

Recipient Rights & Person-Centered Planning

Centra Wellness Network

Responsibilities of the Centra Wellness Network Office of Recipient Rights

- Provides consultation/education for:
 - Staff/Contractors – initially & periodically/annually
 - Recipient Rights Committee & the Board
 - Consumers & the community
- Monitors:
 - Incident reports
 - Conducts site visits – of Centra Wellness Network & AFC/Contracted sites
- Investigates complaints/determines interventions

Complaint Process

- Complaint filed
- Complainant has unhindered access to Rights Office
- Anyone can file a complaint on behalf of the consumer
- Complaints can be written or verbal
- Complaints can be anonymous
 - Complaints should be filed within 24 hours upon discovery, & immediately for Abuse/Neglect/Harassment/Retaliation
 - An investigation is completed or intervention determined
 - A conclusion is made, reports completed, and remedial actions follow up
- Staff/Contractor responsibility
 - File complaint on behalf of consumer
 - Assist consumer with filing complaint
 - Cooperate with investigation

Jurisdiction of Centra Wellness Network Recipient Rights Office

The Rights Office has jurisdiction to investigate complaints about:

- Centra Wellness Network employees & contractors
- Volunteers
- Agents of providers
- Consumers currently receiving services

Employee/Contractor Rights

Free from Retaliation/Harassment

The right to be free from retaliation or harassment for participating in recipient rights investigations or reporting violations

Bullard-Plawecki Act

The right to be told when notice of disciplinary action is being sent out to a complainant or third party

Whistleblower's Protection Act

Illegal for employers in Michigan to discharge, threaten, or otherwise discriminate against you because you report a violation or suspected violation of federal, state or local laws, rules or regulations to a public body; or because you take part in a public hearing, investigation, inquiry of court action

Appealing the Findings of a Rights Investigation

- Who can file an appeal
 - Complainant
 - Consumer (if different than the complainant)
 - Parent or Guardian (as applicable)
- Basis for recipient rights appeal
 - Unhappy with outcome of investigation
 - Investigation not initiated timely
 - Unhappy with remedial/disciplinary action taken
- Staff/Contractor Responsibility
 - Assist complainant with filing appeal

Confidentiality

- Mum's the word
- Information about a recipient and his/her treatment is confidential
- All staff & contractors must protect written and unwritten information gained while providing mental health services

Examples of How Confidentiality and Privacy may be Violated Unknowingly:

- Talking about recipients outside of work
- Referring to recipients by name when discussing work with family or friends
- Giving information over the phone to persons who say they are relatives
- Taking photographs or videotapes of recipients without permission
- Listening in on a recipient's phone calls
- Discussing information in a recipient's record with staff from another home or with other mental health or service professionals who are not authorized to receive the information
- Referring to a recipient by name in another recipient's record or on an incident report for another recipient

Times When it Is Appropriate to Disclose Information About a Recipient:

- Collecting fees for services (limited information can be disclosed, for billing purposes only)
- Malpractice suit
- Court order (signed by a judge)
- Subpoenas (must be accompanied by: release of information or court order)
- Duty to warn (threats of physical harm)
- Abuse/Neglect (must be reported immediately, with written report within 24 hours to the Department of Human Services – DHS)

CONSENT – Release of Information

A valid release of information must contain:

- Consumer name
- Name of person receiving the information
- What will be released
- Purpose of disclosure
- Original signature of consumer/guardian
- Witness signature
- Date of signatures

Informed Consent to Receive Services/Treatment:

- Knowledge: A recipient or legal representative must have basic information about risks, benefits, consequences, and other relevant information when giving consent for services/treatment
- Consumers/legal representative shall not be pressured in any way to give consent
- Consumers/legal representative must understand what information he/she is agreeing to release

DID YOU KNOW?

Failure to report a recipient rights violation

IS

A RECIPIENT RIGHTS VIOLATION

(Recipient Rights protection System-Category 7520)

Abuse, Class I, means:

A non-accidental act or provocation of another act, by an employee, volunteer, or agent of a provider, which caused or contributed to the death, or sexual abuse of, or serious physical harm to a recipient.

Serious Physical Harm: Physical damage suffered by a recipient, which a physician or R.N. determines caused, or could have caused the death of a recipient, or caused an impairment of bodily function, or 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, being MCL 750.520b to MCL 750.520e involving an employee, volunteer, or agent of a provider and a recipient
- Any sexual contact 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 between 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:

- Revenge
- To inflict humiliation
- Out of anger

Abuse, Class II, means:

- A non-accidental act or provocation of another act that caused or contributed to non-serious physical harm to a recipient
- The use of unreasonable force on a recipient with or without apparent harm
- Any action or provocation of another act 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

Emotional Harm: Impaired psychological functioning, growth or development of a significant nature as evidenced by observable physical symptomatology or determined by a psychiatrist or psychologist

Non-serious physical harm: Physical damage or what could reasonably be construed as pain suffered by a recipient that a physician or R.N. determines could not have caused, or contributed to, the death of a recipient, the permanent disfigurement of a recipient, or an impairment of his/her bodily functions

Physical management: A technique used by staff to restrict the movement of a recipient by direct physical contact in order to prevent the recipient from harming himself/herself, or others or from causing substantial property damage

Abuse, Class III, means:

Verbal Abuse:

- 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

Sexual Harassment:

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

(As defined in title VII of Civil Rights Act of 1991)

Neglect, Class I, means:

- Acts of commission or omission by an employee, volunteer, or agent of a provider that result from noncompliance with a standard of care or treatment required by law, rules, policies, guidelines, written directives, procedures, or individual plan of service and that cause or contribute to serious physical harm to a recipient
- The failure to report apparent or suspected Abuse Class I or Neglect Class I of a recipient

Neglect, Class II, means:

- Acts of commission or omission by an employee, volunteer, or agent of a provider that result from noncompliance with a standard of care or treatment required by law, rules, policies, guidelines, written directives, procedures, or individual plan of service and that cause or contribute to non-serious physical harm or emotional harm to a recipient
- The failure to report apparent or suspected Abuse Class II or Neglect Class II of a recipient

Neglect, Class III, means:

- Acts of commission or omission by an employee, volunteer, or agent of a provider that result from noncompliance with the standard of care or treatment required by law, rules, policies, guidelines, written directives, procedures, or individual plan of service that either placed or could have placed a recipient at risk of physical harm
- The failure to report apparent or suspected Abuse Class III or Neglect Class III of a recipient

NOTE: No actual harm has to occur to the recipient in Class III; it is only required that the recipient be placed in a situation where there is, or could be, a risk of harm.

DID YOU KNOW?

Failure to report recipient abuse or neglect

IS

A NEGLECT VIOLATION

(Administrative Rules 330.7001 – Definitions)

Dignity and Respect

- A recipient has the right to be treated with dignity and respect
- Family members of recipients shall be treated with dignity and respect

(Mental Health Code 330.1708(4) & 330.1711)

Photographs/Taping

Written consent must be obtained prior to:

- Photographing
- Video taping
- Audio taping
- Use of one way glass

Limitations of Rights

Limitations made by treatment plan:

- Only some rights may be limited
- Limitations must be included in plan of service
- Must have signature of consumer/parent/guardian as applicable

Limitations

Limitations made by a guardian

- Guardianship is made when a consumer is no longer considered competent
- The Guardian decides/consents

Staff/Contractor responsibilities regarding guardianship

- Know type of guardianship a consumer has
- Know guardian's authority (some are limited)
- Advocate for alternative (if appropriate)

Rights

vs.

Privileges

Attending group therapy as specified by treatment plan

Attending a group recreational activity such as a baseball game

Three nutritious meals a day is a right that can not be removed or limited

A snack before bedtime can be removed as a consequence of behavior

Civil Rights....Rights of all Citizens

- Religious expression
- Freedom of speech
- Search and seizure
- Due process
- Legal protection
- Not to be discriminated against because of race, sex, national origin, or handicap
- Right to vote
- Right to free public education

Additional Rights

- To be free from abuse/neglect
- To independent evaluations and consultations and to see a private physician or healthcare professional at any reasonable time
- To be treated with dignity and respect
- To be treated without discrimination
- To have privacy
- To practice one's religion
- To get paid for work that is done
- To send and receive mail, have visitors, use the telephone, and get legal advice
- To have information about person receiving treatment kept confidential
- To have access to information contained in the clinical record
- To a hearing, to be represented by an attorney, to discharge planning that assures that appropriate treatment is provided in the least restrictive setting
- To be treated in a safe, sanitary, and humane environment
- To have access to his/her own funds and to be able to use them as he/she sees fit
- To have personal property safely kept and to have any rules regarding any limitations on using it clearly stated, consistent, and posted in a place where all can see
- Not to be forced or coerced to take medication, or take more medication than desired, and the right to be provided with informed consent regarding medication and possible side effects
- To have a written plan of service developed through a PCP process
- Not to be required to receive treatment unless the law allows it and a court orders it

Incident Reporting

- Any happening, event or situation not consistent with desired operation of Centra Wellness Network and which caused or may have the potential to cause injury to consumers, visitors, students or staff; or loss or damage to property
- Staff responsibility:
 - File an Incident Report (within 24 hours)
 - Route to your supervisor
 - Report abuse/neglect immediately

Circumstances Which Require Incident Reports:

- Any explained or unexplained injury of a recipient
- An unusual or first time medically related occurrence, such as seizures
- Environmental emergencies or incidents that could have caused injury but didn't
- Problem behaviors not addressed in the treatment plan such as breaking things, attacking people, or setting fires
- Suspected abuse/neglect or an individual
- Inappropriate sexual acts (excessive masturbation, inappropriate touching of others)
- Medication error or refusals, unless addressed in plan of service
- Suspected criminal offenses involving recipients
- Use of physical intervention or time out not covered in behavior plan
- Involvement of other agencies (police, jail, hospital, fire, etc.)
- Any unauthorized leave of absence of a recipient
- Death of a recipient

PERSON CENTERED PLANNING

Why Person Centered Planning?

- It's the law
- The Michigan Mental Health Code establishes in law the right for all individuals of the public mental health system to a person centered planning process regardless of age, disability, or residential setting
- It makes sense!

Person Centered Planning

- Consumers have a right to receive suitable services
- Suitable Services:
 - Are services suited to his/her condition
 - Are services provided in the least restrictive setting
 - Are services that are appropriate and available

(Mental Health Code 330.1708)

Person Centered Planning is:

- A PROCESS
- “Person Centered Planning” means a process for planning and supporting the individual receiving services that...
 - Builds upon the individual’s capacity to engage in activities that **promote community life**
 - Honors the individual’s preferences, choices and abilities

(Mental Health Code 330.1700 – Definitions)

Person Centered Planning

Honors and individual’s choice of what?

- Who participates in PCP process
 - Unless there is substantial risk of physical/emotional harm and/or
 - Substantial disruption of the planning process
- Where and when the PCP meeting takes place
 - Convenient for the individual and to the people he/she wants (if time and place is “reasonable & appropriate”)
- What physician or mental health professional they want to serve them
 - Within limits of available staff
 - In accordance with agency policy
 - Choice to see mental health professional at any reasonable time

(Mental Health Code – 330.1713 & 330.1715)

Choice of Potential Support and/or Treatment Options

- When support/treatment is appropriate and available
- Is within best practice guidelines
- Is a covered benefit
- Options must be clearly explained to the individual

Essential Elements of Person Centered Planning:

- The consumer's choice is honored and respected
- The consumer's dreams and desires are identified and a plan of support is developed to assist the consumer in meeting those dreams and desires
- The plan is built on the consumer's strengths and abilities, not your weaknesses
- The consumer's health and safety needs are identified and addressed
- The consumer has a choice in who provides supports and services to them...including seeking services outside of the community mental health system if those services are not available locally
- The consumer has the right to request a review of their plan which has to be completed within 30 days of the request
- The consumer has the right to file complaints with Recipient Rights if they feel their rights have been violated

Person Centered Planning Summary

- A process that always considers, and honors whenever possible, consumer choices
- Creates community connections
- Maximizes independence
- Works toward achieving the individuals dreams, goals & desires
- Encourages strengthening & developing natural supports