



BOARD POLICY VI.10

AREA:	Governance		
SECTION:	Board Governance Process	PAGE:	1 of 4
SUBJECT:	RECIPIENT RIGHTS ADVISORY COMMITTEE	EFFECTIVE:	09/30/2022
		REVIEWED:	09/30/2022

PURPOSE/EXPLANATION:

To provide recipient rights protection to the Board's customers.

POLICY:

Therefore the Board shall appoint a committee for recipient rights advisory purposes that consists of at least seven members of which at least two are Pivotal Board members. The make up of the committee shall be broadly based so as to best represent the varied perspectives of the community mental health services program's geographic area. One third of the membership shall be primary consumers or family members. Of that one third, at least one half shall be primary consumers.

Functions: The advisory committee shall do all of the following:

1. Shall be appointed by the Pivotal Board of Directors for a 3 year term.
2. Meet at least semi annually or as necessary to carry out its responsibilities.
3. Maintain a current list of member's names to be made available to individuals upon request.
4. Maintain a current list of categories represented to be made available to individuals upon request.
5. When vacancies occur the RRAC shall request an appointment of a new member.
6. Shall ensure the CMH Rights staff attend committee meetings as ex officio.
7. Protect the office of recipient rights from pressures that could interfere with the impartial, even-handed, and thorough performance of its functions.
8. Recommend candidates for director of the office of recipient rights to the executive director and consult with the director regarding any proposed dismissal of the director of the office of recipient rights.
9. Serve in an advisory capacity to the executive director and the director of the office of recipient rights.
10. Review and provide comments, goals and recommendations on the annual report submitted by the executive director to the community mental health services program board under Section 755.
11. Review of the funding for the Office of Recipient Rights. Designated by the Board of Pivotal to serve as the Appeals Committee for a recipient's appeal under Section 784.
12. Meetings of the Advisory Committee are subject to the Open Meetings Act, Act. No. 267 of the Public Acts of 1976, being Sections 15.261 to 15.275 of the Michigan Compiled Laws.
13. Minutes shall be maintained and made available to individuals upon request.

As outlined hereafter in this policy, Pivotal will appoint the Advisory Committee to take on the duties of the Appeals Committee. Therefore, Pivotal will enforce the Advisory/Appeals Committee as outlined in the Michigan Mental Health Code as one committee.

The following will be enforced:

1. The appeals committee will consist of seven individuals, none of whom shall be employed by the Department of Community Health or Pivotal.
2. The function of the appeals committee is to hear appeals of recipient rights matters.
3. An appeals committee may request consultation and technical assistance from the Department of Community Health.
4. A member of an appeals committee who has a personal or professional relationship with an individual involved in an appeal shall abstain from participating in that appeal as a member of the committee.
5. The appeals committee will adhere to the guidelines for responding to appeals as outlined in the Michigan Mental Health Code and detailed as follows:

GUIDELINES FOR RECIPIENT RIGHTS APPEALS PROCESS

Definition of Appeal: Not later than 45 days after receipt of the summary report under section 782, the complainant, recipient, if different from complainant, guardian, if any, or parent of a minor, may file a written appeal with the appeals committee with jurisdiction over the office of recipient rights that issued the summary report.

Criteria:

- (1) An appeal (definition stated above) shall be based on one of the following grounds:
 - a. The investigative findings of the office are not consistent with the facts or with law, rules, policies or guidelines.
 - b. The action taken or plan of action proposed by the respondent does not provide an adequate remedy.
 - c. An investigation was not initiated or completed on a timely basis.
- (2) The office shall advise the appellant that there are advocacy organizations available to assist the appellant in preparing the written appeal and shall offer to refer the appellant to those organizations. In the absence of assistance from an advocacy organization, the office shall assist the appellant in meeting the procedural requirements of a written appeal. The office shall also inform the appellant of the option of mediation under section 786 of Michigan Mental Health Code.

Guidelines:

- (1) Within five business days after receipt of the written appeal, at least two members of the appeals committee shall review the appeal to determine whether it meets the criteria set forth in Criteria (1) a,b,c.
 - a. If the appeal is denied because the criteria in Criteria (1) were not met, the appellant shall be notified in writing within the 5 business day period.
 - b. If the appeal is accepted, written notice shall be provided to the appellant within the 5 day business day period.
 - c. If the appeal is accepted, a copy of the appeal shall be provided to the respondent within the 5 day business day period.
 - d. If the appeal is accepted, a copy of the appeal shall be sent to the responsible

mental health agency within the 5 day business day period.

- (2) Within 30 days after receipt of a written appeal:
 - a. Appeals committee shall meet.
 - b. Review the facts as stated in all complaint investigation documents and do one of the following:
 - ◆ Uphold the investigative findings of the office 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.
 - ◆ The reinvestigation will be completed within 45 days and follow the standards established in [330.1778 of Chapter 7A of the Mental Health Code](#).
 - ◆ Upon receipt of the RIF, the director will take appropriate remedial action (if substantiated) and will submit a written summary report to the complainant, recipient, if different than the complainant, parent or guardian, and the appeals committee within 10 business days.
 - ◆ If a request for additional or different action is sent to the Director, a response will be sent within 30 days as to the action taken or justification as to why it was not taken. The response will be sent to the complainant, recipient, if different than the complainant, parent or guardian, and the appeals committee.
 - ◆ Uphold the investigative findings of the office but recommend that the respondent take different or additional action to remedy the violation.
 - ◆ If the responsible mental health agency is a community mental health services program or a licensed hospital, recommend that the board of the community mental health services program or the governing board of the licensed hospital request an external investigation by the state office of recipient rights. If external investigation from MDHHS-ORR is sought, the board will send a letter of request to the director of MDHHS-ORR within 5 business days of receipt of the request from the appeals committee. The director of the CMH making the request will be responsible for the issuance of the summary report, which will identify the grounds and advocacy information and MDHHS-ORR Appeal committee as the committee for any appeal.
- (3) The appeals committee shall document its decision in writing along with a statement to the appellant regarding their right to appeal within 45 days to the Department Health and Human Services. Within 10 working days after reaching its decision, it shall provide copies of the decision to the respondent, appellant, recipient if different than the appellant, the recipient's guardian if a guardian has been appointed, the responsible mental health agency, and the rights office.
- (4) Within 45 days after receiving written notice of the decision of an Appeals Committee, the appellant may file a written appeal with the department.

The appeal shall be based on the record established in the previous appeal, and on the allegation that the investigative findings of the local office of recipient rights are not consistent with the facts or with law, rules, policies or guidelines.

- (5) Upon receipt of an appeal, the department shall give written notice of receipt of the appeal to the appellant, respondent, Office of Recipient Rights, and the responsible mental health agency. The respondent, Office of Recipient Rights, and the responsible mental health agency shall ensure that the department has access to all necessary documents and all other evidence cited in the complaint.
- (6) The department shall review the record based on the allegation described. The department shall not consider additional evidence or information that was not available during the appeal, although the department may return the matter to the board.

Within 30 days after receiving the appeal, the department shall review the appeal and do one of the following:

- ◆ Affirm the decision of the Appeals Committee
- ◆ Return the matter to the board with instruction for additional investigation and consideration.

The department shall provide copies of its action to the respondent, appellant, recipient if different than the appellant, the recipient's guardian if a guardian has been appointed, the board and the Office of Recipient Rights.