

ST. CLAIR COUNTY COMMUNITY MENTAL HEALTH AUTHORITY

Date Issued: 01/91

Date Revised: 05/93;04/96;08/98;09/00;08/02;08/04;08/06;
08/08;08/10;05/12;11/13;11/14;11/15;11/16;
03/18;03/19

CHAPTER Recipient Rights		CHAPTER 05	SECTION 003	SUBJECT 0040
SECTION Individual Rights		SUBJECT Freedom of Movement		
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I. APPLICATION:

- SCCCMHA Board
- SCCCMHA Providers & Subcontractors
- Direct-Operated Programs
- Community Agency Programs
- Residential Programs
- Specialized Foster Care
- SUD Providers

II. POLICY STATEMENT:

It shall be the policy of the St. Clair County Community Mental Health Authority (SCCCMHA) that recipients shall not have their freedom of movement restricted/limited more than is necessary for the delivery of mental health services.

III. DEFINITIONS:

None Available

IV. STANDARDS:

- A. All Community Mental Health (CMH) recipients have the right to the least restrictive conditions necessary to achieve the purposes of treatment and habilitation with due safeguards for safety of persons and property. Restrictions/limitations of freedom of movement will be documented in accordance with the Michigan Mental Health Code, Section 330.1744.
- B. Staff shall make every attempt to provide maximum freedom within the facility/program grounds, outside the facility/program grounds, and to facilitate movement from:
 1. More to less structured living.
 2. Larger to smaller facilities.
 3. Larger to smaller units.
 4. Segregation from the community to integrated community living.
- C. The freedom of movement of a recipient shall not be restricted more than is necessary to provide mental health services to him or her, to prevent injury to him, her, or others, or to prevent substantial property damage, except that security precautions appropriate to the condition and circumstances of a recipient admitted by order of a criminal court or transferred as a sentence-serving convict from a penal institution may be taken.

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- D. A recipient shall have the right to freedom of movement on the grounds and in the buildings and areas within the facility/program suitable for and designated for recreational or vocational activities or for social interaction. Freedom of movement may be restricted based on reasonable and lawful criteria. SCCCMHA policies and procedures may require a short period of restricted freedom of movement or no freedom of movement after initial admission to a facility/program.
- E. Any limitation to a recipient's freedom of movement shall be clinically justified, time-limited, and clearly documented in the recipient's Individual Plan of Service. Documentation shall be included that describes the attempts that have been made to avoid limitations, as well as what actions will be taken as part of the plan to ameliorate or eliminate the need for the limitation in the future. Before a limitation may be included in a recipient's Individual Plan of Service and implemented in their residential /program setting, the limitation must be reviewed and approved by St. Clair County Community Mental Health Authority's Behavior Treatment Plan Review Committee.
- F. A recipient shall be given the right to appeal restrictions/limitations on access, which are substantial in scope or duration, and the restrictions/limitations shall be reviewed with the plan of service. SCCCMHA procedures shall specify the scope and duration of restrictions/limitations, which entitle a recipient to an appeal. A restriction/limitation includes a refusal to grant a recipient's request for a transfer to a setting on the same facility or other facility, which provides greater access. Appeals are made in writing to the SCCCMHA Program Director.
- G. A facility/program shall provide for a rational and fair manner in which a recipient may request leaves and appeal denial of requests.
- H. Whenever there is a justified movement of a recipient to a more restrictive setting, a justified denial of access, or an authorized security precaution put in place for a recipient, an assessment shall be made of whether it results in a substantial limitation on a recipient's treatment or habilitation opportunities. All feasible and prudent steps will be taken to minimize limitations on treatment or habilitation.
- I. The recipient's treatment team shall establish the maximum duration of a movement to a more restrictive setting, denial of access, or a security precaution which limits treatment or habilitation. A more restrictive setting, denial of access, or security precaution may be continued beyond the maximum period only with the approval of the director of the facility/program and with restoration of treatment or habilitation opportunities and a redetermination on new evidence.
- J. An assessment that a more restrictive setting, denial of access, or a security precaution substantially restricts treatment or habilitation shall be reported to:
1. The person who executed an application for formal voluntary, temporary, or administrative admission.
 2. The court receiving a report of an evaluation of a person acquitted of a criminal charge by reason of insanity if the more restrictive setting, denial of access, or security precaution was required during the period of evaluation and is considered likely to be necessary if treatment, hospitalization, or admission is ordered.

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3. The Probate Court at the time of a petition for 90-day or continuing hospitalization, as part of a periodic review report, or at the time of an initial petition for hospitalization or admission filed by a facility.
4. The following courts, if at the time of a petition, report, or hearing, the more restrictive setting, denial of access, or security precautions have been in effect within 30 days prior to the petition, report, or hearing and is considered likely to be continued or resumed in the near future.
 - a. A criminal court which has ordered commitment for treatment to render a defendant competent to stand trial at the time of a report by the medical supervisor of treatment, if the department or an agency or employee of the department is the medical supervisor of treatment.
 - b. A probate court, which has ordered the transfer of a prisoner at the time of a 6-month review requested by a prisoner.
 - c. A probate court hearing an objection to a formal voluntary or administrative admission or an appeal of a return from authorized leave.

K. A recipient shall be informed of their right to freedom of movement, and the recipient/recipient's guardian shall be informed and approve of all treatment team decisions.

V. PROCEDURES:

Treatment Team

1. Ensures all provisions of the Mental Health Code are provided to recipients of community mental health services.

VI. REFERENCES:

- A. Michigan Mental Health Code, Section 330.1744
- B. MDHHS Administrative Rules R330.7199

VII. EXHIBITS:

None Available