

<b>Community Mental Health Partnership of Southeast Michigan/PIHP</b>	<b><i>Policy and Procedure</i></b>
<b>Department: Recipient Rights Author: Shane Ray</b>	<b><i>Limitation of Rights</i></b> <b>Local Policy Number (if used)</b>
<b>Regional Operations Committee Approval Date 4/16/2020</b>	<b>Implementation Date 5/15/2020</b>

**I. PURPOSE**

The purpose of this policy is to establish guidelines for limiting the rights of recipients.

**II. REVISION HISTORY**

<b>DATE</b>	<b>REV. NO.</b>	<b>MODIFICATION</b>
3/4/10	1.0	Full policy revision
5/22/13	1.1	Template updated
1/6/17	1.2	Template Updated
2/13/20	1.3	3-year review No Content Changes

**III. APPLICATION**

This policy applies to all staff, students, volunteers, and contractual organizations receiving any funding directly or sub-contractually, within the provider network of the Community Mental Health Partnership of Southeast Michigan (CMHPSM).

**IV. POLICY**

It is the policy of the CMHPSM that recipients' rights shall not be limited more than is essential to ensure the health and safety of recipients and others.

**V. DEFINITIONS**

Community Mental Health Partnership of Southeast Michigan (CMHPSM): The Regional Entity that serves as the PIHP for Lenawee, Livingston, Monroe and Washtenaw for mental health, developmental disabilities, and substance use disorder services.

Community Mental Health Services Program (CMHSP): A program operated under chapter 2 of the Mental Health Code as a county community mental health agency, a community mental health authority, or a community mental health organization.

Consent: Consent is defined as either of the following:

1. A written agreement signed by a recipient, unless the recipient has a designated legal representative with authority to execute consent. If the recipient has a designated legal representative, the legal representative must provide written agreement.
2. A verbal agreement of a recipient, unless the recipient has a designated legal representative with authority to execute a consent, that is witnessed and documented by an individual other than the individual providing treatment. If the recipient has a designated legal representative, the legal representative must provide verbal agreement.

Additionally, consent must include the elements of competency, comprehension, knowledge, and voluntariness.

Legal Representative: A legal representative is defined as any of the following:

1. A court-appointed guardian,
2. A parent with legal custody of a minor recipient,
3. In the case of a deceased recipient, the executor of the estate or court appointed personal representative,
4. A patient advocate under a durable power of attorney or other advanced directive.

Limitation: A restriction; something that confines or restricts.

Regional Entity: The entity established under section 204b of the Michigan Mental Health Code to provide specialty services and supports.

## VI. STANDARDS

- A. Recipients' rights shall be limited only as essential for the safety and welfare of recipients and others.
- B. Any restriction of a right guaranteed by state or federal law shall be imposed with due regard for the recipient's basic human dignity.
- C. General restrictions may be imposed in the form of house rules of licensed residential facilities, program rules of other specialized groups settings (i.e. clubhouses, drop-in centers, vocational programs, directly operated CMH service sites), or entrance agreements of clinical/residential programs. Such restrictions must be conspicuously posted at the service site, and implemented in a manner to promote a least restrictive setting.
- D. Any individual limitation of a recipient's rights must be reviewed and approved by the Behavior Treatment Committee and implemented in compliance with CMHPSM policy: Behavior Treatment Committee.

## VII. EXHIBITS

None

## VIII. REFERENCES

Reference:	Check if applies:	Standard Numbers:
DCH Administrative Rules	X	330.7119(g)
Michigan Mental Health Code Act 258 of 1974	X	330.1728
CMHPSM Policy: <u>Behavior Treatment Committee</u>	X	
CMHPSM Policy: <u>Consent to Treatment and Services</u>	X	

**IX. PROCEDURES**

**A. General Restrictions**

<b>WHO</b>	<b>DOES WHAT</b>
Licensed Residential Services Provider Specialized group setting provider Clinical/residential program provider	<ol style="list-style-type: none"> <li>1) Develops general restrictions only as necessary for the safety and welfare of recipients and others.</li> <li>2) Includes recipients and family members when developing general restrictions.</li> <li>3) Ensures general restrictions are compliant with:               <ol style="list-style-type: none"> <li>a) The contract for services between CMHPSM and the service provider.</li> <li>b) The established needs of the recipients of the residence.</li> <li>c) Person centered practices and principles.</li> </ol> </li> <li>4) Consults with the Office of Recipient Rights as needed.</li> <li>5) Explains general restrictions to recipients, legal representatives, and interested family members prior to the recipient entering the facility, and provides them with a written copy of the restrictions.</li> <li>6) Posts general restrictions in a conspicuous location at each service site, where they may be easily seen by recipients and visitors.</li> <li>7) Removes general restrictions when they are no longer essential to achieve the objectives which justified their application.</li> </ol>
Assigned Clinical Staff	<ol style="list-style-type: none"> <li>1) Monitors implementation of general restrictions in licensed settings.</li> <li>2) Follows-up with supervisor, service provider, or Office of Recipient Rights regarding any concerns.</li> </ol>
Office of Recipient Rights	<ol style="list-style-type: none"> <li>1) At least annually, reviews general restrictions of each licensed residential setting for compliance with state and federal law, and to ensure the promotion of a least restrictive setting.</li> </ol>

**B. Individual Limitations of Recipients' Rights**

Assigned Clinical Staff	<ol style="list-style-type: none"> <li>1) Guided by the condition and/or behavior of the recipient, determines if an individual limitation of rights is necessary.</li> </ol>
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	<ol style="list-style-type: none"><li>2) Discusses the need for a limitation of rights with recipient and legal representative.</li><li>3) With the concurrence of the person-centered planning team, brings the following documentation to the Behavior Treatment Committee for review and approval:<ol style="list-style-type: none"><li>a) Description of the limitation and a rationale for its imposition, including evidence to support expected mental or physical harm, violation of law or harassment of others if a limitation was not imposed.</li><li>b) Date of initiation.</li><li>c) Expiration date of the limitation.</li><li>d) Justification that the limitation is the least restrictive necessary to achieve the purpose proposed, including steps that have been taken to avoid restrictions, and action to be taken to ameliorate or eliminate the need for the restriction in the future.</li></ol></li><li>4) Ensures that the limitation, as well as consent for the limitation, is clearly documented in the recipient's Individual Plan of Service.</li><li>5) Monitors at least quarterly during regular reviews of the Individual Plan of Service to determine whether there continues to be a need for a limitation of rights. When no longer essential to achieve the objectives which prompted its imposition, the limitation shall be removed.</li></ol>
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