC 778 (5)] (see Attachment C).

The RIF shall be submitted to the Chief Executive Officer for review and to the Respondent-Provider [MHC 778 (5)].

Upon receipt of a Report of Investigative Findings that establishes the substantiation of a rights violation and/or recommendation, the Respondent-Provider shall submit a plan of action immediately [MHC 722(2)], but not later than five days after the date of the Report of Investigative Findings Report. The plan of corrective action shall be included in the Chief Executive Officer's Summary Report of Investigation, which shall be completed within ten business days of receipt of the Report of Investigative Findings [MHC 782 (1)]. The plan of correction shall address all corrective action requests/recommendations made in the Report of Investigative Findings, shall correct or provide remedy for the established rights violation, shall be implemented in a timely manner, and attempts to prevent reoccurrence of the rights violation [MHC 780 (1)]. For those employees who have engaged in abuse and neglect, the service provider must ensure that firm and appropriate disciplinary action is taken to protect the health and safety of the consumers served [MHC 722 (2)]. The written plan of correction shall be documented and made part of the investigative file [MHC 780 (2)].

PREPARING THE CHIEF EXECUTIVE OFFICER'S SUMMARY REPORT OF INVESTIGATION:



Within ten business days of receipt of the investigative report from the rights office, the Chief Executive Officer shall submit a written Summary Report to the complainant, the recipient (if different than the complainant), their guardian (if applicable), and the Respondent-Provider [MHC 782 (1)]. The original Chief Executive Officer's Summary Report shall be forwarded to the Contracts Manager for filing.

The Summary Report shall contain the following:

- a) Statement of the allegations
- b) Statement of the issues involved
- c) Citations relevant to the provisions of the Mental Health Code, rules, policies, and guidelines
- d) Summary of the investigative findings of the rights office
- e) Conclusions of the rights office
- f) Recommendations made by the rights office
- g) Action taken, or plan of action proposed, by the respondent
- h) A statement describing the complainants right to appeal and the grounds for appeal [MHC 782 (1)]

The Appeal Rights Notice is as follows:

NOTICE OF RIGHT TO APPEAL: Not later than 45 days after receipt of this Summary Report, the Complainant, Recipient, Recipient's Guardian or parent of a minor Recipient may file a written Appeal with the Recipient Rights Appeal Committee, 1200 N. West Avenue, Jackson, MI 49202. The Appeal must be based upon one of the following Grounds: (1) That the Investigative Findings are not consistent with the facts or with Law, Rules, Policies, or Guidelines; (2) That the corrective action taken or plan of action proposed does not provide an adequate remedy; and/or (3) That the investigation was not initiated or completed on a timely basis. Mediation through the local Community Dispute Resolution Program is an alternative option to filing an appeal. The Rights Staff can assist you with writing your appeal or there are Advocacy Organizations available to assist you in filing an appeal or filing for mediation. Please contact the Recipient Rights Office by calling 517-796-4587 if you would like assistance in filing an appeal, wish to initiate mediation, or would like more information about Advocacy Organizations.

Information in the Summary Report is provided within the constraints of the confidentiality/privileged communications of the Mental Health Code. Additionally, information in the Summary Report shall not violate the rights of any employee [MCH782 (2)].

If the person who has a substantiated Rights violation is a LifeWays staff member, they shall receive a letter, via U.S. Mail in accordance with the Bullard-Plawecki Act indicating what violations have been substantiated and the corrective action that has been taken or has been indicated by the supervisor of that employee. The letter shall be copied to the Rights complaint file and to the responsible employee's Personnel file. In order to be compliant with the provisions of law, this letter must be mailed prior to distribution of the RIF and/or the Chief Executive Officer's Summary Report of Investigation. (It is recommended that all Providers in the LifeWays Network comply with the provisions of the Bullard-Plawecki Act).

The Recipient Rights Administrative Assistant shall record the required RIF information for monitoring and reporting to the Department of Community Health and Quality Management in the "Recipient Rights Complaint Log/Database."

Investigation activities for each rights complaint shall be accurately recorded by the office. [MHC 778 (2)]

Complaint files shall be stored in a secured area and shall be easily accessible to Rights staff. Any documentation received regarding the complaint case, including the written plan of correction from the Respondent-Provider, shall be placed in the appropriate investigative case file.

REFERENCES	
<u>Michigan Mental Health Code</u> Public Act 258 of 1975, as amended - Chapter 7 <u>Department of Community Health Administrative Rules</u> <u>Michigan Whistleblower's Protection Act, Public Act 469 of 1980</u> <u>Section 504, Rehabilitation Act of 1973, Public Law 93-112</u> <u>The American with Disabilities Act (ADA) of 1990, Public Law 101-336</u> <u>Department of Human Services (DHS)</u> Child Protection Law (Public Act 238 of 1975) Adult Protective Services Act (Public Act 149 of 1994) <u>Vulnerable Adults Act</u> (Public Act 149 of 1994) <u>Rehabilitation Act Amendments of 1986</u> (Public Law 99-506) <u>Michigan Penal Code</u> Section 750.136(b)	
<u>Forms</u> Attachment – CMHSP RIGHTS SYSTEM ASSESSMENT	
HISTORY	
Effective 06/15/98	Rev. 12/98, 08/99, 02/00, 05/00, 06/01, 07/02, 01/03, 06/04, 02/08/05, 08/05, 02/06, 03/07, 09/07, 03/08, 10/08, 09/09, 04/10, 2/11, 4/11

Yes	No	I. REPORT OF INVESTIGATIVE FINDINGS:	COMMENTS / SUGGESTIONS	REQUIRED ACTION
** Have you determined if the allegation involves a code protected right?				
		<u>Allegation Section:</u> Does it include date of alleged violation, if known or indicate unknown?		
		Does it include date received by ORR?		
		Is it clear who filed the complaint? (recipient, staff, anonymous, etc.)		
		Is the allegation stated and if necessary, further clarified? (including recipient and accused staff involved) ** If during the course of the investigation, the citations/suspected rights violation changes – it should be explained/clarified in the allegation section.		
		<u>Citations Section:</u> Are all relevant portions of the citations from the MHC quoted, including definitions, if applicable?		
		Are all relevant portions of the citations from the MDCH Administrative Rules quoted, including definitions, if applicable?		
		Are all the relevant portions of the citations from CMH policy (if different), other federal and state laws, and other documents quoted, if applicable?		
		<u>Issues Section:</u> Are issues written as questions?		
		Are all the elements of the citations addressed in the issues?		
		Are the issues specific to the allegation?		

Yes	No	I. REPORT OF INVESTIGATIVE FINDINGS:	COMMENTS / SUGGESTIONS	REQUIRED ACTION
		<u>Findings Section:</u> Has the complainant been interviewed? If not, is there an explanation?		
		Were all potential witnesses identified and interviewed (including recipients)? If not, is there an explanation?		
		Is it clear how the witness had their knowledge? – i.e. direct observation (firsthand knowledge), told by other staff, etc.		
		Has the accused been interviewed? If not, is there an explanation?		
		Does the interview with the accused require them to respond specifically to the allegation?		
		Has the recipient been interviewed? If not, is there an explanation?		
		Do the findings contain all relevant evidence? If not, is there an explanation? - testimonial (verbal or written) - documentary - observation - physical		
		Do findings contain dates of interviews and dates evidence gathered?		
		Are all inconsistencies that were identified from the testimony and documents, if any, addressed?		
		If staff names are coded, is there a code sheet in the file?		
		Is the code sheet sent along with the Report of Investigative Findings?		

Yes	No	I. REPORT OF INVESTIGATIVE FINDINGS:	COMMENTS / SUGGESTIONS	REQUIRED ACTION
		<u>Conclusion Section:</u> Is it clear that a preponderance of evidence was the standard of proof used?		
		Are all the issue questions referenced and answered?		
		Does the conclusion use evidence from the findings to establish a logical rationale for the conclusion?		
		Is the code protected right involved identified?		
		Has a determination been made to substantiate or not substantiate the allegation?		
		Is the staff person(s) or entity responsible clearly identified?		
		Is the recipient(s) that is the subject of the allegation clearly identified?		
		<u>Recommendation Section:</u> Does it recommend action that: a) corrects or provide a remedy for the rights violation? b) is to be implemented in a timely manner? c) attempts to prevent a recurrence?		
		Is disciplinary action recommended for substantiated allegations of abuse, neglect and harassment/retaliation?		

<< return to Procedure >>

02.01.05 PERSONAL PROPERTY

PURPOSE: To ensure the protection personal property of Recipient's residing in Residential Homes in compliance with all Laws, Rules, Policies and Guidelines.

PROCEDURE

Personal Property

All residents have the right to own, use, and display personal property. Residents are entitled to safe and adequate storage in residential facilities. Residents are entitled to purchase and receive goods unless otherwise contraindicated by their Person Centered Plan of Service or as prohibited by Federal or State law. Residents have the right to possess or have access to entertainment materials, information, and news. Providers reserve the right to prohibit display of personal belongings in residential facilities that are illegal or harmful to others (e.g. weapons, sharp objects, explosives, drugs, alcohol, etc) and pornographic materials when space is shared [MHC 728 (3)]. Pornographic materials can be limited from common space. Any limitations of property rights must be justified and documented as general policy or in the resident's record [MHC 728(5)]. Residents, or anyone on their behalf, may appeal limitations on their property rights through the Grievance process. Any property taken from a resident must be documented by the issuance of an itemized receipt to be given to the resident or the resident's guardian [MHC 728(7)]. A resident is permitted to inspect personal property at reasonable times [MHC 728 (2)]. Any exclusions of personal property are to be in writing and posted in each residential unit [MHC 728 (3)]. For minor children, personal property rights may also be limited by a custodial parent or legal guardian. The individual in charge of the plan of service may limit property in order to prevent the resident from physically harming himself, herself or others, theft, loss, or destruction of the property, unless a waiver is signed by the resident [MHC 728 (4) (a)].

Search and Seizure

If a staff person has a reasonable suspicion that a resident possesses contraband, a search may be conducted [AR 7009 (7)] after consulting with the Provider Director/Administrator or designee. The search must be witnessed by a second staff person and justification for the search and the results must be documented with the Office of Recipient Rights and in the resident's record [AR 7009 (7)].

Money

All consumers have the right to easy access to personal funds. Restrictions to personal funds must be approved by an interdisciplinary team and be incorporated in the Person Centered Plan of Service and must be regularly reviewed. Wages paid to consumers must be consistent with Department of Labor regulations and guidelines.

REFERENCES	
HISTORY	
Effective 02/27/07	Rev. 09/07, 03/08, 07/08, 10/08,04/10 Reviewed: 2/11

02.01.01 PROTECTION OF RECIPIENTS OF LIFEWAYS SERVICES

PURPOSE: To ensure the protection of the rights of recipients of service in compliance with all Laws, Rules, Policies and Guidelines.

DEFINITIONS:

Director of Recipient Rights - Means the person appointed by the LifeWays Chief Executive Officer to staff the LifeWays Office of Recipient Rights. The Rights Director provides and/or coordinates rights services for recipients of all contracted service providers. The Rights Director shall have no direct service responsibilities.

Recipient Rights Specialist - Means the person(s) appointed by the LifeWays Chief Executive Officer to assist the Recipient Rights Director in providing and/or coordinating rights services for all recipients of all contract service providers. The Rights Specialist shall have no direct service responsibilities and reports directly to the Rights Director.

Recipient Rights Administrative Assistant - Means the person appointed to support the Rights staff and the Office.

Recipient Rights Advisors - are individuals recommended by service providers to assist the Office of Recipient Rights in providing rights services to recipients. It is recommended that Rights Advisors have no direct service responsibilities. Rights Advisors shall have no possible conflict of interest, and shall serve under the direction of the Rights staff. Rights Advisors do not investigate, weigh evidence, or issue decisions unless otherwise directed by the Rights Office.

Preponderance of Evidence - Means a standard of proof which is met when, based upon all of the available evidence, it is more likely than not that a right was violated. It is a standard of evidence measured by the greater weight of evidence, not as to the quantity or number of witnesses, but rather as to the quality of the evidence, i.e., believability and greater weight is given to the important, relevant facts.

Rights Protection System - All consumers shall be informed of their rights in a language or by other means in a manner they can understand. When appropriate interpreters are not available to the provider, staff shall utilize appropriate and competent community resources for interpretative assistance.

Civil Rights - Recipients of services are entitled to the constitutional and civil rights afforded all citizens. This includes, but is not limited to, those specific rights guaranteed by Section 504 of the Rehabilitation Act of 1974 and the Americans with Disabilities Act of 1990 [MHC 748(1)].

Other Rights - Other rights as defined by the Mental Health Code, Department of Community Health Administrative Rules, and State/Federal laws shall be protected. Certain rights are the subject of separate LifeWays Operating Procedures, including: 02-01.10 Sterilization, Abortion, Contraception and Sexuality ; 02-01.09 Resident Labor; 02-01.01 Access to Case Records; 02-04.06 Duty to Warn; 02-02.02 Disputes and Appeals; 02-04.01 Death Reporting; 02-04.05 Investigation of Recipient Right Complaints; 02-04.03 Intervention Complaints; 02-04.02 Incident Report Process; 02-02.01 Recipient Rights Advisory Committee. These rights are also referenced in the Provider Manual: Standards and Regulatory Compliance Guidelines.

PROCEDURE

Authority and Responsibility of the Rights Office - LifeWays has, through its Board, established this and other written policies and procedures which address the rights of recipients and the operation of the rights system. The Board has designated Board administration funds to the rights office as a priority service. Funding may be pro-rata reduced or increased as recipient rights services are expanded or limited. (Reference: MHC 330.1752; DCH Administrative Rules 7037-10).

The LifeWays Board of Directors, LifeWays employees, and LifeWays contract providers shall protect the rights of recipients of services in compliance with the Mental Health Code, Michigan Department of Community Health (MDCH) Administrative Rules, LifeWays Policies and Procedures, and Standards and Best Practice Guidelines. LifeWays Board shall adequately budget for a Rights Director and staff. The Director of Recipient Rights is responsible only to the Chief Executive Officer. The Rights Advisory Committee of the Board shall advise the Director, Board and Chief Executive Officer in rights matters. The Rights Advisory Committee shall also serve as the appeal committee for appellants of rights investigations.

Network providers shall refer to their contract to determine if they are required to adhere to LifeWays Recipient Rights Policies and Procedures, accepting the jurisdiction of LifeWays rights protection system. Those Providers allowed to develop their own Recipient Rights Policies and Procedures, shall submit them to the LifeWays Recipient Rights Office for compliance review or provide documentation that they have been reviewed for compliance by a certified PHP. For those providers allowed by contract to establish their own rights protection system, rights staff are to have attended DCH Contract required, "Basic Skills I and II" training within three (3) months of hire and must complete Recipient Rights Update trainings as specified by DCH-ORR. Evidence of this training shall be forwarded to the Rights Office upon completion or upon execution of a contract. [DCH/CMH Master Contract, FY 09, 6.3.2]

Licensed Psychiatric Hospitals/Units (LPH/Us) and Child Caring institutions (CCIs) are required to follow the federal standards regarding restraint and seclusion. LPH/U's and CCI's are to submit their restraint and seclusion policies to the LifeWays Office of Recipient Rights for review or provide documentation that their restraint and seclusion policies have been reviewed by a certified PHP or send written assurance that restraint and seclusion will not be used [MHC 755 (5)(a)(g)].

Annually, LPH/Us will be required to forward their most recent site review document to the Rights Office. If the recent site review has any deficiencies, the LPH/U will be asked to submit a plan of correction and any follow-up necessary to ensure compliance with Rights protection.

The Recipient Rights Office or designee shall conduct on-site visits at least annually to ensure contract providers' compliance with the rights protection system and required postings. Annually, the Rights Office will obtain the Contract Management schedule for Certification Reviews, which includes the Recipient Rights protection elements, and visits not scheduled to be conducted by the Contract Management within the calendar year will be conducted by the Rights Staff.

All staff and providers are responsible for reporting any apparent or alleged violations of Recipient Rights to the Rights Office immediately upon discovery. Failure of any staff (LifeWays or Provider) to report suspected violations of Recipients' rights are subject to administrative action. [MHC 752(1)]

Recipient Rights Staff shall have unimpeded and immediate access to all programs / staff / consumers / contract providers for the purpose of investigating Recipient Rights complaints and monitoring of the rights protection system. Michigan Protection and Advocacy and other advocacy groups shall be granted access in accordance with Michigan law and rule. (Reference section: 330.1748 of the Mental Health Code and Recipient Rights Procedure: Access to Case Record, Section 11.) Staff shall not interfere with a Recipient Rights investigation. Discussing the interviews, the incident that precipitated an investigation with others or the Recipient and/or being dishonest with the Recipient Rights Office are examples of interference.

Non-retaliation and protection from harassment for complainants and rights staff shall be enforced by the Chief Executive Officer. Disciplinary action will be taken if there is substantiated evidence of retaliation or harassment. (Reference: Administrative Rules 7037[1]; MCLA 15.362 et seq., the Whistleblower's Protection Act.)

The Rights Office ensures that reports of suspected or apparent violations of rights within the service network are investigated according to the criteria established by policy and procedure and the Mental Health Code; and that those which do not meet criteria for investigation are acknowledged [MHC 778 (1)].

Rights investigations are conducted in a manner which does not violate employee rights. The Rights Office coordinates investigations with the Department of Human Services (AFC Licensing), Children and Adult Protective Services, and Law Enforcement when applicable.

The Rights Office acts on behalf of recipients to obtain a remedy for any substantiated violations and informs complainants of their rights of appeal.

Rights complaints that do not meet criteria for Investigation are handled as Interventions or Informal Inquiries and Resolutions (IIRs). Interventions are logged and reported upon in the semi-annual Recipient Rights Report as well as periodically to the LifeWays Board through the Chief Executive Officer and to the Recipient Rights Advisory Committee.

LIFEWAYS' Chief Executive Officer shall:

- Enforce through contracts and agreements, the protection of rights of recipients when they are receiving the services specified in the contract or agreement. The Chief Executive Officer shall instruct the Recipient Rights Office to act on behalf of recipients to obtain remedy for violations only when mechanisms of a provider have not been sufficient or the outcome has been appealed.
- Enforce policies and procedures which provide for non-retaliation and protection for complainants and rights staff (Reference: Administrative Rule 7037[1]; MCLA 15.361 et seq., the Whistleblowers Protection Act).
- Ensure that Rights staff have the education, training and experience to fulfill the responsibilities of the office [MHC 755 (4)] and that written position descriptions for the Office of Recipient Rights include their qualifications, roles, and responsibilities and specify that the Recipient Rights Director and Rights Specialists shall not have direct service responsibilities; shall receive and acknowledge all reports of and may investigate apparent violations; may act to resolve disputes relating to apparent violations; may act on behalf of recipients to obtain remedy for any apparent violations; and shall otherwise endeavor to safeguard the rights guaranteed by the Mental Health Code and Administrative Rules (Reference MHC 330.1754; Administrative Rule 7037[1][2]).
- Ensure that the position description for the Director of Recipient Rights specifies that the Director be an employee of or under contract to LifeWays and shall be subordinate only to the Chief Executive Officer (Reference MHC 330.1754). The Chief Executive Officer shall also consult with the Recipient Rights Advisory Committee prior to hiring or discharging the Director. If the Director is to be disciplined and/or discharged for cause, he/she has the same access to personnel grievance as any other employee.
- Ensure that rights staff attend MDCH Contract required, "Basic Skills I and II" training within three (3) months of hire.
- Ensure that rights staff have specific training on the rights of recipients guaranteed by the Mental Health Code and Administrative Rule (Reference Rule 7037[2]), in accordance with the MDCH Contract (36 CEU's within a three year period) . [MHC 755 (2)(e)]
- Ensure that education and training in Recipient Rights Policies and Procedures are provided to the Recipient Rights Advisory Committee and the Recipient Rights Appeal Committee.
- Take appropriate action to ensure protection for complainants and rights staff if there is evidence of harassment or retaliation concerning an apparent violation of rights or rights complaint (Reference Administrative Rule 7037[10]).
- Take firm and fair disciplinary and other appropriate remedial action to resolve violations of rights. Such actions shall be included in the Chief Executive Officer's Summary Report of

Investigation to complainants on substantiated violations of rights. (Reference MHC 330.1752(3) and Administrative Rules).

- Submit, upon request, to the MDCH/Office of Recipient Rights for review and comment, copies of policies and procedures, and revisions of policies and procedures, concerning the rights of recipients as specified in the Mental Health Code and DCH Administrative Rules (Reference Rule 7037[3]).
- In conjunction with the Recipient Rights Director and the Rights Advisory Committee, respond to any MDCH/Office of Recipient Rights review requiring a plan of correction in a timely manner.
- Submit semi-annual reports of rights activities to the MDCH in accordance with the time frames established by the Department. [MHC 330.1755(6)].

LIFEWAYS' RECIPIENT RIGHTS DIRECTOR SHALL:

- Provide or coordinate rights activities and functions for all services operated by or under contract consistent with the master contract with the Department of Community Health and contracts with providers [MHC 330.1754].
- Ensure that recipients, parents of minors, guardians, and others have ready access to recipient rights summaries and complaint forms [MHC 330.1706; 330.1754].
- Ensure that all LifeWays provider service locations are visited by rights staff or others on behalf of the Rights Office with the frequency necessary for protection of right guaranteed by the Mental Health Code and MDCH Administrative Rules, but no less frequently than annually. (Reference MHC 330.1754).
- Serve as consultant to the Chief Executive Officer and staff in rights matters. (Reference MHC 330.1754)
- Attend or designate rights staff to attend, as necessary, meetings such as Behavior Risk Committee meetings, Quality Improvement Committee meetings, Board meetings and individual case meetings when rights related matters are discussed.
- Ensure that all reports of apparent violations of rights and all rights complaints within the LifeWays' service system are investigated or acknowledged (Reference MHC 330.1752 and 330.1754).
- Ensure that investigations are conducted in manner which does not violate employee rights.
- Use the preponderance of evidence standard of proof in determining if a right has been violated. (Reference MHC 330.1752[3]).
- Prepare semi-annual reports for the Recipient Rights Advisory Committee who shall review the operation of the Rights Office and assess the rights protection throughout the service system. (Reference Administrative Rule 7037[1]).
- Prepare semi-annual reports, to be submitted to the MDCH no later than 4/30 of each year for the preceding 6 months of the fiscal year, which consist of: summary data, by category, including complaints received, number of reports filed, number of reports investigated; number of substantiated rights violations by category and provider; remedial action taken on substantiated violations by category and provider.

- Prepare annual reports, to be submitted to the MDCH no later than 12/30 of each fiscal year for the preceding year which consist of the elements previously listed as well as: training provided by rights staff; desired outcomes established for the rights office and the progress toward the outcomes; recommendations to the Board.
- Comply with LifeWays Standards and Regulatory Guidelines.

In the absence of the Recipient Rights Director, rights staff will continue to operate and manage the Rights Office as usual. In the temporary and extended absence of all Rights staff, the Network Performance Executive Director will pursue an agreement with another CMH or a contract Rights Investigator to operate the Rights Office to ensure rights protections until regular staff return.

Recipient Rights Advisory Committee Shall:

- Meet with the frequency necessary to carry out the responsibilities required by the MDCH Administrative Rules (Ref. Rule 7037[1]) but no less than quarterly.
- Consist of at least six members drawn from LifeWays Board members, staff, government officials, attorneys, mental health consumer interest groups, family members of consumers and consumers. (Reference Rule 7037[1]). At least 1/3 of the membership shall be primary consumers or family members and at least ½ of the 1/3 shall be primary consumers. A current list of members' names and categories represented by the members is maintained in the Recipient Rights Office and is available to individuals upon request.
- Serve as the Appeals Committee for appeals of recipient rights complaint investigations. Reference MHC 330.1774).
- Assist in the internal monitoring/auditing process to measure the quality and effectiveness of LifeWays' Recipient Rights protection system.
- Perform and operate in accordance with LifeWays Policy: Citizens' Advisory Councils. The Advisory Committee's meeting process is outlined in the Recipient Rights Process/Procedure Manual.
- Review the resources of the Rights Office annually to determine if recommendations to the Board for additional funding are warranted. Recommendations for funding and/or resources shall be recorded in the minutes, submitted to the Board through the Chief Executive Officer, and shall be included in the Annual Recipient Rights Report to the Department.
- Serve in an advisory capacity to the Chief Executive Officer and the Director of Recipient Rights.
- Recommend candidates for director of the Rights Office to the Chief Executive Officer.
- Protect the Recipient Rights Office from pressures which could interfere with the impartial, even-handed and thorough performance of its duties.

Discipline/Discharge - The Recipient Rights Director shall not be disciplined/discharged without providing the Recipient Rights Advisory Committee an opportunity to provide input and recommendations.

REFERENCES	
<p><u>Michigan Mental Health Code</u>, Public Act 258 of 1974 as amended.</p> <p><u>Department of Community Health Administrative Rules.</u></p> <p><u>Michigan Whistleblower's Protection Act</u>, Public Act 469 of 1980</p> <p><u>Section 504, Rehabilitation Act of 1973</u>, Public Law 93-112.</p> <p><u>The Americans with Disabilities Act of 1990</u>, Public Law 101-336.</p> <p><u>Governing Agency (LifeWays) Policies.</u></p> <p><u>Family Independence Agency: Children's' Protection Laws</u> (Public Act 238 of 1975) and <u>Adult Protective Services Act</u> (Public Act 149 of 1994).</p> <p><u>Vulnerable Adults Protection Act</u> (Public Act 149 of 1994).</p> <p><u>Rehabilitation Act Amendments of 1986</u> (Public Law 99-506)</p> <p><u>Michigan Penal Code</u>, Section 750.136 et seq.</p> <p><u>LifeWays Provider Manual</u> Standards and Best Practice Guidelines RR 1.0 through 8.2 (Reference Provider Manual Section J.).</p> <p><u>LifeWays Procedure Manual</u> Recipient Rights Office Process/Procedure Manual</p>	
HISTORY	
Effective 05/29/98	Rev. 09/99, 11/99, 02/00, 05/00, 03/01, 07/02, 01/03, 06/04, 08/05, 02/06, 03/07, 09/07, 3/08, 07/08, 10/08, 09/09, 04/10, 2/11

02.01.12 RECIPIENT RIGHTS ADVISORS

DEFINITION

Rights Advisor - Rights Advisors shall be appointed by the Provider/Administration to assist the Office of Recipient Rights in providing rights services to recipients.

PROCEDURE

In order to minimize potential conflicts of interest it is recommended that the Rights Advisor have no direct service responsibilities. Rights Advisors shall have no possible conflict of interest, and shall serve under the direction of the Rights staff. Rights Advisors do not investigate, weigh evidence, or issue decisions unless otherwise directed by the Rights Director.

A Rights Advisor shall serve each of the program sites and contracting agencies. Where more than one program is operating within the same facility, additional Rights Advisors may be appointed as deemed necessary to carry out the purposes of the Recipient Rights Office.

Recipient Rights Advisors shall:

Bring to the attention of the Rights Office all reports of incidents which involve suspected or alleged recipient rights issues.

Provide rights information to recipients parents, guardians, relatives and staff in the form of printed materials with an explanation of the material where needed or appropriate and by referring to the Recipient Rights Office for additional information or printed materials.

Seek to determine if the consumer understands this explanation and the printed data and, where necessary, refer the consumer to the Recipient Rights Office for further information or explanation.

Assure that all forms pertaining to the recipient rights of a consumer are signed by the consumer, parent or guardian (as applicable), are incorporated into the consumer's record and that the forms are updated when necessary.

Provide forms for rights complaints on demand and refer the complaint/complainant to the Recipient Rights Office for the receipt and processing of all potential and actual complaints within 24 hours or the next business day [MHC 776 (1), (5)].

Provide information on how to file a complaint when requested and necessary, and make sure the complainant knows how to contact the Recipient Rights Office for follow-up and filing of the complaint.

Attend, with supervisory approval, in-service training sessions provided by the Rights Director and/or other Recipient Rights Office staff.

Post printed materials (which can be obtained from the LifeWays Office of Recipient Rights) regarding recipient rights in conspicuous places and advise recipients of the location and telephone number(s) of the Rights staff.

Ensure that each service site has the LifeWays Recipient Rights policies/procedures available to staff and recipients.

Determine that each program or program component thereof in which the Rights Advisor is responsible has a sufficient supply of recipient rights forms, booklets, complaint and incident report forms and other supplies as needed.

Contact the Rights Office whenever an interpretation of rights issues is required or requested.

Read, code, initial and distribute all incident reports for designated program of responsibility. (See the Incident Reporting procedure, Section 1 of the Recipient Rights procedure manual).

REFERENCES	
Michigan Mental Health Code Section 330.1755, Public Act 258 as amended	
HISTORY	
Effective 09/17/97	Rev. 12/98, 09/99, 02/01, 08/02, 06/04, 08/05, 02/06, 02/07, 09/07, 10/08, 04/10, 02/11, 4/11

SUBJECT: 02.02.01 Recipient Rights Advisory Committee

GOVERNING AGENCY POLICY: 02.02 Recipient Rights Advisory Committee; 06.02 Advisory Councils

PROCEDURE**PURPOSE OF THE COMMITTEE**

The Recipient Rights Advisory Committee acts as an advisory group to the Recipient Rights Director and the Chief Executive Officer. The Committee protects the Office of Recipient Rights from pressures that could interfere with the impartial, even-handed, and thorough performance of its functions. The Committee recommends candidates for Recipient Rights Director to the Chief Executive Officer and consults with the Chief Executive Officer regarding any proposed dismissal of the Recipient Rights Director. The committee reviews and provides comments on the annual report that is submitted to the Michigan Department of Community Health specific to the Office of Recipient Rights and any other reports deemed appropriate by the Recipient Rights Director or the Chief Executive Officer. The Recipient Rights Advisory Committee also serves as the Appeals Committee for recipient appeals of investigative findings.

MEMBERSHIP

The LifeWays Board of Directors shall appoint members to the Recipient Rights Advisory Committee. As mandated by the Mental Health Code, the Committee shall consist of at least six (6) members, at least 1/3 of which shall be primary consumers or family members and of that 1/3 of which at least 1/2 shall be primary consumers. The Recipient Rights Office shall contact any member missing more than two consecutive meetings in order to determine any barriers to attendance that may need to be addressed and to confirm continued interest in membership. Members missing three (3) consecutive meetings shall be sent a letter emphasizing the importance of active participation, including meeting attendance, and notifying the member that unless they attend the next scheduled meeting, their membership will be terminated.

CHAIRPERSON APPOINTMENT

The LifeWays Board of Directors shall appoint a Chairperson and Vice Chairperson to the Committee annually. The Chairperson shall call Committee meetings to order, lead the meetings and encourage the participation of all members in discussion. In the absence of the Chairperson, the Vice Chairperson shall perform the functions of the Chair.

MEMBER ORIENTATION

New members shall receive orientation to the role of the Recipient Rights Advisory Committee and the Recipient Rights Appeals Committee. Recipient Rights Office staff shall provide an overview of this information at the first Committee meeting the new members attend. Additionally, Recipient Rights staff shall meet with all new members within two (2) months of their appointment to review LifeWays' Recipient Rights Advisory Committee operating procedure, basic Recipient Rights

education (as appropriate), meeting protocol and schedule, and stipends (for consumer representatives only). Recipient Rights staff shall also notify members of focused training available through the Michigan Department of Community Health as those opportunities arrive and shall coordinate arrangements for attendance at such training.

MEETINGS

Meetings shall be held not less than four (4) times annually. Recipient Rights Advisory Committee meetings shall comply with the Open Meetings Act, Act Number 267 or PA of 1976. Special meetings of the Recipient Rights Advisory Committee may be called by the Chairperson or the Recipient Rights Director at his/her discretion or upon the request of three (3) committee members. The Rights Office maintains a list of members which is available to individuals upon request.

To assist with the Recipient Rights Advisory Committee (RRAC) meeting, the Rights staff shall:

1. Prepare the Notice/Agenda as directed by the Recipient Rights Director. The Notice/Agenda must be approved by the Recipient Rights Director or Recipient Rights Supervisor in absence of the Director prior to being distributed.
2. Mail the Notice/Agenda to all RRAC members one week in advance of the meeting date
3. Prepare statistical information necessary for the RRAC meeting.
4. Record meeting minutes.
5. Prepare meeting minutes to be distributed and approved by the Recipient Rights Director.
6. Mail meeting minutes to all RRAC members.
7. Copy meeting minutes to the Chief Executive Officer's Administrative Assistant for distribution at the next Board Meeting.
8. Maintain a copy of the meeting minutes for purposes of reporting to the Department of Community Health, Office of Recipient Rights annually.

A Board member of the Recipient Rights Advisory Committee shall be designated as a representative to report on Committee activities to the LifeWays Board of Directors. This designation shall be made by the LifeWays Board of Directors, annually, when Board committee appointments are made.

REFERENCES

Michigan Department of Community Health Administrative Rules
#7037(1)

Michigan Mental Health Code
Section 330.1757 and 330.1784

Public Mental Health Manual
Volume IV, Section 001-0001, Chapter, CMH Recipient Rights System dated 2-6-86
Open Meetings Act, Act No. 267 of PA of 1976

LifeWays Procedure Manual

Community Member Services, Customer Service Procedure Manual (Appeals)
Community Member Services, Recipient Rights Procedure Manual
02.01.02 Protection of Recipients Rights

LifeWays Provider Manual

HISTORY

Effective date: September 17, 1997

Revised:	08/99, 02/21/00, 02/21/01, 08/05/02, 01/17/03, 03/30/04, 03/17/05, 08/12/05, 11/16/05, 11/7/06, 09/28/07
Reviewed:	10/30/08, 09/16/09, 04/09/10, 02/11

02.01.09 RESIDENT LABOR

PURPOSE: To ensure that the rights of recipients to perform labor voluntarily and with adequate compensation, are protected.

Employees shall ensure that consumers are not required to perform labor as a condition of treatment. Performance of labor, conditions and compensation must be addressed in the Individual Plan of Service.

PROCEDURE

A resident of a LifeWays facility or facility under contract with LifeWays may perform labor which contributes to the operation and maintenance of the facility for which the facility would otherwise employ someone and only when:

- The resident voluntarily agrees to perform the labor and the performance of the labor is approved in the resident's Individual Plan of Service
- The amount of time or effort necessary to perform the labor may not be excessive
- In no event shall discharge or privileges be conditioned upon the performance of labor [MHC 736 (1)]

COMPENSATION

Compensation may not be withheld. One half of any compensation paid to a resident for labor performed shall be exempt from collection for payment of mental health services provided [MHC 736 (6)]. The resident is compensated appropriately and in accordance with applicable State and Federal laws, including minimum wage requirements and minimum wage reduction provisions. Residents shall be compensated when performing labor which benefits another person/agency [MHC 736 (3)].

PERSONAL HOUSEKEEPING

Labor of a personal housekeeping nature is not paid [MHC 736 (5)]. Household chores are not considered labor when posted in approved house rules and shared equally by residents (such as making beds, doing dishes) [MHC 736 (5)]. Disapproval of a resident's performance of labor by the Client Services Manager in charge of the resident's plan of service must include a written explanation of how performance of labor is inconsistent with the resident's plan of service. The Chief Executive Officer may reverse disapproval.

SHELTERED, TRANSITIONAL, OR SUPPORTED WORK

The consumer shall agree to perform the work. Performance of work is addressed as a goal in the Individual Plan of Service. The consumer shall be compensated appropriately and in accordance with

applicable State and Federal laws, including minimum wage requirements and minimum wage reduction provisions. Work is not a condition of receiving treatment services. Plans to assist the consumer to move toward competitive employment, a least restrictive setting, are addressed in the Individual Plan of Service.

REFERENCES	
<u>Michigan Mental Health Code</u> (Chapter 7, 330.1736) <u>LifeWays Policy</u> 5-01 Medical Records	
HISTORY	
Effective 09/17/97	Rev. 02/01, 08/02, 06/04, 08/05, 07/06, 07/07, 09/07, 03/08, 10/08, 09/09, 04/10, 2/11

02.01.08 RIGHTS PROTECTION/CONTRACT AGREEMENTS

PROCEDURE

Community Mental Health Service Provider/Participating Inpatient Health Plan (CMHSP/PIHP) Provider Agreement/Contract - Upon determination that an out-of-network provider will be utilized for the Recipient, the Recipient shall be provided with written confirmation that the services will be provided under the jurisdiction of the LifeWays Recipient Rights Office, and specify who will have responsibility for investigating any complaints.

Upon initiation of treatment, each out-of-network provider will receive a full packet of information from the LifeWays Recipient Rights Office outlining the rights protection process. Providers serving any Recipient for longer than one year will receive updated information from the LifeWays Recipient Rights Office annually. Psychiatric Inpatient Providers will receive the Rights Protection Packet upon the first authorized admission of each Fiscal Year.

Upon notification from the Contracts Manager that an agreement with another CMHSP has been established to provide Recipient Rights protection for a LifeWays Recipient the Contract Manager will facilitate the execution of a written agreement to be developed by the Rights Office to define the responsibility of both parties. The CMHSP/PIHP Recipient Rights protection agreement shall indicate that the LifeWays Rights Office is entitled to:

1. receive notification of all Recipient Rights complaint allegations and Incident Reports with regard to the LifeWays Recipient;
2. unimpeded access to the service provider's premises, staff, records and Recipient(s) receiving services under the contract; and
3. notification of any rights investigations related to the Recipient and receipt of all subsequent investigation reports, corrective action plans and other related documentation in accordance with the confidentiality provisions of the Mental Health Code (MHC) Section 748 and 750 and other applicable state and federal laws so that LifeWays Rights Office can complete the Chapter 7A process (summary report/appeals).

Either the Contract Manager or the Recipient Rights Office shall confirm that the Provider CMHSP has given their Recipient Rights policies to the service provider. The LifeWays Rights Office shall determine compliance of the Provider CMHSP by accessing the results of their Michigan Department of Community Health/Office of Recipient Rights (MDCH/ORR) on-site assessment. Any deficiencies shall be corrected and reported to the LifeWays Recipient Rights Office.

Licensed Psychiatric Hospital/Unit (LPH/U) Contracts - If the LPH/U retains Recipient Rights protection responsibilities for LifeWays Recipients, they shall submit copies of the MHC required policies and procedures [MHC Section: 752] to ensure compliance with the MDCH/ORR standards in the most current version of Attachment B of the Rights System Assessment Tool. Any deficiencies shall be

corrected and reported to the LifeWays Recipient Rights Office. The LPH/U shall also provide the Rights Office with a list of new employees, their hire dates and the dates they completed their Recipient Rights training to ensure that the LPH/U is compliant with the MHC training requirement (within 30 days of hire). The LPH/U shall conduct complaint investigations, reports and remediation in accordance with the MDCH standards as reflected in the most current version of Attachment C of the MDCH/CMHSP Rights System Assessment Tool. LifeWays' Rights Office shall be guaranteed unimpeded access to the provider's premises, staff, records and the Recipients of service under the contract. The LifeWays Rights Office shall be immediately notified of all Recipient Rights complaint allegations involving a LifeWays Recipient while receiving services from the provider. Copies of complaints, acknowledgement letters, Intervention responses, Investigative Reports and Summary Reports relative to LifeWays' Recipients are to be provided to the LifeWays' Recipient Rights Office for monitoring and coordination purposes.

LifeWays Agreement to provide Rights Protection – Upon notification from the Contracts Manager that LifeWays has agreed to provide Rights protection for another CMHSP the LifeWays Rights Office shall ensure that the responsible CMHSP receives:

1. notification of all Incident Reports involving a Recipient while receiving services from the LifeWays provider CMHSP system;
2. unimpeded access to the LifeWays provider's premises, staff, records and Recipient(s) receiving services under the contract;
3. submission of investigations related to the Recipient in accordance with the confidentiality provisions of the MHC Section 748 and 750 and other applicable state and federal laws; and
4. employee attendance at Recipient Rights training and their date of hire.

Child Caring Institutions (CCI's) - LifeWays shall retain Recipient Rights protection responsibilities/ jurisdiction unless an agreement to coordinate Rights protection with another CMHSP/PIHP program has been established. The CCI and its employees shall be compliant with and accept the jurisdiction of the LifeWays Recipient Rights Office and shall guarantee its unimpeded access to the provider's premises, staff, records and the Recipients of service under the contract. The LifeWays Rights Office shall be immediately notified of all Recipient Rights complaint allegations and all Incident Reports involving a LifeWays Recipient while receiving services from the provider. The CCI shall accept LifeWays Recipient Rights Policies/Procedures to ensure compliance with the MHC required policies and procedures [MHC Section: 752]. The CCI shall provide the LifeWays Recipient Rights Office with the Recipient Rights training curriculum used and the list of trainees with dates of hire and training completion to ensure that the CCI is compliant with the MHC training requirement (within 30 days of hire).

New Contract Provider – Upon notification of a new contract provider to the LifeWays Network, the Rights Staff shall conduct or coordinate a site visit to the new provider's service site to ensure compliance with Recipient Rights/MHC standards prior to the execution of the contract.

REFERENCES	
HISTORY	
Effective 10/01/05	Rev. 09/06, 09/07, 07/08, 03/09, 04/10, 2/11

02.01.06 SECLUSION, RESTRAINT, FREEDOM OF MOVEMENT

PURPOSE: To ensure the protection of the rights of recipients of service in compliance with all Laws, Rules, Policies and Guidelines.

DEFINITIONS:

Seclusion - means the temporary placement of a recipient in a room, alone, where egress is prevented by any means. [MHC 700 (i)]

Restraint - means the use of a physical device to restrict an individual's movement; but does not include the use of a device primarily intended to provide anatomical support [MHC 700 (i); 42 CFR 482; 42 CFR 483].

Time out - means a voluntary response to the therapeutic suggestion to a recipient to remove himself or herself from a stressful situation in order to prevent a potentially hazardous outcome [AR 7001(q)].

Freedom of Movement: All consumers have the right to free movement in designated public areas at all program sites, and the freedom to access areas suited for vocational, social and recreational activities. [MHC 712 (1)], unless contraindicated and addressed in the consumer's Person Centered plan of service.

Therapeutic de-escalation: means an intervention, the implementation of which is incorporated in the individualized written plan of service, wherein the recipient is placed in an area or room, accompanied by staff who shall therapeutically engage the recipient in behavioral de-escalation techniques and debriefing as to the cause and future prevention of the target behavior [AR 7001(u)].

Physical management: means a technique used by staff as an emergency intervention to restrict the movement of a recipient by direct physical contact to prevent the recipient from harming himself, herself, or others.

PROCEDURE

Seclusion and restraint are expressly prohibited interventions in community settings. Seclusion and/or restraint are permissible in in-patient and child caring institution settings as special treatment procedures subject to the provisions and requirements set forth as defined in federal regulations, the Mental Health Code Sections 330.1742 and 330.1740, and Administrative Rules 7243. LPH/U's and CCI's are to submit their restraint and seclusion policies to the LifeWays Office of Recipient Rights for review and compliance or provide documentation that their restraint and seclusion policies have been reviewed by a certified PIHP or send written assurance that restraint and seclusion will not be used [MHC 755 (5)(a)(g)].

In all situations wherein seclusion, restraint or freedom of movement are permissible and are implemented, the interventions shall terminate whenever the circumstance that justified its use ceases to exist [MHC 744 (3)]. Time out may be used when deemed clinically appropriate and only with the approval of the Behavior Risk Management Committee. Use of “time out” for therapeutic purposes shall terminate whenever the circumstance that justified its use ceases to exist.

Physical management as defined in R 330.7001 (m) may only be used in situations when a recipient is presenting an imminent risk of serious or non-serious physical harm to himself, herself or others and lesser restrictive interventions have been unsuccessful in reducing or eliminating the imminent risk of serious or non-serious physical harm. Both of the following shall apply:

- (i) Physical management shall not be included as a component in a Behavior Treatment Plan (BTP).
- (ii) Prone immobilization of a recipient for the purpose of behavior control is prohibited unless implementation of physical management techniques other than prone immobilization is medically contraindicated and documented in the recipient's record. [AR 7243(11)]

Freedom of movement of a recipient shall be provided in the least restrictive setting, not be restricted more than is necessary to provide mental health services to the recipient, to prevent injury to the recipient or to others, or to prevent substantial property damage, Security precautions appropriate to the condition and circumstances of an individual admitted by order of a criminal court or transferred as a sentence-serving convict from a penal institution may be taken. [MHC 744 (1)]

Any limitations to a recipient's freedom of movement shall be documented and justified in the Person Centered Plan of Service [MHC 744 (3)], shall be time limited and shall be removed when the circumstances that justified its adoption ceases to exist. [MHC 744 (1 – 3)]

All proposed behavior treatment plans affecting a recipient's freedom of movement shall be reviewed by the Recipient Rights member of the Behavior Risk Committee.

When, in the judgment of the physician, a resident is restricted to bed rest or is prohibited access to the outdoors, the physician's order shall be reviewed at least every three days.

The Grievance process shall be utilized to appeal restrictions which are substantial in scope and duration, and to appeal the denial of leave requests.

REFERENCES	
HISTORY	
Effective 02/01/06	Rev. 02/07, 09/07, 03/08, 10/08, 04/10, 2/11

02.01.10 STERILIZATION, ABORTION & CONTRACEPTION

PURPOSE: To ensure that recipients rights to expression of sexuality are protected.

PROCEDURE

All outpatient programs, day treatment programs and Client Services Managers shall provide recipients, their guardians, and parents of minors with notice of the availability of family planning and health information, when requested [AR 7029(1)].

If staff in a residential facility perceives that a recipient desires or needs information or services relating to sexual matters, they shall inform the recipient's primary clinician. This includes instances where the recipient appears to need assistance in appropriate expression of sexuality.

Expressions of sexuality may not be prevented unless they are inappropriate and specifically addressed in the Person-Centered Plan.

When a recipient is interested in or is engaging in a sexual relationship and expresses a desire to prevent conception, he or she will be assisted by their primary clinician in obtaining contraceptive information and/or will be referred to other community agencies and/or resources for this information [AR 7029(1)].

If a recipient expresses an interest in an abortion or surgical sterilization, he or she will be assisted by their primary clinician in obtaining information about community agencies/resources that can counsel and provide responsible information to the recipient regarding these matters.

In all cases where a LifeWays provider is providing information or services regarding sexual matters, informed consent shall be obtained from the recipient, the parent with legal custody, or the guardian with authority to consent.

Mental health services are not contingent upon receiving family planning services [AR 7029].

REFERENCES	
<u>Michigan Mental Health Code</u> Section 330.1704, Public Act 258, as amended	
HISTORY	
Effective 09/17/97	Rev. 12/98, 02/00, 02/01, 08/02, 01/03, 06/04, 09/05, 09/07, 10/08, 09/09, 04/10, 2/11

02.03.02 SUBPOENA

PURPOSE: To ensure recipients' rights are protected and provide direction to LifeWays' employees in responding to governmental investigations, subpoenas, search warrants, etc.

SUBPOENA

When a LifeWays employee receives a subpoena, the staff person receiving the subpoena shall log the subpoena on the Daily Mail Log and immediately notify the Risk Management Office who will notify the Chief Executive Officer. The original subpoena shall be delivered immediately to the person named in the subpoena, or in case of a subpoena for documents, the person responsible to access the documents to be released.

The records, data, and knowledge collected for or by individuals or committees assigned a peer review function including the review function under section 143a (1) of the Mental Health Code are confidential, are used only for the purpose of peer review, are not public records, and are not subject to court subpoena. [MHC 748 (9)]

A copy of the subpoena shall be delivered immediately to the Risk Management Office. The Risk Management Office shall review the subpoena for validity, and notify the responsible party as to its validity and other instructions within two working days.

A copy of the subpoena shall be delivered to the Recipient Rights Office for immediate review.

The responsible party shall notify the Risk Management Office should there be any concerns with the subpoena. The Risk Management Office will provide consultation as needed, and where necessary shall contact legal counsel for assistance. Often the Risk Management Office or legal Counsel can contact the attorney of record and have the subpoena withdrawn, or have a signed release executed.

Anyone who ignores or disregards a valid subpoena could be found in contempt of court. Therefore, unless relieved by order of the court or written direction of the party who issued the subpoena, anyone receiving a subpoena should be prepared to appear in court to testify and/or present copies the documents requested.

All of the information requested and listed on the subpoena should be gathered under the direction of the Recipient Rights Office. Any information contained in the consumer's file may be subpoenaed, but its use may be limited by the court or hearing officer for good cause. This includes strict guidelines relative to privileged information and substance abuse information.

All of the information requested should be photocopied and approved by the Risk Management Office and Chief Executive Officer/designee. The original record should not be taken to court in response to the subpoena. Photocopies are generally acceptable and admissible as evidence, with prior approval of the court or hearing officer. When client records are released, the Clinical Director shall examine the

documents and/or information requested to determine the appropriateness of the disclosure. In determining the appropriateness of the disclosure, the Clinical Director should note that in cases where other consumers are mentioned in the subpoenaed materials, (e.g., joint therapy sessions, program notes, etc.), a second copy of the materials should be made and references to the other consumers be deleted (names, statements, etc.). The staff person delivering the material to the court should be prepared to explain, when applicable, that the deleted information pertains to consumers not involved in the matter for which the record was subpoenaed, and that unnecessary disclosure may be a violation of that consumer's rights. The courts will generally accept the amended copy of such record.

If public disclosure of the information contained in the subpoenaed record would be detrimental to the consumer's well-being, the individual under subpoena or delivering the record to the court or administrative body should be prepared to explain to the judge or hearing officer why the information would be detrimental. The judge or hearing officer will then make the decision whether or not the information should be disclosed. (Note: this is to be done outside the presence of the public and other witnesses and is referred to as an "in camera inspection of the record.")

On the day set for the hearing or trial, the responding party should contact the court or administrative agency to determine whether in fact the hearing will be held. More often than not, cases are settled prior to trial or hearing or are postponed for other reasons.

Any money received as reimbursement for appearing in court on behalf of the LifeWays consumer or case must be turned over to the LifeWays Finance Office.

The Chief Executive Officer and/or Risk Management Office shall have all subpoenas reviewed by legal counsel to determine the potential legal liability to LifeWays

UNANNOUNCED GOVERNMENTAL INVESTIGATIONS

When an employee is informed of a governmental investigation they shall immediately notify the Risk Management Office and Chief Executive Officer. The employee shall then show them to an unused conference room or office where confidentiality can be ensured.

If felt necessary, the Risk Management Officer or Chief Executive Officer may ask for identification from the individual and request contact information from the investigator for verification purposes. However, **do not photocopy the credentials as this is a violation of federal law.**

The Risk Management Officer or Chief Executive Officer may await legal counsel before responding to questioning, submitting to an interview, or provide any documentation or other information. If the rights of a consumer are being violated, involve a Recipient Rights Officer immediately.

SEARCH WARRANTS

When an employee is informed of a search warrant they shall immediately notify the Risk Management Office and Chief Executive Officer who shall then contact legal counsel immediately.

If felt necessary, the Risk Management Officer or Chief Executive Officer may ask for identification from the individual. However, **do not photocopy the credentials as this is a violation of federal law.** The agent is required to provide a copy of the search warrant at the time of the search. If it is not provided, request a copy of the search warrant document. LifeWays may object to the search if there is an obvious problem with the warrant. Document any dialogue regarding the objection and the actions of the agents; however, do not interfere with their search.

If consumer medical records are seized notify the Risk Management Officer and the Recipient Rights office.

The Risk Management Officer and/or Chief Executive Officer must remain present during the search. If the agents search multiple areas simultaneously, assign staff to all areas to observe the extent of the search, ensuring the agents do not go beyond the search warrant stipulations. Any objects or documents seized shall be documented by the monitoring staff.

Staff shall not submit to any questioning or interviewing at any time during the search warrant. The Risk Management Officer and/or Chief Executive Officer shall be responsible for responding to the agents' questions.

NEVER INTERFERE WITH THE SEARCH.

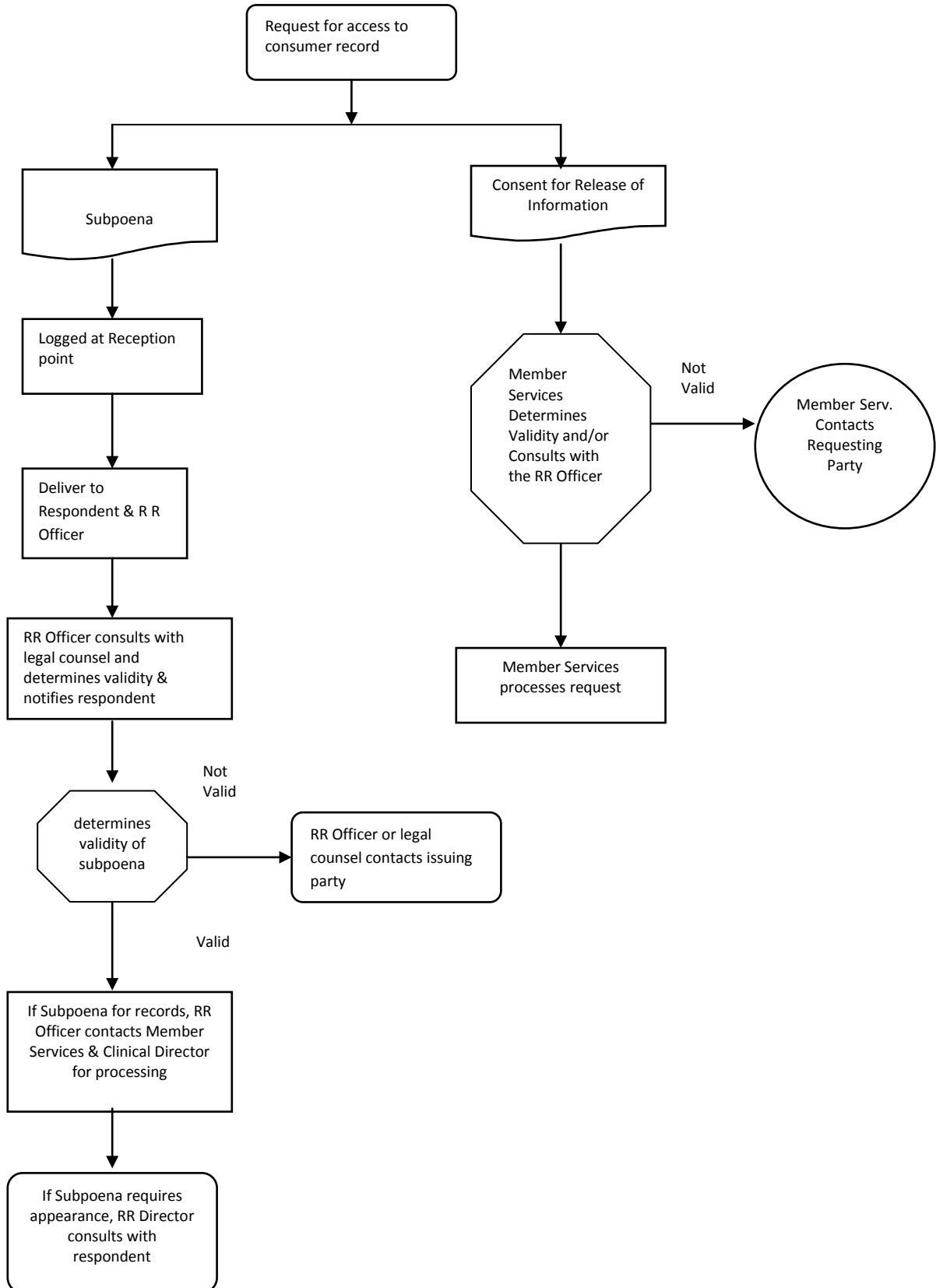
All other legal action, immediately notify the Risk Management Office for instruction.

PROVIDER RESPONSIBILITY

Each Provider is expected to have their own policy for handling subpoenas, governmental investigations, search warrants, FOIA and medical release of information requests.

REFERENCES	
Attachment: REQUEST FOR MEDICAL INFORMATION---SUBPOENAS---FOIA	
HISTORY	
Effective 08/05/98	Rev. 02/01, 08/02, 06/04, 05/05, 10/07, 10/08, 04/10, 2/11

SUBPOENA AND GOVERNMENTAL INVESTIGATIONS



02.01.02 SUITABLE SERVICES, TREATMENT ENVIRONMENT, PERSON-CENTERED PLANNING

PURPOSE: To ensure that recipients receive appropriate, safe, humane treatment services in accordance with all Laws, Rules, Policies and Guidelines.

DEFINITIONS

Psychotropic drug - means any medication administered for the treatment or amelioration of disorders of thought, mood, or behavior.

Informed Consent - Written consent by a recipient, guardian or parent of a minor which is based on competency, knowledge, comprehension and voluntariness [AR 7003(1)(b-d)].

Legal Competency - An individual shall be presumed to be legally competent. This presumption may be rebutted only by a court appointment of a guardian or exercise by a court of guardianship powers and only to the extent of the scope and duration of the guardianship. An individual shall be presumed legally competent regarding matters that are not within the scope and authority of the guardianship [AR 7003(2)].

Knowledge - To consent, a recipient or legal representative must have basic information about the procedure, purpose, description of the attendant discomforts, benefits, disclosure of appropriate alternatives, consequences, and other relevant information as well as an opportunity to answer further inquiries [AR 7003(1)(b-d)].

Comprehension - An individual must be able to understand what the personal implications of providing consent will be. (See "Knowledge"). [AR 7003(1)(b-d)] Providers shall be responsible for having mechanisms in place for; evaluating comprehension; assuring disclosure of relevant information; measuring to ensure voluntariness before obtaining consent; determining whether guardianship proceedings should be considered [AR 7003(2)].

Comprehensive Examination - All Residents have a right to a comprehensive examination [MHC 752 (1)(p)(ii)].

Voluntariness - There shall be free power of choice without the intervention of an element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion, including promises or assurances of privileges or freedom. Individuals shall be free to withdraw consent and discontinue participation or activity at any time without prejudice to the recipient/guardian [AR 7003(1)(b-d)].

Nearest Relative - Spouse, parent, adult children and siblings, or in their absence, another relative deemed to be in close association with the recipient.

Dignity - to be treated with esteem, honor, politeness; to be addressed in a manner that is not patronizing or condescending; to be treated as an equal; to be treated the way any individual would like to be treated.

Respect - to show deferential regard for; to be treated with esteem, concern, consideration or appreciation; to be sensitive to cultural differences; to allow an individual to make choices.

Treatment by Spiritual Means - Includes a spiritual discipline or school of thought upon which a resident wishes to rely to aid physical or mental well-being and includes easy access, at the consumer's, guardian or parent of a minor recipient's request, to printed, recorded, or visual material essential or related to treatment. Such treatment also includes attendance at individual or group meetings, and access to symbolic objects of spiritual significance [AR 7001(r)].

PROCEDURE

Each consumer has the right to person-centered, individualized treatment suited to his/her condition, including: a person-centered planning process is used to develop a written Individual Plan of Service that has specific date(s) when the overall plan and any of its sub-components will be formally reviewed for possible modification or revision [AR 7199(2)(j)], in partnership with the recipient as defined in Section 330.1712(1) of the MHC; to be informed of treatment procedures and their intended consequences; a periodic review of treatment to assure that the plan is kept current and modified when indicated [MHC 712(1), MHC 752]; an assessment of the recipient's need for food, shelter, clothing, health care, employment opportunities where appropriate, educational opportunities where appropriate, legal services and recreation [AR 7199(h)]; the provision of service within the least restrictive environment appropriate and available [MHC 708 (3)]; the provision of an adequate number of competent, qualified, and experienced professional clinical staff to supervise and implement the Person Centered Plan of Service. Consumers shall be informed orally and in writing of their clinical status and progress at reasonable intervals established in the IPOS in a manner appropriate to their clinical condition [MHC 714]. Justification for exclusion of individuals chosen by the recipient to participate in the person-centered planning process shall be documented in the case record [MHC 712 (3)]. Recipients, his/her guardian, or parent of a minor child have the right to request a review their Person Centered Plan of Service for any reason, including dissatisfaction with the plan. Upon receipt of such requests, the designated individual in charge or implementing the plan shall ensure that a review takes place within 30 days [MHC 712 (2)].

Each Recipient has the right to choice of provider, mental health professional/physician in accordance LifeWays policies and/or the policies of the service provider and within the limits of available staff and appropriate service [MHC 713].

Each consumer has the right to use the Appeals and Grievances process, or mediation process to resolve emergent/urgent and non-emergent/non-urgent clinical treatment disputes.

Second Opinion

If hospitalization has been denied by Access a recipient can request a second opinion. The second opinion shall be conducted within 3 business days. The Medical Director may be consulted if the second opinion differs from the decision made by Access. The Chief Executive Officer/designee will decide to uphold or reject the findings of the second opinion and will confirm the decision in writing to the requestor. This writing contains the signatures of the Chief Executive Officer/designee and Medical Director or verification that the decision was made in conjunction with the Medical Director. [MHC 409 (4)]

Consumers may not be discharged from treatment as a sanction for violating a code of responsibilities without a review and the approval of the LifeWays Recipient Rights Director.

Each applicant, his or her guardian, or a minor applicant's parents have a right to be notified that a second opinion to determine if the applicant has a serious mental illness, serious emotional disturbance, or a developmental disability, or is experiencing an emergency situation or urgent situation may be requested if the applicant was denied services [MHC 705 (1)(2)].

Each consumer shall receive a written statement of rights and responsibilities in language or by other means to ensure comprehension and interpretation. Accommodations must be provided to consumers as necessary.

Copies of these statements must be posted in conspicuous areas at LifeWays and at provider sites. "Your Rights" booklets are available at each provider site and will be offered to applicants of service at the time of triage and intake

The explanation of rights and responsibilities of the consumer and family shall be documented on the Consent for Treatment. Other specific responsibilities of the consumer shall be outlined within the Person Centered Plan of Service.

Any restrictions, limitations or any intrusive behavior treatment techniques are reviewed by the LifeWays Behavior Risk Committee consisting of mental health professionals with specific knowledge, training and expertise in applied behavioral analysis. All clinical cases requiring the use of special treatment procedures, or that are problematic, unusual, or high-risk shall be reviewed and approved by the Behavior Risk Committee (BRC). [Chapter III, Sec. 3, Medicaid Manual] Recipient rights may not be restricted unless they are specifically addressed in the authorized Person-Centered Plan including evidence supporting expected harm, violation of law, harassment, etc., and evidence that the limitation is the minimum amount necessary and what action will be taken to ameliorate or eliminate the need for the restriction in the future. When the justification for any limitation and/or restriction ceases to exist, the limitation and/or restriction shall end [AR 7199 (g)].



DIGNITY AND RESPECT

All consumers have the right to be treated with dignity and respect [MHC 704 (3), 708 (4)]. Recipients and family members shall be treated with dignity and respect and shall be given the opportunity to provide information to the treating professionals and receive educational information about disorders, diagnoses, medications and their side effects, available support services, advocacy and support groups, financial assistance and coping strategies [MHC 711].

Treatment with dignity and respect shall be further clarified by the recipient or family member and considered in light of the specific incident, treatment goals, safety concerns, laws and standards, and what a reasonable person would expect under similar circumstances.

For recipients residing in foster family homes and foster family group homes for children, rights protection activities shall be in accordance with Department of Consumer and Industry Services Licensing Rules, (Act 116, Public Acts of 1973), Children's Foster Care Technical Assistance Manual, Michigan Mental Health Code, DCH Administrative Rules, DHS Child Protection Act (P.A. 238 of 1975), Section 504 of the Rehabilitation Act of 1974, and the Americans with Disabilities Act of 1990 as applicable.

Treatment by Spiritual Means: All residents have the right to treatment by spiritual means of their choice in the same manner as they have the right to receive the services of mental health professionals. Treatment by spiritual means includes the right to refuse medications if spiritual treatment predates current allegation of mental illness or disability, unless a court order empowers a guardian to make those decisions, and if the resident is not imminently dangerous to self or others [AR 7135(4) (a-b)]. Treatment by spiritual means does not include activities or mechanical, chemical, or organic compounds that are physically harmful to self or others [AR 7135(5)(a)]; activities that are prohibited by law [AR 7135(5)(b)]; activities that are physically harmful to self or others [AR 7135(5)(c)] ; or activities inconsistent with court-ordered custody and placement by a person other than the resident [AR 7135(5)(d)]. Treatment by spiritual means may be requested by the recipient, guardian or parent of a minor recipient. Such requests will be facilitated and the resident referred to an independent provider [AR 7135(2)]. Persons in residential settings may not be unwillingly subjected to spiritual services. However, residents may voluntarily attend services and this shall be supported by the provider as an inclusive community activity. If medication or other treatment for a minor is refused under this section, the primary clinician shall pursue recourse to a Court of proper jurisdiction to determine whether medication can be refused. [AR 7135(6)(a)]

If the right to spiritual treatment is denied the resident must be notified of the denial in writing including the reason(s) why it is denied. [AR 7135(6)(b)] A copy of the denial must be placed in the resident's record. The resident may appeal this denial through the Grievance and Appeal procedure [AR 7135(7)].

If a resident requests and is able to secure the services of a mental health professional providing treatment by spiritual means, she/he shall be allowed to see the professional at any reasonable time, just as they are allowed to do so with private mental health professionals [AR 7135(2)].

All residents have the right to appropriate clothing, a humane, safe environment and sanitary care, and an adequate diet. Multiply handicapped and non-ambulatory residents have the right to planned daily activities and exercise periods. Facilities shall pass public health and fire safety inspections as well as residential audits for environment.

REFERENCES	
<u>LifeWays Policies</u>	
05-02 Clinical Risk Management	
05-03 Medication Management	
05-07 Treatment Culture	
HISTORY	
Effective 02/16/06	Rev. 02/07, 09/07, 03/08, 04/10, 02/11

02.01.03 TRAINING

ORIENTATION AND DIRECT CARE (DCH MODULE 7) RECIPIENT RIGHTS TRAINING

All LifeWays and Provider employees/volunteers shall participate in Recipient Rights Orientation/Direct Care Training within the first 30 calendar days of their employ. Recipient Rights Orientation/Direct Care Training is not a substitute for annual trainings required of all LifeWays and provider employees.

In lieu of LifeWays' Recipient Rights training requirements, providers who provide their own or contract with other agencies for their Rights training shall, upon execution of their contract with LifeWays, submit the training curriculum and copies of all training materials, employee training records evidencing training within 30 days of hire, names, addresses and credentials of those who provide the training and annual training requirements, if any to the Rights Office, for approval

Upon the establishment and notification from the Contract Manager/designee of a fully executed contract, new Providers shall be notified of their Recipient Rights training requirements.

Requests for Orientation/Direct Care Training shall be directed to the Recipient Rights Office by calling 517-780-3332. Staff must be registered to attend.

The designated Recipient Rights staff shall schedule the employee, volunteer or student and note which Provider they represent and the individual's date of hire in the established Excel database.

Orientation/Direct Care Training attendees shall use the Meeting Rooms entrance located in the rear of the LifeWays building.

Scheduled attendees may be excluded from the Orientation/Direct Care Training session if tardy.

Trainees shall receive written and verbal information with respect to the following and shall demonstrate competency with respect to the information:

- Identification of what constitutes Abuse and Neglect under the Mental Health Code and their definitions.
- Mandatory reporting laws including Abuse and Neglect reporting.
- Confidentiality.
- Whistleblowers Act.
- Methods for reporting rights issues to the LifeWays Rights Office.
- The names, phone numbers, and responsibilities of the Rights Staff.
- Overview of other rights protected by Chapter 7 of the Michigan Mental Health Code.

Attendance information shall be entered into the Access database designed to monitor trainings/orientations provided by the Rights staff. Annually, this information is reported to the Department of Community Health, Office of Recipient Rights.

Providers shall receive a list of their employees' attendance and shall maintain documentation of orientation, annual and other rights training in their respective personnel records.

ANNUAL TRAINING

LifeWays MCO and Provider employees shall receive annual Recipient Rights training. Providers who contract with others or who provide their own annual Recipient Rights training shall submit their annual training requirements, if any.

LifeWays MCO Personnel Administrator shall coordinate a training schedule with Rights staff and shall maintain documentation of orientation, annual and other rights trainings in the employees' personnel records.

Providers shall maintain documentation of orientation, annual and other rights training in their respective personnel records. This documentation shall be readily available to the Rights Office if relevant and necessary for the office to carry out a duty required by the Mental Health Code, Department of Community Health, or other authority.

Annual trainings shall be conducted / facilitated by Recipient Rights Staff.

Annual trainings may occur at LifeWays Administrative Offices or elsewhere if mutually agreed upon with Providers when necessary to accommodate providers, trainers, participants and others.

Trainee attendance shall be entered into the Access database established to monitor trainings/orientations provided by the Rights staff. This information is reported annually to the Department of Community Health's Office of Recipient Rights.

Providers shall receive a list of their employees' attendance and shall maintain documentation of orientation, annual and other rights training in their respective personnel records.

OTHER REQUESTED TRAININGS

Rights staff may be available to provide and/or facilitate the specific rights training requests of the MCO, Providers, Consumers, Community and others.

Requests for specific Recipient Rights trainings shall be directed to the Recipient Rights Director.

Upon receipt of a request for specific training, the Rights Director will evaluate the appropriateness of the request and shall determine which Rights Staff and/or other individuals; agencies, subject matter experts, etc. are needed to facilitate the request.

Trainings may take place at LifeWays Administrative Offices, Provider service sites, or elsewhere as necessary to affect a meaningful training experience.

Trainee attendance shall be entered into the Access database established to monitor trainings and orientations provided by the Rights staff. Annually, this information is reported to the Department of Community Health, Office of Recipient Rights.

Providers shall receive a list of their employees' attendance and shall maintain documentation of orientation, annual and other rights training in their respective personnel records.

REFERENCES	
<u>Michigan Mental Health Code</u> Public Act 258 of 1975 - Chapter 7, as amended <u>LifeWays Provider Manual</u> <u>LifeWays Policies</u> 09-01 Staff Qualifications and Hiring 09-03 Competency and Training 10-03 Credentialing	
HISTORY	
Effective 09/17/97	Rev. 12/98, 02/01, 08/02, 06/04, 09/05, 09/06, 09/07, 10/08, 04/10, 2/11

Recipient Rights Annual Training "FAIR"

The 2011 RR Annual Trainings will be conducted in a more convenient and relevant way in order to accommodate all provider needs. The Recipient Rights Training Fair will be held quarterly from 9:00am – 4:00pm on:

January 18, 2011 (Jackson) LifeWays Pine Room
April 19, 2011 (Jackson) LifeWays Pine Room
July 19, 2011 – Location To Be Announced
October 18, 2011 (Jackson) LifeWays Pine Room

Provider staff, Contract staff and LifeWays staff are welcome to come at any time during the 9a-4p timeframe to receive their annual RR refresher training. As soon as each person has satisfactorily answered the questions at each of the "booths", they will have completed their annual training until next year! In most cases the RR Fair should take approximately 45 minutes, but give some extra time, just in case.

Conducting RR Annual Training on a quarterly basis is expected to allow the Rights staff more flexibility to be able to accommodate requested subject specific trainings for Network Providers and their staff either at their agency, at a specific home, or a specific program. The Rights staff could be utilized for problematic rights issues, repeat violations, systemic rights problems, or corrective action.

Our goal is to help each and every provider, staff and contractor to understand Recipient Rights in a way that supports quality service to our Recipients.

**Excerpt of CHILD PROTECTION LAW
Act 238 of 1975**

AN ACT to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts.

722.623 Individual required to report child abuse or neglect; written report; transmitting report and results of investigation to prosecuting attorney, county family independence agency, or law enforcement agency; pregnancy of or venereal disease in child less than 12 years of age.

Sec. 3.

(1) An individual is required to report under this act as follows:

(a) A physician, dentist, physician's assistant, registered dental hygienist, medical examiner, nurse, person licensed to provide emergency medical care, audiologist, psychologist, marriage and family therapist, licensed professional counselor, certified social worker, social worker, social work technician, school administrator, school counselor or teacher, law enforcement officer, member of the clergy, or regulated child care provider who has reasonable cause to suspect child abuse or neglect shall make immediately, by telephone or otherwise, an oral report, or cause an oral report to be made, of the suspected child abuse or neglect to the department. Within 72 hours after making the oral report, the reporting person shall file a written report as required in this act. If the reporting person is a member of the staff of a hospital, agency, or school, the reporting person shall notify the person in charge of the hospital, agency, or school of his or her finding and that the report has been made, and shall make a copy of the written report available to the person in charge. A notification to the person in charge of a hospital, agency, or school does not relieve the member of the staff of the hospital, agency, or school of the obligation of reporting to the department as required by this section. One report from a hospital, agency, or school shall be considered adequate to meet the reporting requirement. A member of the staff of a hospital, agency, or school shall not be dismissed or otherwise penalized for making a report required by this act or for cooperating in an investigation.

(b) A department employee who is 1 of the following and has reasonable cause to suspect child abuse or neglect shall make a report of suspected child abuse or neglect to the department in the same manner as required under subdivision (a):

- (i) Eligibility specialist.
- (ii) Family independence manager.
- (iii) Family independence specialist.
- (iv) Social services specialist.
- (v) Social work specialist.
- (vi) Social work specialist manager.
- (vii) Welfare services specialist.

(c) Any employee of an organization or entity that, as a result of federal funding statutes, regulations, or contracts, would be prohibited from reporting in the absence of a state mandate or court order. A person required to report under this subdivision shall report in the same manner as required under subdivision (a).

- (2) The written report shall contain the name of the child and a description of the abuse or neglect. If possible, the report shall contain the names and addresses of the child's parents, the child's guardian, the persons with whom the child resides, and the child's age. The report shall contain other information available to the reporting person that might establish the cause of the abuse or neglect, and the manner in which the abuse or neglect occurred.
- (3) The department shall inform the reporting person of the required contents of the written report at the time the oral report is made by the reporting person.
- (4) The written report required in this section shall be mailed or otherwise transmitted to the county **department** of the county in which the child suspected of being abused or neglected is found.
- (5) Upon receipt of a written report of suspected child abuse or neglect, the department may provide copies to the prosecuting attorney and the probate court of the counties in which the child suspected of being abused or neglected resides and is found.
- (6) If an allegation, written report, or subsequent investigation of suspected child abuse or child neglect indicates a violation of sections 136b and 145c or sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, and 750.520b to 750.520g, **or section 7401c of the public health code, 1978 PA 368, MCL 333.7401c, involving methamphetamine has occurred**, or if the allegation, written report, or subsequent investigation indicates that the suspected child abuse or child neglect was committed by an individual who is not a person responsible for the child's health or welfare, including, but not limited to, a member of the clergy, a teacher, or a teacher's aide, the department shall transmit a copy of the allegation or written report and the results of any investigation to a law enforcement agency in the county in which the incident occurred. If an allegation, written report, or subsequent investigation indicates that the individual who committed the suspected abuse or neglect is a child care provider and the department believes that the report has basis in fact, the department shall, **within 24 hours of completion**, transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a child.
- (7) If a local law enforcement agency receives an allegation or written report of suspected child abuse or child neglect and the allegation, written report, or subsequent investigation indicates that the child abuse or child neglect was committed by a person responsible for the child's health or welfare, the local law enforcement agency shall refer the allegation or provide a copy of the written report and the results of any investigation to the county family independence agency of the county in which the abused or neglected child is found, as required by subsection (1)(a). If an allegation, written report, or subsequent investigation indicates that the individual who committed the suspected abuse or neglect is a child care provider and the local law enforcement agency believes that the report has basis in fact, the local law enforcement agency shall transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a child. Nothing in this subsection or subsection (1) shall be construed to relieve the department of its responsibilities to investigate reports of suspected child abuse or child neglect under this act.
- (8) For purposes of this act, the pregnancy of a child less than 12 years of age or the presence of a venereal disease in a child who is over 1 month of age but less than 12 years of age is reasonable cause to suspect child abuse and neglect have occurred.
- (9) In conducting an investigation of child abuse or child neglect, if the department suspects that a child has been exposed to or has had contact with methamphetamine production, the department shall immediately contact the law enforcement agency in the county in which the incident occurred.**

To reference the law in full, please visit the following website:

<http://www.legislature.mi.gov/documents/mcl/pdf/mcl-Act-238-of-1975.pdf>