

**LENAWEE COMMUNITY MENTAL HEALTH AUTHORITY
FREEDOM OF INFORMATION ACT
PUBLIC SUMMARY**

This Summary is to help you file a Freedom of Information Act Request, understand the response from the Lenawee Community Mental Health Authority (“LCMHA”), and know your appeal rights.

- I. **Purpose:** The purpose of the Michigan Freedom of Information Act (FOIA), Act 442 of 1976, MCL 15.231 *et seq.*, is to provide for public access to non-exempt Public Records of Public Bodies. Under FOIA, members of the public are entitled to review and/or copy Public Records.
- II. **Definition of a Public Record:** A Public Record is defined as a writing prepared, owned, used, in the possession of, or kept by the LCMHA in the performance of an official function, from the time it is created. Public Records do not include computer software.
- III. **Additional Definitions:**
 - a. “Requestor” means the party (you) that has submitted a request to the LCMHA for Public Records.
 - a. **Records Exempt from Disclosure:** Some records do not have to be disclosed by the LCMHA and therefore, cannot be obtained with a FOIA request. For a complete and official list of records that Public Bodies are not required to disclose, see M.C.L. 15.243.

Examples of records that will not be disclosed include:

- a. Medical information protected by the Health Insurance Portability and Accountability Act of 1996 (HIPAA);
- b. Records and information exempt from disclosure by statute, such as birth, marriage, death and divorce records;
- c. Information of a personal nature that could clearly be an unwarranted invasion of an individual’s privacy;
- d. Trade secrets or commercial or financial information voluntarily provided to the agency for use in developing governmental policy;
- e. Pending public bids to enter contracts;
- f. Records subject to the attorney-client privilege;
- g. Records subject to the physician-patient privilege;
- h. Medical counseling or psychological facts which would reveal an individual’s identity;

- i. Social security numbers;
- j. Appraisals of real property to be acquired by the LCMHA;

Note: Some Public Record may contain both material that must be disclosed (non-exempt) and material that does not have to be disclosed (exempt). If so, the LCMHA must separate the exempt from the non-exempt material. When a portion of a document is designated exempt, the LCMHA will generally describe the information that has been exempted unless a description would reveal the contents of the exempt information.

IV. **Procedure for Requesting a Public Record:**

- a. All requests must be in writing and addressed to:
LCMHA
Attn: FOIA Coordinator
Lenawee Community Mental Health Authority
1040 S. Winter Street, Suite 1022
Adrian, Michigan 49221
(517) 263-8905
- b. customerserv@lcmha.org. Your request must provide as specific of a description of the record being requested as possible.
- c. There are fees associated with the copying of records. LCMHA will provide an itemized summary of these charges.
- d. Receipt date of electronic requests: FOIA requests sent by fax, email or other electronic method are not considered to be received by LCMHA until one (1) business day after it is sent. In the event a FOIA request by email is sent to the SPAM filter or junk-mail folder, it will not be considered received until one (1) day after LCMHA becomes aware of the message. LCMHA must keep a record of the date a written request is delivered to its SPAM or junk-mail and the date it is discovered.

V. **Understanding the Response to Your Request:**

- a. LCMHA will respond to your request, in writing, within five (5) business days from the date of receipt. The response will either:
 - 1. Grant the request;
 - 2. Deny the request;
 - 3. Grant the request in part, and deny the request in part; or
 - 4. Issue a written notice extending the time for response to the request by not more than ten (10) business days. Only one (1) extension per request is allowed.

1. Extension notices will explain:
 - A. The reason for the extension; and
 - B. State a date by which LCMHA will respond to your request.
- b. When a request is granted, the public entity may allow you to inspect the documents at the location of LCMHA during usual business hours. Alternatively, LCMHA may provide copies of the documents to you.

VI. FOIA Request Fees:

- a. There is a cost for requesting documents through FOIA. These fees are explained in this section. The total fees for processing your FOIA request will be provided to you on an itemized form.
- b. Mailing Costs: LCMHA will mail you documents in the most economical method available. No charges for expediting or insurance are permitted unless specifically agreed to, in writing, by you.
- c. Copy Costs: Each 8½" x 11" or 8½" x 14" sheet of paper costs \$0.10. Double sided copies will be used when possible. This cost does not include labor.
- d. Labor Costs:
 - i. Costs for Searching, Locating and Examining Records:
 1. This cost is limited to costs directly associated with searching for, locating and examining records in order to respond to your request;
 2. Fees will be charged in increments of 15 minutes, with partial increments rounded down;
 3. Maximum hourly wage: The wage of the lowest-paid employee at the LCMHA capable of searching, locating, and examining Public Records, regardless of whether that person is available or actually performs the work, will be used.
 - ii. Costs for Reviewing, Separating, and Deleting Exempt Information:
 1. Fees will be charged in increments of 15 minutes, with partial increments rounded down;
 2. Maximum hourly wage: The wage of lowest-paid employee at the LCMHA capable of reviewing, separating, and deleting exempt information, regardless of whether that person is available or actually performs the work, will be used;

3. Contract labor may be used for this purpose. The fee for contract labor is calculated the same way as employee labor and may not exceed the wage of the lowest-paid employee of the LCMHA capable of reviewing, separating, and deleting exempt information. The name of the contract person or firm will be stated on the fee itemization form.

A. Total labor costs for contract labor may not exceed 6 times the state minimum hourly wage determined under section 4 of the Workforce Opportunity Wage Act, MCL 408.411 *et seq.*

iii. Costs for Duplication or Publication:

1. Includes making paper and non-paper copies;
2. Fees will be charged in increments of your choice, with partial increments rounded down;
3. Maximum hourly wage: the wage of lowest-paid employee of the LCMHA capable of duplication or publication, regardless of whether that person is available or actually performs the work will be used.

iv. Costs for Fringe Benefits:

1. A multiplier of 50% will be added to labor costs for searching, locating, examining, reviewing, separating, deleting exempt information, duplication and publication;
2. A line item clearly noting the percentage will be stated on the fee itemization form;
3. LCMHA may not charge more than the actual cost of the fringe benefits;
4. Overtime wages shall not be used in calculating the cost of fringe benefits.

v. Overtime:

1. Overtime will not be used unless specifically agreed to, in writing, by you.

e. Cost of Non-Paper Records:

- i. Costs are limited to the actual and most reasonable cost of computer discs, tapes, or other digital or similar media.

- f. This fee structure does not apply to Public Records prepared under an act or statute specifically authorizing the sale of those Public Records to the public, or if the amount of the fee for providing a copy of the Public Record is otherwise specifically provided for by law.

VII. Deposit Requirements:

- a. A deposit may be required if the estimated fee for your requested records will exceed \$50.00. The deposit will not exceed one-half (½) of the total fee estimate. Any request for a deposit must include a detailed itemization of the estimated fee. The response will also contain a good-faith non-binding estimate of the amount of time it will take the LCMHA to comply with your request.
- b. If you have failed to fully pay for a previous request, the LCMHA may require a 100% deposit for a later request if **all** the following apply:
 - i. The final fee for the prior written request was not more than 105% of any estimate given (if one was given);
 - ii. The Public Records requested were made available, contained the information being sought, and are still in the LCMHA's possession;
 - iii. LCMHA answered in the required timeframe;
 - iv. Ninety (90) days have passed since LCMHA notified you in writing that the Public Records were available for pick-up or mailing;
 - v. You are unable to show proof of payment; and
 - vi. LCMHA has calculated a detailed itemization that is the basis for the current request.
- c. LCMHA may not require a 100% deposit as above in subsection b. if you:
 - i. Produce proof of payment; or
 - ii. Pay in full for the prior request; or
 - iii. Three hundred sixty-five (365) days have passed since you made the request that was not paid for.

VIII. Discounts with Proof of Indigence:

- a. You may request the first \$20.00 of fees be waived if you produce an affidavit stating that:
 - i. You are indigent and receiving public assistance; or
 - ii. You are indigent and stating facts showing an inability to pay costs due to indigence.

- b. Discounts will be fully noted on the fee itemization form.
- c. You will be ineligible for a discount if:
 - i. You previously received discounted copies of Public Records from LCMHA two (2) times during the calendar year; or
 - ii. You request documents in conjunction with another party that is not indigent. A written statement attesting that the request is not in conjunction with another party may be required by LCMHA.
- d. If a request for indigence discount is denied, the reason must be specifically stated in the written response to the FOIA request.

IX. **Process for Appealing the Denial of a Request:** If your request is denied in whole or in part, and you do not believe the denial is supported by the law, you may seek an appeal.

- a. Appeals to the Compliance Coordinator of LCMHA:
 - i. If you appeal the denial of a request for Public Records from the public entity:
 - 1. All appeals must specifically state the word “appeal”; and
 - 2. Identify the reason why the denial should be reversed; and
 - 3. Appeals must be sent to the Compliance Coordinator of LCMHA at:
Lenawee Community Mental Health Authority
1040 S. Winter Street, Suite 1022
Adrian, Michigan 49221
(517) 263-8905
 - ii. Within ten (10) days after receiving a written appeal, LCMHA must:
 - 1. Reverse the disclosure denial;
 - 2. Issue a written notice upholding the denial; or
 - 3. Reverse the denial in part and uphold the denial in part.
 - iii. Under “unusual circumstances” LCMHA may issue a notice extending the period for a response to the appeal by not more than ten (10) business days. Only one (1) extension may be issued.
 - 1. “Unusual circumstances” means:
 - A. There is a need to search for, collect, or appropriately examine or review a voluminous amount of separate and distinct Public Records pursuant to a single request; or

B. The need to collect the requested Public Records from numerous filed offices, facilities, or other establishments which are located apart from the particular office receiving and processing the request.

iv. If the Compliance Coordinator of LCMHA fails to respond to the appeal or denies the appeal, the Requestor may seek judicial review.

b. Judicial Appeals:

i. Civil actions can be commenced in the circuit court for the County of Lenawee.

ii. Appeals must be filed within one hundred eighty (180) days after the date of the denial.

iii. If you prevail, the court must award reasonable attorneys' fees, costs and disbursements. If LCMHA prevails, the court may, in its discretion, award all or part of its reasonable attorneys' fees, costs and disbursements.

X. Process for Appealing Fees:

a. If you believe you have been charged a fee that is larger than that allowed by FOIA, you must first seek an appeal from the Compliance Coordinator of LCMHA.

b. Appeals to the Compliance Coordinator of LCMHA:

i. Appeals must:

1. Be in writing;

2. State the word "appeal";

3. Identify how the required fee exceeds the amount permitted by FOIA;

4. Be addressed to the Compliance Coordinator of LCMHA.

ii. Within ten (10) business days after receiving a written appeal, the Compliance Coordinator of LCMHA must:

1. Waive the fee;

2. Reduce the fee and issue a written determination explaining the reduction. Reductions in fees must be based on the requirements of FOIA. The determination must also include a certification from the Compliance Coordinator of LCMHA that states that the

determination is accurate and the fee amount complies with the LCMHA's publicly available FOIA policies and procedure;

3. Uphold the fee and issue a written determination explaining the specific basis under FOIA supporting the fee. The determination must also include a certification from the Compliance Coordinator of LCMHA that states that the determination is accurate and the fee amount complies with LCMHA's publicly available FOIA policies and procedure.

c. Judicial Appeals:

- i. You may only seek judicial review for a FOIA fee you believe to be in excess of that allowed by FOIA if:
 1. The Compliance Coordinator of LCMHA fails to respond to your written appeal;
 2. You disagree with the final determination of the Compliance Coordinator of LCMHA.
- ii. Actions must be commenced within forty-five (45) days of receiving the fee notice, or after the denial of an appeal by the Compliance Coordinator of LCMHA.
- iii. Civil actions can be commenced in the circuit court for the County of Lenawee.

Disclaimer: This Freedom of Information Act Summary is for information purposes only. To the extent that anything included in this Public Summary may be or could be construed as inconsistent with the law, the law will control the LCMHA's responsibilities under the Freedom of Information Act.
