

DEPARTMENT OF COMMUNITY HEALTH
MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

RECIPIENT RIGHTS

(By authority conferred on the director of the department of community health by section 6231 of 1978 PA 368, MCL 333.6231 and Executive Reorganization Order Nos. 1991-3, 1996-1, and 1997-4, MCL 333.36321, 330.3101, and 333.26324)

R 325.14301 Construction; effective date.

Rule 301. (1) R 325.14302 to R 325.14306 shall not be construed to expand or diminish other remedies at law which are available to a recipient under the act or the statutory and common law of this state.

(2) This part shall take effect 120 days following the effective date of these rules.

History: 1981 AACCS.

R 325.14302 Policy and procedures.

Rule 302. (1) A program shall, by a formal vote of the governing authority, adopt official written policies and procedures to assure compliance with recipient rights rules and procedures. Copies of the recipient rights policies and procedures and any revisions thereto shall be submitted with the annual licensing renewal application or with the initial license application for transmittal to the office recipient rights coordinator.

(2) The recipient rights policies and procedures shall be reviewed at least annually by the governing authority to consider any revisions that might be necessary. Such review and approval shall become a part of the administrative record of the program.

(3) The recipient rights policies and procedures shall meet all of the following requirements:

(a) Require the program director to designate a staff member to function as the program rights advisor who shall do all of the following:

(i) Attend training offered by the office concerning recipient rights procedures.

(ii) Receive and investigate all recipient rights complaints independent of interference or reprisal from the program administration.

(iii) Communicate directly with the coordinating agency rights consultant when necessary.

Where staffing permits, the program rights advisor shall not be a provider of counseling services.

(b) Outline the method of filling recipient requests to review, copy, or receive a summary of recipient treatment or prevention service case records.

(c) Provide simple mechanisms for notifying recipients of their rights, reporting apparent rights violations, determining whether in fact violations have occurred, and for ensuring that firm, consistent, and fair remedial action is taken in the event of a violation of these rules.

(4) Copies of recipient rights policies and procedures shall be provided to each member of the program staff. Each staff member of the program shall review the policies and procedures and shall sign a form provided by the office which indicates that he or she understands, and shall abide by,

the policies and procedures. The form shall be explained to the staff by the program director. A signed copy shall be maintained in the staff personnel file and a signed copy shall be retained by the staff member.

(5) A treatment program may choose to restrict specific rights of a recipient based on the program policies and procedures. For example, program policy may call for restricted access to money or visitors during the initial stage of treatment. Such restrictions are permissible only under all of the following conditions:

(a) The written policies and procedures developed by the program shall describe what rights are to be restricted, for what therapeutic purpose, and for what period of time.

(b) Further individual limitation of rights shall be based on individual treatment plans which are approved by the program director and which are included in the client's case record. These limitations shall not be for more than 30 days without being renewed in writing in the case record. Such documentation shall be written by the program staff member who is designated in the treatment plan as having major responsibility for implementing the plan and shall be co-signed by the program director.

(c) The provisions for restrictions and limitations on recipient rights outlined in this subrule shall not be construed to permit any abuse or neglect as defined in these rules.

(6) As part of the admission procedure to a program, a recipient shall receive all of the following:

(a) If incapacitated, receive the procedures described in this subrule as soon as feasible, but not more than 72 hours after admission to an approved service program.

(b) A written description of the rights of recipients of substance abuse services.

(c) A written description of any restrictions of the rights based on program policy.

(d) An oral explanation of the rights in language which is understood by the recipient.

(e) A form approved by the office which indicates that the recipient understands the rights and consents to specific restrictions of rights based on program policy. The recipient shall sign this form. One copy of the form shall be provided to the client and 1 copy shall become a part of the client's record.

(7) A recipient of prevention services shall be notified of his or her rights by a notation on any program announcement, brochure, or other written communication that describes the program services to recipients or to the general public. Such notification shall state the following: "Recipients of substance abuse services have rights protected by state and federal law and promulgated rules. For information, contact (staff name, address, phone) or the Center for Substance Abuse Services, Recipient Rights Coordinator, P.O. Box 30035, 3500 North Martin Luther King, Jr. Blvd., Lansing, Michigan 48909."

(8) When a prevention service maintains case records that include the recipient's name and information about the recipient's substance use or abuse, the recipient shall be provided with the notification in subrule (7) of this rule and a summary of specific

rights. Phone callers shall be informed that a summary of recipient rights will be mailed to them on request if such records are maintained.

(9) Rights of recipients shall be displayed on a poster provided by the office in a public area of all licensed programs. The poster shall indicate the program rights advisor's name and phone number.

(10) The administrator of the office, with approval of the coordinating agency, shall designate a staff member of a local coordinating agency to act as the coordinating agency recipient rights consultant. The designation shall be renewed annually. The coordinating agency recipient rights consultant shall conduct recipient rights activities according to procedures outlined by the office.

History: 1981 AACCS.

R 325.14303 Recipient rights violations; complaints; procedures; remedies.

Rule 303. (1) A complaint of a recipient rights violation shall be made on a form provided by the office, whether made by a client or another person on behalf of a client or group of clients, and shall be distributed to the client, the program, the coordinating agency, and the office. All recipient rights communications shall comply with state and federal confidentiality rules and regulations.

(2) When circumstances prevent completion of the procedures outlined in subrules (3) and (5) of this rule, the rights advisor or rights consultant, whoever is responsible in the specific subrule, shall submit a

written report to the office rights coordinator stating the reasons for tardiness and the actions being taken to expedite completion of the procedures.

(3) An initial complaint of a recipient rights violation shall be investigated by the program rights advisor. The investigation shall be initiated within 10 working days of receipt of the complaint by the program rights advisor.

(4) A written report, including the procedures followed in the conduct of the investigation, findings, conclusions, and recommended remedial actions, if any, to be implemented by the program, shall be completed within 25 working days of receipt of the initial complaint. Copies of the report shall be submitted within 5 working days of completion to the complainant, coordinating agency recipient rights consultant, and to the office rights coordinator. This report shall serve as notice of the rights advisor's final recommendation for resolution of the complaint.

(5) Recommended remedial action shall include time limits for implementation. The coordinating agency recipient rights consultant shall monitor the implementation of remedial actions recommended by the program rights advisor and shall notify the office rights coordinator of situations where time limits appear unreasonably short or long or where unforeseen problems cause a delay in implementation of recommended remedial actions.

(6) If a complainant is not satisfied with the program's findings, conclusions, recommended remedial action, or implementation of recommended remedial action, the complainant may appeal within 15 working days of receipt of the written report to the coordinating agency rights consultant on forms provided by the office and distributed to programs by the coordinating agency. Copies of such appeals shall be distributed to

the complainant and to the program and office rights coordinator within 5 working days of receipt of the appeal by the coordinating agency rights consultant.

(7) An appeal received by the coordinating agency shall be reviewed by the coordinating agency rights consultant within 10 working days of receipt, unless the time limitation is waived in writing by the complainant. The coordinating agency rights consultant may hold an informal conference involving the complainant and the program director to determine the basis of the complaint and the position of the program.

(8) If the coordinating agency recipient rights consultant finds that the findings, conclusions, and recommended remedial action or implementation of recommended remedial action by the program resolves the problem that caused the complaint, such finding, including the rationale for such finding, shall be submitted in a written report and shall be mailed to the complainant, the program, and the office rights coordinator within 15 working days of receipt of the appeal. This report shall serve

as notice of the rights consultant's final recommendation for resolution of the complaint.

(9) If the coordinating agency recipient rights consultant determines that the findings, conclusions, and recommended remedial action or implementation of recommended remedial action by the program do not appear to resolve the problem that caused the complaint, or if the coordinating agency rights consultant feels the issues cannot be satisfactorily resolved at an informal conference, then the coordinating agency rights consultant shall initiate an investigation of the case within 15 working days of receipt of the appeal.

(10) A written report, including the procedures followed in the conduct of the investigation, findings, conclusions, and recommended remedial action to be implemented by the program director shall be completed by the coordinating agency rights consultant within 25 working days of receipt of the appeal at the coordinating agency. Copies of the report shall be submitted within 5 working days of completion to the complainant, the program, and to the office rights coordinator. Such report shall serve as

notice of the coordinating agency rights consultant's final recommendation for resolution of the complaint.

(11) Any recommended remedial action shall include time limits for implementation and shall be evaluated by the coordinating agency recipient rights consultant for its effectiveness in resolving the problem that caused the complaint.

(12) The complainant may appeal within 15 working days of receipt of the written report to the office rights coordinator on a form provided by the office and distributed by the coordinating agency. The office rights coordinator shall distribute copies of the appeal to the program and

coordinating agency within 5 working days of receipt. The office rights coordinator shall review the appeal within 10 working days of the receipt of the appeal. The office rights coordinator may hold an informal conference of concerned parties to further explore the issues.

(13) If the office rights coordinator concurs with the coordinating agency, the complainant shall be so notified within 15 working days of receipt of the appeal by the office. Such notification shall include the rationale for the decision. The complainant

shall also be informed that he or she may subsequently request, from the office administrator, a hearing pursuant to Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws, if not satisfied with the decision of the office rights coordinator. Such request may be made in a letter to the administrator from the complainant within 15 working days of receipt of the notification from the office rights coordinator.

(14) If the office rights coordinator decides to reinvestigate the case, the complainant shall be so notified within 10 working days of receipt of the appeal. Copies of such notification shall be sent to the program rights advisor and to the coordinating agency rights consultant.

(15) A written report of the investigation procedures, findings, and administrative or licensing action recommended to the office administrator and resulting from the office rights coordinator's investigation shall be completed within 25 working days of receipt of the appeal and shall be submitted to the administrator. Copies shall be distributed to the coordinating agency rights consultant and to the program rights advisor. Findings and recommended action shall be submitted to the complainant within 30 working days of receipt of the appeal. Such findings may be appealed in a letter to the administrator from the complainant within 15 working days of receipt of the findings.

History: 1981 AACCS.

R 325.14304 Recipient rights generally.

Rule 304. (1) A recipient shall not be denied appropriate service on the basis of race, color, national origin, religion, sex, age, mental or physical handicap, marital status, sexual preference, or political beliefs.

(2) The admission of a recipient to a treatment program or receipt of prevention services shall not result in the recipient being deprived of any rights, privileges, or benefits which are guaranteed to individuals by state or federal law or by the state or federal constitutions.

(3) A recipient may present grievances or suggest changes in program policies and services to the program staff, to governmental officials, or to another person within or outside the program. In this process, the program shall not in any way restrain the recipient.

(4) A recipient has the right to review, copy, or receive a summary of his or her program records, unless, in the judgment of the program director, such action will be detrimental to the recipient or to others for either of the following reasons:

(a) Granting the request for disclosure will cause substantial harm to the relationship between the recipient and the program or to the program's capacity to provide services in general.

(b) Granting the request for disclosure will cause substantial harm to the recipient.

If the program director determines that such action will be detrimental, the recipient is allowed to review nondetrimental portions of the record or a summary of the nondetrimental portions of the record. If a recipient is denied the right to review all or part of his or her record, the reason for the denial shall be stated to the recipient. An

explanation of what portions of the record are detrimental and for what reasons, shall be stated in the client record and shall be signed by the program director.

(5) A program staff member shall not physically or mentally abuse or neglect or sexually abuse a recipient.

(6) A recipient has the right to review a written fee schedule in programs where recipients are charged for services. Policies on fees and any revisions thereto shall be approved by the governing authority of the program and shall be recorded in the administrative record of the program.

(7) A recipient is entitled to receive an explanation of his or her bill, regardless of the source of payment.

(8) A recipient has the right to information concerning any experimental or research procedure proposed as a part of his or her treatment or prevention services and has the right to refuse to participate in the experiment or research without jeopardizing his or her continuing services. A program shall comply with state and federal rules and regulations concerning research which involves human subjects.

History: 1981 AACCS.

R 325.14305 Treatment programs; specific rights; fingerprints.

Rule 305. (1) A recipient shall participate in the development of his or her treatment plan.

(2) A recipient has the right to refuse treatment and to be informed of the consequences of that refusal. When a refusal of treatment prevents a program from providing services according to ethical and professional standards, the relationship with the recipient may be terminated upon reasonable notice.

(3) A recipient shall be informed if a program has a policy for discharging recipients who fail to comply with program rules and shall receive, at admission and thereafter upon request, a notification form that includes written procedures which explain all of the following:

(a) The types of infractions that can lead to discharge.

(b) Who has the authority to discharge recipients.

(c) How and in what situations prior notification is to be given to the recipient who is being considered for discharge.

(d) The mechanism for review or appeal of a discharge decision.

A copy of the notification form signed by the recipient shall be maintained in the recipient's case file.

(4) A recipient shall have the benefits, side effects, and risks associated with the use of any drugs fully explained in language which is understood by the recipient.

(5) A recipient has the right to give prior informed consent, consistent with federal confidentiality regulations, for the use and future disposition of products of special observation and audiovisual techniques, such as 1-way vision mirrors, tape recorders, television, movies, or photographs.

(6) Fingerprints may be taken and used in connection with treatment or research or to determine the name of a recipient only if expressed written consent has been obtained from the recipient. Fingerprints shall be kept as a separate part of the recipient's records

and shall be destroyed or returned to the recipient when the fingerprints are no longer essential to treatment or research.

History: 1981 AACCS.

R 325.14306 Inpatient and residential programs; specific rights.

Rule 306. (1) A recipient has the right to associate and have private communications and consultations with his or her physician and attorney.

(2) A program shall post its policy concerning visitors in a public place.

(3) Unless contraindicated by program policy or individual treatment plan, a recipient is allowed visits from family members, friends, and other persons of his or her choice at reasonable times, as determined by the program director or according to posted visitors' hours. A recipient shall be informed in writing of visitors' hours upon admission to the program.

(4) To protect the privacy of all other recipients, a program director shall ensure, to the extent reasonable and possible, that the visitors of recipients will only see or have contact with the individual they have reason to visit.

(5) A recipient has the right to be free from physical and chemical restraints, except those authorized in writing by a physician for a specified and limited time. Written policies and procedures which set forth the circumstances that require the use of restraints and which designate the program personnel responsible for applying restraints shall be approved in writing by a physician and shall be adopted by the program governing authority. Restraints may be applied in an emergency to protect the recipient from injury to self or others. The restraint shall be applied by designated staff. Such action shall be reported to a physician immediately and shall be reduced to writing in the client record within 24 hours.

(6) A recipient has the right to be free from doing work which the program would otherwise employ someone else to do, unless the work and the rationale for its therapeutic benefit are included in program policy or in the treatment plan for the recipient.

(7) A recipient has the right to a reasonable amount of personal storage space for clothing and other personal property. All such items shall be returned upon discharge.

(8) A recipient has the right to deposit money, earnings, or income in his or her name in an account with a commercial financial institution. A recipient has the right to get money from the account and to spend it or use it as he or she chooses, unless restricted by program policy or by the treatment plan for the recipient. A recipient has the right to receive all money or other belongings held for him or her by the program within 24 hours of discharge.

History: 1981 AACCS.