

Contract Manager and Location Building:  
Thomas J. Renwick– Lewis Cass Building, 320 S. Walnut  
Contract Number# \_\_\_\_\_

**Agreement Between**  
**Michigan Department of Community Health**  
**And**  
**CMHSP \_\_\_\_\_**  
**For**  
**Managed Mental Health Supports and Services**

**Period of Agreement:**

This contract shall commence on October 1, 2012 and continue through September 30, 2013. This agreement is in full force and effect for the period specified.

**Program Budget and Agreement Amount:**

Total funding available for managed mental health supports and services is identified in the annual Legislative Appropriation for community mental health services programs. Payment to the CMHSP will be paid based on the funding amount specified in Part II, Section 7.0 of this contract. The value of this contract is contingent upon and subject to enactment of legislative appropriations and availability of funds.

The terms and conditions of this contract are those included in: (a) Part I: Contractual Services Terms and Conditions; (b) Part II: Statement of Work; and (c) all Attachments as specified in Parts I and II of the contract.

**Special Certification:**

The individuals signing this agreement certify by their signatures that they are authorized to sign this agreement on behalf of the organization specified.

**Signature Section:**

**For the Michigan Department of Community Health**

\_\_\_\_\_  
Kristi Broessel, Director  
Grants and Purchasing Division

\_\_\_\_\_  
Date

**For the CONTRACTOR:**

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Title (print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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## DEFINITIONS/EXPLANATION OF TERMS

### 1.0 DEFINITION OF TERMS

The terms used in this contract shall be construed and interpreted as defined below unless the contract otherwise expressly requires a different construction and interpretation.

**Appropriations Act:** The annual Appropriations Act adopted by the State Legislature that governs Michigan Department of Community Health (MDCH) funding.

**Categorical Funding:** Funding or funds as applicable that are (1) designated by the state legislature in the Appropriations Act for a specific purpose, project, and/or target population or so designated by the MDCH; and (2) identified as Categorical Funds in the contract.

**Clean Claim:** A clean claim is one that can be processed without obtaining additional information from the provider of the service or a third party. It does not include a claim from a provider who is under investigation for fraud or abuse, or a claim under review for medical necessity.

**Community Mental Health Services Program (CMHSP):** A program operated under Chapter 2 of the Michigan Mental Health Code - Act 258 of 1974 as amended.

**Cultural Competency:** An acceptance and respect for difference, a continuing self-assessment regarding culture, a regard for and attention to the dynamics of difference, engagement in ongoing development of cultural knowledge, and resources and flexibility within service models to work towards better meeting the needs of minority populations.

**Customer:** In this contract, customer includes all people located in the defined service area who are or may potentially receive services.

**Developmental Disability:** Means either of the following:

1. If applied to an individual older than five years, a severe, chronic condition that meets all of the following requirements:
  - A. Is attributable to a mental or physical impairment or a combination of mental and physical impairments.
  - B. Is manifested before the individual is 22 years old.
  - C. Is likely to continue indefinitely.
  - D. Results in substantial functional limitations in three or more of the following areas of major life activities:
    - (1) self-care;



- (2) receptive and expressive language;
  - (3) learning, mobility;
  - (4) self-direction;
  - (5) capacity for independent living;
  - (6) economic self-sufficiency.
- E. Reflects the individual's need for a combination and sequence of special, inter-disciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.
2. If applied to a minor from birth to age five, a substantial developmental delay or a specific congenital or acquired condition with a high probability of resulting in developmental disability as defined in item 1 if services are not provided.

**Health Insurance Portability and Accountability Act of 1996 (HIPAA):** Public Law 104-191, 1996 to improve the Medicare program under Title XVIII of the Social Security Act, the Medicaid program under Title XIX of the Social Security Act, and the efficiency and effectiveness of the health care system, by encouraging the development of a health information system through the establishment of standards and requirements for the electronic transmission of certain health information.

The Act provides for improved portability of health benefits and enables better defense against abuse and fraud, reduces administrative costs by standardizing format of specific health care information to facilitate electronic claims, directly addresses confidentiality and security of patient information - electronic and paper based, and mandates “best effort” compliance.

**Medicaid Eligible:** An individual who has been determined to be eligible for Medicaid and who has been issued a Medicaid card.

**Mental Health Crisis Situation:** A situation in which an individual is experiencing a serious mental illness or a developmental disability, or a child is experiencing a serious emotional disturbance, and one of the following apply:

1. The individual can reasonably be expected within the near future to physically injure himself, herself, or another individual, either intentionally or unintentionally.
2. The individual is unable to provide himself or herself with food, clothing, or shelter, or to attend to basic physical activities such as eating, toileting, bathing, grooming, dressing, or ambulating, and this inability may lead in the near future to harm to the individual or to another individual.
3. The individual's judgment is so impaired that he or she is unable to understand the need for treatment and, in the opinion of the mental health professional, his or her continued behavior as a result of the mental illness, developmental disability, or emotional disturbance can reasonably be expected in the near future to result in physical harm to the individual or to another individual.

**Persons with Limited English Proficiency (LEP):** Individuals, who cannot speak, write, read or understand the English language at a level that permits them to interact effectively with health care providers and social service agencies.

**Policy Manuals of the Medical Assistance Program:** The Michigan Department of Community Health periodically issues notices of proposed policy for the Medicaid program. Once a policy is final, MDCH issues policy bulletins that explain the new policy and give its effective date. These documents represent official Medicaid policy and are included in the policy manual of the Medical Assistance Program. The Medicaid manual is referenced in this contract when a particular policy is intended to be followed for non-Medicaid individuals served in the Children's Waiver, Adult Benefits Waiver, and MI Child.

**Practice Guideline:** MDCH-developed guidelines for CMHSPs for specific service, support or systems models of practice that are derived from empirical research and sound theoretical construction and are applied to the implementation of public policy. MDCH guidelines issued prior to June 2000 were called "Best Practice Guidelines." All guidelines are now referred to as Practice Guidelines.

**Serious Emotional Disturbance:** A diagnosable mental, behavioral, or emotional disorder affecting a minor that exists or has existed during the past year for a period of time sufficient to meet diagnostic criteria specified in the most recent diagnostic and statistical manual of mental disorders published by the American Psychiatric Association and approved by the MDCH, and that has resulted in functional impairment that substantially interferes with or limits the minor's role or functioning in family, school, or community activities. The following disorders are included only if they occur in conjunction with another diagnosable serious emotional disturbance:

1. A substance use disorder
2. A developmental disorder
3. A "V" code in the diagnostic and statistical manual of mental disorders

**Serious Mental Illness:** Diagnosable mental, behavioral, or emotional disorder affecting an adult that exists or has existed within the past year for a period of time sufficient to meet diagnostic criteria specified in the most recent diagnostic and statistical manual of mental disorders published by the American Psychiatric Association and approved by the MDCH and that has resulted in functional impairment that substantially interferes with or limits one or more major life activities. Serious mental illness includes dementia with delusions, dementia with depressed mood, and dementia with behavioral disturbances, but does not include any other dementia unless the dementia occurs in conjunction with another diagnosable serious mental illness. The following disorders are included only if they occur in conjunction with another diagnosable serious mental illness:

1. A substance use disorder
2. A developmental disorder
3. A "V" code in the diagnostic and statistical manual of mental disorders

**Technical Advisory:** MDCH-developed document with recommended parameters for CMHSPs

regarding administrative practice and derived from public policy and legal requirements.

**Technical Requirement:** MDCH/CMHSP contractual requirements providing parameters for CMHSPs regarding administrative practice related to specific administrative functions, and that are derived from public policy and legal requirements.

**Urgent Situation:** A situation in which an individual is determined to be at risk of experiencing a mental health crisis situation in the near future if he or she does not receive care, treatment, or support services.

## **PART I: CONTRACTUAL SERVICES TERMS AND CONDITIONS**

### **1.0 PURPOSE**

The Michigan Department of Community Health (MDCH), hereby enters into a contract with the CMHSP identified on the signature page of this contract.

The purpose of this contract is to obtain the services of the CMHSP to manage and provide a comprehensive array of mental health services and supports as indicated in this contract.

### **2.0 ISSUING OFFICE**

This contract is issued by the Michigan Department of Community Health (MDCH). The MDCH is the sole point of contact regarding all procurement and contractual matters relating to the services described herein. MDCH is the only entity authorized to change, modify, amend, clarify, or otherwise alter the specifications, terms, and conditions of this contract. Inquiries and requests concerning the terms and conditions of this contract, including requests for amendment, shall be directed by the CMHSP to the attention of the Director of MDCH's Bureau of Community Mental Health Services and by the MDCH to the contracting organization's Executive Director.

### **3.0 CONTRACT ADMINISTRATOR**

The person named below is authorized to administer the contract on a day-to-day basis during the term of the contract. However, administration of this contract implies no authority to modify, amend, or otherwise alter the payment methodology, terms, conditions, and specifications of the contract. That authority is retained by the Department of Community Health, subject to applicable provisions of this agreement regarding modifications, amendments, extensions or augmentations of the contract (Section 16.0). The Contract Administrator for this project is:

Elizabeth Knisely, Deputy Director  
Bureau of Community Mental Health Services  
Department of Community Health  
5th Floor – Lewis Cass Building  
320 South Walnut  
Lansing, Michigan 48913

### **4.0 TERM OF CONTRACT**

The term of this contract shall be from October 1, 2012 through September 30, 201. The contract may be extended in increments no longer than 12 months, contingent upon mutual agreement to an amendment to the financial obligations reflected in Attachment C 7.0.1 and other changes agreed upon by the parties for no more than three (3) one-year extensions after

September 30, 2012. Fiscal year payments are contingent upon and subject to enactment of legislative appropriations.

## **5.0 PAYMENT METHODOLOGY**

The financing specifications are provided in Part II, Section 7.0 "Contract Financing", and authorized payments are described in Attachment C 7.0.1 to this contract.

## **6.0 LIABILITY**

### **6.1 Cost Liability**

The MDCH assumes no responsibility or liability for costs under this contract incurred by the CMHSP prior to October 1, 2012. Total liability of the MDCH is limited to the terms and conditions of this contract.

### **6.2 Contract Liability**

- A. All liability, loss, or damage as a result of claims, demands, costs, or judgments arising out of activities to be carried out pursuant to the obligation of the CMHSP under this contract shall be the responsibility of the CMHSP, and not the responsibility of the MDCH, if the liability, loss, or damage is caused by, or arises out of, the actions or failure to act on the part of the CMHSP, its employees, officers or agent. Nothing herein shall be construed as a waiver of any governmental immunity for the County(ies), the CMHSP, its agencies or employees as provided by statute or modified by court decisions.
- B. All liability, loss, or damage as a result of claims, demands, costs, or judgments arising out of activities to be carried out pursuant to the obligations of the MDCH under this contract shall be the responsibility of the MDCH and not the responsibility of the CMHSP if the liability, loss, or damage is caused by, or arises out of, the action or failure to act on the part of MDCH, its employees, or officers. Nothing herein shall be construed as a waiver of any governmental immunity for the state, the MDCH, its agencies or employees or as provided by statute or modified by court decisions.
- C. The CMHSP and MDCH agree that written notification shall take place immediately of pending legal action that may result in an action naming the other or that may result in a judgment that would limit the CMHSP's ability to continue service delivery at the current level. This includes actions filed in courts or governmental regulatory agencies.

## **7.0 CMHSP RESPONSIBILITIES**

The CMHSP shall be responsible for the development of the service delivery system and the establishment of sufficient administrative capabilities to carry out the requirements and obligations of this contract. The CMHSP is responsible for complying with all reporting requirements as specified in this contract. Data reporting requirements are specified in Part II, Section 6.5 of the contract. Finance reporting requirements are specified in Part II, Section 7.8. Additional requirements are identified in Attachment C 7.0.2 (Performance Objectives).

## **8.0 ACKNOWLEDGMENT OF MDCH FINANCIAL SUPPORT**

The CMHSP shall reference the MDCH as providing financial support in publications including annual reports and informational brochures.

## **9.0 DISCLOSURE**

All information in this contract is subject to the provisions of the Freedom of Information Act, 1976 P.A. 442, as amended, MCL 15.231, et seq.

## **10.0 CONTRACT INVOICING AND PAYMENT**

MDCH funding obligated through this contract includes both state and federal funds, which the state is responsible to manage. Detail regarding the MDCH financing obligation is specified in Part II, Section 7.0 of this contract and in Attachment C 7.0.1 to this contract. Invoicing for PASARR is addressed in Attachment C 4.7.1, the PASARR Agreement.

## **11.0 LITIGATION**

The state, its departments, and its agents shall not be responsible for representing or defending the CMHSP, the CMHSP's personnel, or any other employee, agent or sub-contractor of the CMHSP, named as a defendant in any lawsuit or in connection with any tort claim.

The MDCH and the CMHSP agree to make all reasonable efforts to cooperate with each other in the defense of any litigation brought by any person or people not a party to the contract.

The CMHSP shall submit annual litigation reports to MDCH, providing the following detail for all civil litigation that the CMHSP, sub-contractor, or the CMHSP's insurers or insurance agents are parties to:

- Case name and docket number
- Name of plaintiff(s) and defendant(s)
- Names and addresses of all counsel appearing

Nature of the claim  
Status of the case

The provisions of this section shall survive the expiration or termination of the contract.

## **12.0 CANCELLATION**

### **Material Default**

The MDCH may cancel this contract for material default of the CMHSP. Material default is defined as the substantial failure of the CMHSP to meet CMHSP certification requirements as stated in the Michigan Mental Health Code (Section 232a) or other Mental Health Code mandated provisions. In case of material default by the CMHSP, the MDCH may cancel this contract without further liability to the state, its departments, agencies, or employees and procure services from other CMHSPs or other providers of mental health services that the department has determined can operate in compliance with applicable standards and are capable of maintaining the delivery of services within the county or counties.

In canceling this contract for material default, the MDCH shall provide written notification at least ninety (90) days prior to the cancellation date of the MDCH intent to cancel this contract to the CMHSP and the relevant County (ies) Board of Commissioners. The CMHSP may correct the problem during the ninety (90) day interval, in which case cancellation shall not occur. In the event that this contract is canceled, the CMHSP shall cooperate with the MDCH to implement a transition plan for recipients. The MDCH shall have the sole authority for approving the adequacy of the transition plan, including providing for the financing of said plan, with the CMHSP responsible for providing the required local match funding. The transition plan shall set forth the process and time frame for the transition. The CMHSP will assure continuity of care for all people being served under this contract until all service recipients are being served under the jurisdiction of another contractor selected by the MDCH. The CMHSP will cooperate with the MDCH in developing a transition plan for the provision of services during the transition period following the end of this contract, including the systematic transfer of each recipient and clinical records from the CMHSP's responsibility to the new contractor.

## **13.0 CLOSEOUT**

If this contract is canceled or not renewed, the following shall take effect:

- A. Within 45 days (interim), and 90 days (final), following the end date imposed by Part I, Section 12.0, the CMHSP shall provide to the MDCH, all financial, performance and other reports required by this contract.
- B. Payment for any and all valid claims for services rendered to covered recipients prior

to the effective end date shall be the CMHSP's responsibility, and not the responsibility of the MDCH.

- C. The portion of all reserve accounts maintained by the CMHSP that were funded with MDCH funds and related interest are owed to the MDCH within 90 days, less amounts needed to cover outstanding claims or liabilities unless otherwise directed in writing by the MDCH.
- D. Reconciliation of equipment with a value exceeding \$5,000, purchased by the CMHSP within the last two fiscal years, will occur as part of settlement of this contract. The CMHSP will submit to the MDCH an inventory of equipment meeting the above specifications within 45 days of the end date. The inventory listing must identify the current value and proportion of Medicaid funds used to purchase each item, and also whether or not the equipment is required by the CMHSP as part of continued service provision to the continuing service population. The MDCH will provide written notice within 90 days or less of any needed settlements concerning the portion of funds ending. If the CMHSP disposes of the equipment, the appropriate portion of the value must be returned to the MDCH (or used to offset costs in the final financial report).
- E. All earned carry-forward funds and savings from prior fiscal years that remain unspent as of the end date, must be returned to the MDCH within 90 days. No carry-forward funds or savings as provided in Part II, Section 7.7.1 and 7.7.1.1, can be earned during the year this contract ends, unless specifically authorized in writing by the MDCH.
- F. All financial, administrative and clinical records under the CMHSP's Responsibility must be retained for a period of seven years, unless directed otherwise in writing by the MDCH.

The transition plan will include financing arrangements with the CMHSP, which may utilize remaining Medicaid savings and reserves held by the CMHSP and owed to the MDCH.

Should additional statistical or management information be required by the MDCH, after this contract has ended or is canceled, at least 45 days notice shall be provided to the CMHSP.

#### **14.0 CONFIDENTIALITY**

Both the MDCH and the CMHSP shall assure that services and supports to and information contained in the records of people served under this agreement, or other such recorded information required to be held confidential by federal or state law, rule or regulation, in connection with the provision of services or other activity under this agreement shall be privileged communication, shall be held confidential, and shall not be divulged without the written consent of either the recipient or a person responsible for the recipient, except as may be otherwise required by applicable law or regulation. Such information may be disclosed in



summary, statistical, or other form, which does not directly or indirectly identify particular individuals.

## **15.0 ASSURANCES**

The following assurances are hereby given to the MDCH:

### **15.1 Compliance with Applicable Laws**

The CMHSP will comply with applicable federal and state laws, guidelines, rules and regulations in carrying out the terms of this agreement.

### **15.2 Anti-Lobbying Act**

With regard to any federal funds received or utilized under this agreement, the CMHSP will comply with the Anti-Lobbying Act, 31 USC 1352 as revised by the Lobbying Disclosure Act of 1995, 2 USC 1601 et seq, and Section 503 of the Departments of Labor, Health and Human Services and Education, and Related Agencies Appropriations Act (Public Law 104-208). Further, the CMHSP shall require that the language of this assurance be included in the award documents of all sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

### **15.3 Non-Discrimination**

In the performance of any contract or purchase order resulting here from, the CMHSP agrees not to discriminate against any employee or applicant for employment or service delivery and access, with respect to their hire, tenure, terms, conditions or privileges of employment, programs and services provided or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental disability unrelated to the individual's ability to perform the duties of the particular job or position. The CMHSP further agrees that every sub-contract entered into for the performance of any contract or purchase order resulting here from will contain a provision requiring non-discrimination in employment, service delivery and access, as herein specified binding upon each sub-contractor. This covenant is required pursuant to the Elliot Larsen Civil Rights Act, 1976 P.A. 453, as amended, MCL 37.2201 et seq, and the Persons with Disabilities Civil Rights Act, 1976 P.A. 220, as amended, MCL 37.1101 et seq, and Section 504 of the Federal Rehabilitation Act 1973, PL 93-112, 87 Stat. 394, and any breach thereof may be regarded as a material breach of the contract or purchase order.

Additionally, assurance is given to the MDCH that pro-active efforts will be made to identify and encourage the participation of minority-owned, women-owned, and handicapper-owned businesses in contract solicitations. The CMHSP shall incorporate language in all contracts awarded: (1) prohibiting discrimination against minority-owned,

women-owned, and handicapper-owned businesses in sub-contracting; and (2) making discrimination a material breach of contract.

#### **15.4 Debarment and Suspension**

With regard to any federal funds received or utilized under this agreement, assurance is hereby given to the MDCH that the CMHSP will comply with Federal Regulation 45 CFR Part 76 and certifies to the best of its knowledge and belief that it, including its employees and sub-contractors:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or CMHSP;
- B. Have not within a three-year period preceding this agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- C. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state or local) with commission of any of the offenses enumerated in section B, and;
- D. Have not within a three-year period preceding this agreement had one or more public transactions (federal, state or local) terminated for cause or default.

#### **15.5 Federal Requirement: Pro-Children Act**

Assurance is hereby given to the MDCH that the CMHSP will comply with Public Law 103-227, also known as the Pro-Children Act of 1994, 20 USC 6081 et seq, which requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where Women, Infants, and Children (WIC) coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity. The CMHSP also assures that this language

will be included in any sub-awards, which contain provisions for children's services.

### **15.6 Hatch Political Activity Act and Inter-governmental Personnel Act**

The CMHSP will comply with the Hatch Political Activity Act, 5 USC 1501-1508, and the Intergovernmental Personnel Act of 1970, as amended by Title VI of the Civil Service Reform Act, Public Law 95-454, 42 USC 4728. Federal funds cannot be used for partisan political purposes of any kind by any person or organization involved in the administration of federally assisted programs.

### **15.7 Limited English Proficiency**

The CMHSP shall comply with the Office of Civil Rights Policy Guidance on the Title VI Prohibition Against Discrimination as it Affects Persons with Limited English Proficiency. This guidance clarifies responsibilities for providing language assistance under Title VI of the Civil Rights Act of 1964.

### **15.8 Health Insurance Portability And Accountability Act**

To the extent that this act is pertinent to the services that the CMHSP provides to the MDCH, the CMHSP assures that it is in compliance with the Health Insurance Portability and Accountability Act (HIPAA) requirements currently in effect and will be in compliance by the time frames specified in the HIPAA regulations for portions not yet in effect.

All recipient information, medical records, data and data elements collected, maintained, or used in the administration of this contract shall be protected by the CMHSP from unauthorized disclosure as required by state and federal regulations. The CMHSP must provide safeguards that restrict the use or disclosure of information concerning recipients to purposes directly connected with its administration of the contract.

The CMHSP must have written policies and procedures for maintaining the confidentiality of all protected information.

## **16.0 MODIFICATIONS, CONSENTS AND APPROVALS**

This contract will not be modified, amended, extended, or augmented, except by a writing executed by the parties hereto, and any breach or default by a party shall not be waived or released other than in writing signed by the other party.

## **17.0 ENTIRE AGREEMENT**

The following documents constitute the complete and exhaustive statement of the agreement between the parties as it relates to this transaction.

- A. This contract including attachments and appendices
- B. Michigan Mental Health Code and Administrative Rules
- C. Michigan Public Health Code and Administrative Rules
- D. MDCH Appropriations Act in effect during the contract period
- E. Approved Children's Waiver, corresponding CMS conditions, Medicaid Policy Manuals and subsequent publications
- F. Balanced Budget Act of 1997 (BBA) final rule effective 42 CFR 400, et. al. June 14, 2002, where applicable
- G. All other pertinent federal and state statutes, rules and regulations
- H. All final MDCH guidelines, final technical requirements as referenced in the contract - Additional guidelines and technical requirements may be added as provided for in Part I, Section 16.0 of this contract.

In the event of any conflict over the interpretation of the specifications, terms, and conditions indicated by the MDCH and those indicated by the CMHSP, the dispute resolution process in included in Part I, Section 18.0 of this contract will be utilized.

This contract supersedes all proposals or prior agreements, oral or written, and all other communications pertaining to the purchase of mental health supports and services for the non-Medicaid population between the parties.

## **18.0 DISPUTE RESOLUTION**

Disputes by the CMHSP may be pursued through the dispute resolution process.

In the event of the unsatisfactory resolution of a non-emergent contractual dispute or compliance/performance dispute, and if the CMHSP desires to pursue the dispute, the CMHSP shall request that the dispute be resolved through the dispute resolution process. This process shall involve a meeting between agents of the CMHSP and the MDCH. The MDCH Deputy Director of Mental Health and Substance Abuse Services Administration will identify the appropriate Deputy Director(s) or other department representatives to participate in the process for resolution. The Deputy Director may handle disputes involving financial matters unless the MDCH Director has delegated these duties to the Administrative Tribunal.

The CMHSP shall provide written notification requesting the engagement of the dispute resolution process. In this written request, the CMHSP shall identify the nature of the dispute, submit any documentation regarding the dispute, and state a proposed resolution to the dispute.

The MDCH shall convene a dispute resolution meeting within twenty (20) calendar days of receipt of the CMHSP request. The Deputy Director shall provide the CMHSP and MDCH representative(s) with a written decision regarding the dispute within fourteen (14) calendar days following the dispute resolution meeting. The decision of the Deputy Director shall be the final MDCH position regarding the dispute.

Any corrective action plan issued by the MDCH to the CMHSP regarding the action being disputed by the CMHSP shall be on hold pending the final MDCH decision regarding the dispute.

In the event of an emergent compliance dispute, the dispute resolution process shall be initiated and completed within five (5) working days.

### **19.0 NO WAIVER OF DEFAULT**

The failure of the MDCH to insist upon strict adherence to any term of this contract shall not be considered a waiver or deprive the MDCH of the right thereafter to insist upon strict adherence to that term, or any other term, of the contract.

### **20.0 SEVERABILITY**

Each provision of this contract shall be deemed to be severable from all other provisions of the contract and, if one or more of the provisions shall be declared invalid, the remaining provisions of the contract shall remain in full force and effect.

### **21.0 DISCLAIMER**

All statistical and fiscal information contained within the contract and its attachments, and any amendments and modifications thereto, reflect the best and most accurate information available to MDCH at the time of drafting. No inaccuracies in such data shall constitute a basis for legal recovery of damages, either real or punitive. MDCH will make corrections for identified inaccuracies to the extent feasible.

Captions and headings used in this contract are for information and organization purposes. Captions and headings, including inaccurate references, do not, in any way, define or limit the requirements or terms and conditions of this contract.

### **22.0 RELATIONSHIP OF THE PARTIES (INDEPENDENT CONTRACTOR)**

The relationship between the MDCH and the CMHSP is that of client and independent contractor. No agent, employee, or servant of the CMHSP or any of its sub-contractors shall be deemed to be an employee, agent or servant of the state for any reason. The CMHSP will be

solely and entirely responsible for its acts and the acts of its agents, employees, servants, and sub-contractors during the performance of a contract resulting from this contract.

### **23.0 NOTICES**

Any notice given to a party under this contract must be written and shall be deemed effective, if addressed to such party at the address indicated on the signature page of this contract upon (a) delivery, if hand delivered; (b) receipt of a confirmed transmission by facsimile if a copy of the notice is sent by another means specified in this section; (c) the third (3rd) business day after being sent by U.S. mail, postage prepaid, return receipt requested; or (d) the next business day after being sent by a nationally recognized overnight express courier with a reliable tracking system.

Either party may change its address where notices are to be sent by giving written notice in accordance with this section.

### **24.0 UNFAIR LABOR PRACTICES**

Pursuant to 1980 P.A. 278, as amended, MCL 423.321 et seq., the state shall not award a contract or sub-contract to an employer or any sub-contractor, manufacturer or supplier of the employer, whose name appears in the current register compiled by the Michigan Department of Consumer and Industry Services. The state may void any contract if, subsequent to award of the contract, the name of the CMHSP as an employer, or the name of the sub-contractor, manufacturer or supplier of the CMHSP appears in the register.

### **25.0 SURVIVOR**

Any provisions of the contract that impose continuing obligations on the parties including, but not limited to, the CMHSP's indemnity and other obligations, shall survive the expiration or cancellation of this contract for any reason.

### **26.0 GOVERNING LAW**

This contract shall in all respects be governed by, and construed in accordance with, the laws of the State of Michigan.

## **PART II: STATEMENT OF WORK**

### **1.0 SPECIFICATIONS**

The following sections provide an explanation of the specifications and expectations that the CMHSP must meet and the services that must be provided under the contract. The CMHSP is not, however, constrained from supplementing this with additional services or elements deemed necessary to fulfill the intent of the contract and Mental Health Code.

#### **1.1 Targeted Geographical Area for Implementation**

The CMHSP shall provide mental health and developmental disability supports and services to individuals described in Section 1.2 below who are located in or whose county of residence is determined to be in the County(ies) of the CMHSP MH/DD service area.

#### **1.2 Target Population**

The CMHSP shall direct and prioritize services to individuals with serious mental illness, serious emotional disturbances or developmental disabilities as described in MCL 330.1208. The CMHSP shall also provide medically necessary defined mental health benefits to children enrolled in the MICHild program and those certified in the Children's Waiver program. The CMHSP may use GF formula funds authorized through this contract to provide services - not covered under the 1915(b)/1915(c) concurrent waiver - to Medicaid beneficiaries who are individuals with serious mental illness, serious emotional disturbances or developmental disabilities. With MDCH approval the CMHSP may use GF funds or underwrite a portion of the cost of covered services to these beneficiaries if Medicaid payments or Adult Benefit Waiver payments for services to these beneficiaries are exhausted.

The CMHSP may use GF formula funds authorized through this contract to:

1. provide services that are not covered under the 1915(b) and 1915(c) Medicaid Habilitation Supports waiver to Medicaid beneficiaries who are individuals with serious mental illness, serious emotional disturbances or developmental disabilities; or
2. underwrite a portion of the cost of covered services to these beneficiaries if Medicaid payment for services to the PIHP is exhausted; and
3. for CMHSPs that are under subcontract with the PIHP, when the contract with the PIHP stipulates conditions regarding such use of General Funds. MDCH reserves the right to disallow such use of General funds if it believes that the PIHP-CMHSP contract conditions were not met

### **1.3 Responsibility for Payment of Authorized Services**

The CMHSP shall be responsible for the payment of services that the CMHSP authorizes. This provision presumes the CMHSP and its agents are fulfilling their responsibility to customers according to terms specified in the contract.

Services shall not be delayed or denied as a result of a dispute of payment responsibility between two or more CMHSPs. In the event there is an unresolved dispute between CMHSPs, either party may request MDCH involvement to resolve the dispute, and the MDCH will make such determination. Likewise, services shall not be delayed or denied as a result of a dispute of payment responsibility between the CMHSP and another agency. Attachment C.1.3.1 – COFR The COFR Agreement included as Attachment C1.3.1 shall be followed by the CMHSP to resolve county of financial responsibility disputes.

## **2.0 SUPPORTS AND SERVICES**

The CMHSP shall make available the array of supports and services designated in MCL 330.1206(1) and (for enrolled individuals) those supports and services available under the MICHild program, and the Children's Waiver. Relevant service and support descriptions are contained in the current MDCH Medical Services Administration Policy for Prepaid Health Plans and these definitions are incorporated by reference into this agreement, to the extent they are consistent with the Board's service obligations under MCL 330.1206(1), the MICHild program and the Children's Waiver. Attachment C 6.5.1.1, of this contract. The CMHSP must limit services to those that are medically necessary and appropriate, and that conform to professionally accepted standards of care. Discussion of the array of services shall occur during the person-centered planning process, which is used to develop the individual plan of service

### **2.1 Availability of Services**

- The CMHSP agrees to meet priority needs as reflected in Section 208 of the Mental Health Code to the full extent that available resources allow. The CMHSP service obligations under this contract are guided by a recognition that these services do not represent an individual entitlement. The Mental Health Code does not establish an individual entitlement to mental health services in the way the Federal Medicaid program does for health insurance, but rather it indicates that persons with certain qualifying conditions and impairments must have the first priority for available resources and services within the public mental health system.

## **3.0 ACCESS ASSURANCE**

### **3.1 Access Standards**

The CMHSP shall ensure timely access to supports and services in accordance with the



following standards, shall report its performance on the standards in accordance with Attachment C 6.5.1.1, and shall locally monitor its performance and take action necessary to improve access for recipients.

A. Mental Health

1. At least 95% of all people receive a pre-admission screening for psychiatric inpatient care for whom the disposition was completed in three hours.
2. At least 95% of all people receive a face-to-face meeting with a professional for an assessment within 14 calendar days of a non-emergency request for service (by sub-population).
3. At least 95% of all people start at least one ongoing service within 14 calendar days of a non-emergent assessment with a professional.

B. The CMHSP shall ensure geographic access to supports and services in accordance with the following standards, and shall make documentation of performance available to MDCH site reviewers.

For office or site-based mental health services, the individual's primary service providers (e.g., case manager, psychiatrist, primary therapist, etc.) must be within 30 miles or 30 minutes of the individual's residence in urban areas, and within 60 miles or 60 minutes in rural areas. ("Primary provide" excludes community inpatient, state inpatient, partial hospitalization, extended observation beds and day program.)

C. The CMHSP shall be responsible for outreach and ensuring adequate access to services to the priority populations.

D. In addition, the CMHSP shall assure access according to the following standard, and shall report its performance on the standard in accordance with Attachment C 6.5.1.1.

100% of people who meet the OBRA Level II Assessment criteria for specialized mental health services for people residing in nursing homes, as determined by the MDCH, shall receive CMHSP managed mental health services.

### 3.2 Medical Necessity

The CMHSP may implement the medical necessity criteria specified by the MDCH. Medical necessity is commonly defined as a determination that a specific service is medically (clinically) appropriate, necessary to meet the person's mental health needs, consistent with the person's diagnosis, symptomatology and functional impairments, is the most cost-effective option in the least restrictive environment, and is consistent with clinical standards of care. In addition, the CMHSP must also consider social services and

community supports that are crucial for full participation in community life, must apply person-centered planning for individuals with mental health needs, and must consider environmental factors and other available resources that might address the situation. The criteria are intended to ensure appropriate access to care, to protect the rights of recipients and to facilitate an appropriate matching of supports and services to individual needs for the priority populations, consistent with the resources (general fund allocation) available to the CMHSP to serve these individuals. The level and scope of such services are contingent on available funding, and services provided through the use of general funds are not an entitlement to any individual recipient.

### **3.3 Other Access Requirements**

#### **3.3.1 Person-Centered Planning**

The Michigan Mental Health Code establishes the right for all recipients to have an Individual Plan of Service (IPS) developed through a person-centered planning process (Section 712, added 1996). The CMHSP shall implement person-centered planning in accordance with the MDCH Person-Centered Planning Practice Guideline, Attachment C 3.4.1.1.

#### **3.3.2 Limited English Proficiency**

The CMHSP shall assure equal access for people with diverse cultural backgrounds and/or limited English proficiency, as outlined by the Office of Civil Rights Policy Guidance in the Title VI Prohibition Against Discrimination as it Affects Persons with Limited English Proficiency. This guideline clarifies responsibilities for providing language assistance under Title VI of the Civil Rights Act of 1964.

#### **3.3.3 Cultural Competence**

The supports and services provided by the CMHSP (both directly and through contracted providers) shall demonstrate an ongoing commitment to linguistic and cultural competence that ensures access and meaningful participation for all people in the service area. Such commitment includes acceptance and respect for the cultural values, beliefs and practices of the community, as well as the ability to apply an understanding of the relationships of language and culture to the delivery of supports and services.

To effectively demonstrate such commitment, it is expected that the CMHSP has five components in place: (1) a method of community assessment; (2) sufficient policy and procedure to reflect the CMHSP's value and practice expectations; (3) a method of service assessment and monitoring; (4) ongoing training to assure that staff are aware of and able to effectively implement policy; (5) the provision of supports and services within the cultural context of the recipient is also necessary to demonstrate this commitment.

### **3.3.4 Self-Determination Policy and Practice Guideline.**

It is the expectation that CMHSPs will assure compliance among their network of service providers with the elements of this policy. This will mean that the CMHSP will assure, when arrangements that support the pursuit of self-determination are sought by adult consumers (self determination is an option for adult consumers); no consumer is mandated to use self determination approaches, developed and offered, by the CMHSP, that they conform to the elements of the policy and practice guideline.

Reviews of CMHSP performance, in the area of Self Determination, will emphasize continuous quality improvement approaches applying teaching, coaching, mutual learning, and exploring best practice rather than a static compliance approach. The CMHSP must offer a range of financial management service options, including the fiscal intermediary, when these options support the principles, concepts and key elements of self-determination.

### **3.3.5 Recovery Policy**

All Supports and Services provided to individuals with mental illness, including those with co-occurring conditions, shall be based in the principles and practices of recovery outlined in the Michigan Recovery Council document “Recovery Policy and Practice Advisory” included as Attachment C3.3.5.1 to this contract.

## **4.0 SPECIAL COVERAGE PROVISIONS**

If funds are appropriated the following sub-sections describe special considerations, services, and/or funding arrangements required by this contract. The parties recognize that some persons served under these special considerations, services or arrangements may be Medicaid beneficiaries, and that the CMHSP may discharge its obligations and service provision responsibilities specified below to such individuals using both general funds dollars and available Medicaid specialty service benefits and coverages.

### **4.1 Nursing Home Placements**

All designated state funds that the MDCH has authorized to the CMHSP for the placement of people with mental health and/or developmental disability-related needs out of nursing homes, shall continue to be used for this purpose until such time that the CMHSP is notified in writing by the MDCH that the MDCH's data indicates there are no people who have been screened by the OBRA program in need of placement. These funds may also be used to divert people from nursing home placements.

#### **4.2 Nursing Home Mental Health Services**

All designated state funds that the MDCH has authorized to the CMHSP for nursing home mental health and/or developmental disability-related services shall continue to be used for this purpose until such time that MDCH approves an alternative. Residents of nursing homes with mental health needs shall be given the same opportunity for access to CMHSP services as other individuals covered by this contract.

#### **4.3 Prevention Services**

Funds categorically defined for prevention efforts shall be used for the specified purpose only.

#### **4.4 Categorical Funding**

Funds categorically defined shall be used for the specified purpose only.

1. The appropriations act for mental health services for special populations requires the following:

A. From the funds appropriated in part 1 for mental health services for special populations, the department shall ensure that CMHSPs meet with multicultural service providers to develop a workable framework for contracting, service delivery, and reimbursement.

B. Funds appropriated in part 1 for mental health services for special populations shall not be utilized for services provided to illegal immigrants, fugitive felons, and individuals who are not residents of this state. The department shall maintain contracts with recipients of multicultural services grants that mandate grantees establish that recipients of services are legally residing in the United States. An exception to the contractual provision shall be allowed to address individuals presenting with emergent mental health conditions.

C. The department shall require an annual report from the independent organizations that received mental health services for special populations funding. The annual report, due January 1 of the current fiscal year, shall include specific information on services and programs provided, the client base to which the services and programs were provided, information on any wraparound services provided, and the expenditures for those services.

2. The annual report shall include the following:

A. Describe the population served. Include the number of unduplicated individuals served during this fiscal year. Include relevant demographic or diagnostic data.

B. Briefly summarize specific mental health services that were provided and corresponding activities that occurred for special populations throughout the fiscal year.

#### **4.5 Intentionally Left Blank**

#### **4.6 Intentionally Left Blank**

#### **4.7 OBRA Pre-Admission Screening and Annual Resident Review**

The CMHSP shall be responsible for the completion of Pre-Admission Screenings and Annual Resident Reviews (PASARR) for individuals who are located in the CMHSP service area presenting for nursing home admission, or who are currently a resident of a nursing home located in the CMHSP service area. A copy of the MDCH/CMHSP PASARR Agreement is attached (Attachment C 4.7.1).

#### **4.8 Long Term Care**

The CMHSP shall assume responsibility for people who are verified to meet the Michigan Mental Health Code eligibility criteria and who are determined by the MDCH through the PASARR assessment process to be ineligible for nursing home admission due to mental illness or developmental disability.

Service shall not be denied or delayed as a result of a dispute of financial responsibility between the CMHSP and long-term care agent. The MDCH shall be notified in the event of a local dispute and the MDCH shall determine the responsibility of the CMHSP and the long-term care agent in these disputes.

#### **4.9 MICHild**

The Per Enrolled Child Per Month (PECPM) funding specified in this contract is a full financial risk capitated payment for medically necessary MICHild mental health covered services including inpatient, outpatient, alternative treatment, case management, and prescription medications and laboratory services as authorized by the CMHSP.

#### **4.10 SED Waiver**

The intent of this program is to provide 1915 (c) Home and Community Based Waiver Services, as approved by Centers for Medicare and Medicaid Services (CMS) for children with Serious Emotional Disturbances, along with state plan services in accordance with the Medicaid Provider Manual. (See attachment C 4.7.2 1915 (c) Home and Community Based Waiver Services and State Plan Services to Children with Serious Emotional Disturbance (SEDW))

#### **4.11 SEDW Pilot**

The intent of this Pilot is to provide 1915(c) Home and Community Based Waiver Services and state plan services to Michigan Department of Human Services (MDHS) children who: have a Serious Emotional Disturbance (SED); meet the criteria for the SEDW, including

eligibility for psychiatric hospitalization at Hawthorn Center (as stipulated in the Medicaid Provider Manual); and are in foster care awaiting adoption or reunification with their family or another relative. For purposes of this amendment the SED Waiver will be defined as the Department of Human Services (DHS) SED Waiver (SEDW) Pilot. (See attachment C 4.7.3. SEDW Enrolled in MDCH SEDW Pilot)

#### **4.12 Mental Health Court Pilot Projects**

The mental health court pilot projects are specialized court dockets that use a problem solving approach to reduce contacts with the criminal justice system and to facilitate a participation in mental health and substance use treatment services for those identified as mentally ill. Cross system collaboration between the criminal justice system and the mental health community is critical to successful programs. CMHSPs where a mental health court exists will be required to provide detail on mental health court participants. The following reporting requirements apply: (1) CMHSPs must be able to identify MH Court participants and all associated encounters; (2) CMHSPs must provide a HIPAA compliant list of consumer unique IDs to DCH upon request so that mental health court participant data can be drawn from the state data warehouse; (3) CMHSPs may be requested to provide detail or summary information about services provided to MH Court participants. Additionally, the Department or its designee is permitted to visit and, or to make an evaluation of the project. CMHSPs will be required to participate in DCH funded evaluation activities. (See attachment C4.12.1 Mental Health Court Pilot Projects)

#### **4.13 SEDW GF Benefit**

Michigan Department of Human Services (MDHS) and Michigan Department of Community Health (MDCH) have developed the SED/GF Benefit for a specific target population to ensure provision of mental health services for children placed in DHS foster care not reaching the eligibility criteria of the DHS SED Waiver Pilot that requires children to have met the state psychiatric hospital criteria. This is a redirection of the Needs Assessment funding from DHS to increase access to mental health services for children served by DHS within Foster Care. (See attachment C4.13.1 SEDW GF Benefit)

#### **4.14 Pooled Funding Arrangements**

Funding for the purpose of implementing or continuing 1915(a) capitated projects or other MDCH approved funding arrangements shall be placed into a pooled funding arrangement limited to that purpose.

### **5.0 OBSERVANCE OF FEDERAL, STATE AND LOCAL LAWS**

The CMHSP agrees that it will comply with all state and federal statutes, accompanying regulations, and administrative procedures that are in effect, or that become effective during the term of this contract. The state must implement any changes in state or federal statutes, rules, or administrative procedures that become effective during the term of this contract. Federal

statutes and regulations pertaining to the Medicaid program are applicable to the operation of the Children's Waiver, and statutory and regulatory provisions related to Title XXI (The Children's Health Insurance Program ) are applicable to services rendered under the MICHild program This includes laws and regulations regarding human subjects research and data projections set forth in 45 CFR and HIPAA.

### **5.1 Fiscal Soundness of the CMHSP**

The state is responsible to assure that the contractor maintain a fiscally solvent operation. In this regard, the MDCH may evaluate the ability of the CMHSP to perform services based on determinations of payable amounts under the contract.

### **5.2 Suspended Providers**

Federal regulations and state law preclude reimbursement for any services ordered, prescribed, or rendered by a provider who is currently suspended or terminated from direct and indirect participation in the Michigan Medicaid program or federal Medicare program. A recipient may purchase services provided, ordered, or prescribed by a suspended or terminated provider, but no state funds may be used. The MDCH publishes a list of providers who are terminated, suspended or otherwise excluded from participation in the program. The CMHSP must ensure that its provider networks do not include these providers.

Similarly, a CMHSP may not knowingly have a director, officer, partner, or person with beneficial ownership of more than 5% of the entity's equity who is currently debarred or suspended by any federal agency. CMHSPs are also prohibited from having an employment, consulting, or any other agreement with a debarred or suspended person for the provision of items or services that are significant and material to the CMHSP's contractual obligation with the state.

The United States General Services Administration (GSA) maintains a list of parties excluded from federal programs. The "excluded parties lists" (EPLS) and any rules and/or restrictions pertaining to the use of EPLS data can be found on GSA's web page at the following internet address: [www.arnet.gov/epls](http://www.arnet.gov/epls).

### **5.3 Public Health Reporting**

P.A. 368 requires that health professionals comply with specified reporting requirements for communicable disease and other health indicators. The CMHSP agrees to ensure compliance with all such reporting requirements through its provider contracts.

## **6.0 CMHSP ORGANIZATIONAL STRUCTURE AND ADMINISTRATIVE SERVICES**

### **6.1 Organizational Structure**

The CMHSP shall maintain an administrative and organizational structure that supports a

high quality, comprehensive managed mental health program. The CMHSP's management approach and organizational structure shall ensure effective linkages between administrative areas including: provider network services; customer services, service area network development; quality improvement and utilization review; grievance/complaint review; financial management and management information systems. Effective linkages are determined by outcomes that reflect coordinated management.

### **6.1.1 Event Notification**

In addition to other reporting requirements outlined in this contract, the CMHSP shall immediately notify MDCH of the following events:

1. Any death that occurs as a result of suspected staff member action or inaction, or any death that is the subject of a recipient rights, licensing, or police investigation. This report shall be submitted electronically within 48 hours of either the death, or the CMHSP's receipt of notification that a rights, licensing, and/or police investigation has commenced to [QMPMeasures@michigan.gov](mailto:QMPMeasures@michigan.gov) and include the following information:
  - a. Name of beneficiary
  - b. Beneficiary ID number (Medicaid, ABW, MiChild)
  - c. Consumer ID (CONID) if there is no beneficiary ID number
  - d. Date, time and place of death (if a licensed foster care facility, include the license #)
  - e. Preliminary cause of death
  - f. Contact person's name and E-mail address
2. Relocation of a consumer's placement due to licensing issues.
3. An occurrence that requires the relocation of any CMHSP or provider panel service site, governance, or administrative operation for more than 24 hours
4. The conviction of a CMHSP or provider panel staff members for any offense related to the performance of their job duties or responsibilities.

Except for deaths, notification of the remaining events shall be made telephonically or other forms of communication within five (5) business days to contract management staff members in MDCH's Mental Health and Substance Abuse Administration.

### **6.2 Administrative Personnel**

The CMHSP shall have sufficient administrative staff and organizational components to comply with the responsibilities reflected in this contract. The CMHSP shall ensure that all staff have training, education, experience, licensing, or certification appropriate to their position and responsibilities.

The CMHSP will provide written notification to MDCH of any changes in the following



senior management positions within seven (7) days:

- Administrator (Chief Executive Officer)
- Medical Director
- Recipient Rights Officer

## **6.3 Customer Services**

### **6.3.1 Customer Services: General**

Customer Services is an identifiable function that operates to enhance the relationship between the recipient and the CMHSP. This includes orienting new recipients to the services and benefits available including how to access them, helping recipients with all problems and questions regarding benefits, handling customer/recipient complaints and grievances in an effective and efficient manner, and tracking and reporting patterns of problem areas for the organization. This requires a system that will be available to assist at the time the customer/recipient has a need for help, and is able to help on the first contact in most situations.

### **6.3.2 Recipient Rights and Grievance/Appeals**

The CMHSP shall establish an Office of Recipient Rights in accordance with all of the provisions of Section 755 of the Michigan Mental Health Code and corresponding administrative rules and for substance abuse, Section 6321 of P.A. 365 of 1978, and corresponding administrative rules. The CMHSP shall make reasonable efforts to obtain a signed agreement between the CMHSP Office of Recipient Rights, the DHS Bureau of Child and Adult Licensing (BCAL), and MDHS Adult Protective Services (APS) regarding reporting and investigation of suspected abuse, neglect, and exploitation in programs operated or contracted with the CMHSP. The CMHSP Office of Recipient Rights shall assure that the semi-annual and annual recipient rights data reports required by MCL 330.1755(5)(j) and MCL 330.1755(6) are submitted to the PIHP Quality Assessment and Performance Improvement Program (QAPIP) in addition to other entities and individuals specified in law.

The Community Mental Health Service Program (CMHSP) shall assure that, within the first three months of employment, the Rights Officer/Advisor and any alternate(s) shall attend and successfully complete the Basic Skills Training programs offered by the Department's Office of Recipient Rights. Within one (1) year of the effective date of employment, as training slots are available, Executive Directors hired by a CMHSP shall be required to attend a Recipient Rights training focused on the role of the Executive Director relative to the Recipient Rights protection and investigation system, when such a training is developed and made available by MDCH. In addition, every three (3) years during their employment, the Rights Officer/Advisor and any alternate(s) must complete a Recipient Rights Update training as specified by the Department

The Community Mental Health Services Program shall assure that all contractual agreements with service providers, who: (1) are required by the Mental Health Code to implement their rights system or, (2) through contractual agreement are required to implement their own rights investigation system, include language which requires staff appointed as Rights Officers/Advisors (and those identified as their alternates) to attend and successfully complete the Basic Skills Training programs offered by the Department's Office of Recipient Rights.

#### **6.3.2.1 Family Support Subsidy Appeals**

See attachments C6.3.2.1 CMHSP Local Dispute Resolution Process and C6.3.2.2 FSS Guidelines for Determining Eligibility of Applicants.

#### **6.3.3 Marketing**

Marketing materials are materials intended to be distributed through written or other media to the community that describe the availability of services and supports and how to access those supports and services.

Such materials shall meet the following standards:

- A. All such materials shall be written at the 4th grade reading level to the extent possible (i.e., sometimes necessary to include medications, diagnoses, and conditions that do not meet the 4th grade criteria).
- B. All materials shall be available in the languages appropriate to the people served within the CMHSP's area. Such materials shall be available in any language alternative to English as required by the Limited English Proficiency Policy Guidance (Executive Order 13166 of August 11, 2002 Federal Register Volume 65, August 16, 2002).
- C. All such materials shall be available in alternative formats in accordance with the Americans with Disabilities Act (ADA).
- D. Material shall not contain false and/or misleading information.

Marketing materials shall be available to the MDCH for review of consistency with these standards.

#### **6.4 Provider Network Services**

The CMHSP is responsible for maintaining and continually evaluating an effective provider network adequate to fulfill the obligations of this contract.

In this regard, the CMHSP agrees to:

- A. Maintain a regular means of communicating and providing information on changes in policies and procedures to its providers. This may include guidelines for answering written correspondence to providers, offering provider-dedicated phone lines, and a regular provider newsletter.
- B. Have clear written mechanisms to address provider grievances and complaints, and an appeal system to resolve disputes.
- C. Provide a copy of the CMHSP's prior authorization policies to the provider when the provider joins the CMHSP's provider network. The CMHSP must notify providers of any changes to prior authorization policies as changes are made.
- D. Provide to the MDCH in the format specified by the MDCH, provider agency information profiles that contain a complete listing and description of the provider network available to recipients in the service area.
- E. Notify MDCH within seven (7) days of any changes to the composition of the provider network organizations. CMHSPs shall have procedures to address changes in its network that negatively affect access to care. Changes in provider network organization and/or composition that the MDCH determines to negatively affect the CMHSP's ability to meet its service obligations under MCL 330.1206(1) to priority populations (MCL 330.1208) may be grounds for sanctions.
- F. Assure that the provider network responds to the cultural, racial and linguistic needs (including interpretive services as necessary) of the service area.
- G. Assure that services are accessible, taking into account travel time, availability of public transportation, and other factors that may determine accessibility.
- H. Assure that network providers do not segregate the CMHSP's recipients in any way from other people receiving their services.
- I. The CMHSP shall assure HIPAA compliant access to information about persons receiving services in their contractual residential settings by individuals who have completed training and are working under the auspices of the Dignified Lifestyles Community Connections program.

#### **6.4.1 Provider Contracts**

The CMHSP is responsible for the development of the service delivery system and the establishment of sufficient administrative capabilities to carry out the requirements and obligations of this contract.

The CMHSP may sub-contract for the provision of any of the services specified in this contract including contracts for administrative, financial management and data processing. The CMHSP shall be held solely and fully responsible to execute all provisions of this contract, whether or not said provisions are directly pursued by the CMHSP or pursued by the CMHSP through a sub-contract vendor. The CMHSP shall ensure that all sub-contract arrangements clearly specify the type of services being purchased. Sub-contracts shall ensure that the MDCH is not a party to the contract and therefore not a party to any employer/employee relationship with the sub-contractor of the CMHSP.

Sub-contracts entered into by the CMHSP shall address the following:

- A. Duty to treat and accept referrals
- B. Prior authorization requirements
- C. Access standards and treatment time lines
- D. Relationship with other providers
- E. Reporting requirements and time frames
- F. QA/QI systems
- G. Payment arrangements (including coordination of benefits, ability to pay determination, etc.) and solvency requirements
- H. Financing conditions consistent with this contract
- I. Anti-delegation clause
- J. Compliance with Office of Civil Right Policy Guidance on Title VI "Language Assistance to Persons with Limited English Proficiency"

In addition, sub-contracts shall:

- K. Require the provider to cooperate with the CMHSP's quality improvement and utilization review activities.
- L. Include provisions for the immediate transfer of recipients to a different provider if their health or safety is in jeopardy.
- O. Require providers to meet accessibility standards as established in this contract.

All sub-contracts must be in compliance with State of Michigan statutes and will be subject to the provisions thereof. All sub-contracts must fulfill the requirements of this contract that are appropriate to the services or activities delegated under the sub-contract.

All employment agreements, provider contracts, or other arrangements, by which the CMHSP intends to deliver services required under this contract, whether or not characterized as a sub-contract, shall be subject to review by the MDCH.

Sub-contracts that contain provisions for a financial incentive, bonus, withhold, or sanctions must include provisions that protect recipients from practices that result in the inappropriate limitation or withholding of required (MCL 330.1206-1) services that would otherwise be provided to eligible individuals (MCL 330.1208).

CMHSPs and their provider networks shall accept staff training provided by other CMHSPs and their provider networks to meet their training requirements when: 1) that staff training is substantially similar to their own training; and 2) staff member completion of such training can be verified.

This is applicable to any staff training area. This includes any required staff training in the areas of abuse and neglect (recipient rights), person-centered planning: cultural diversity, HIPAA, limited English proficiency; grievance and appeal; as well as DHS-approved training direct care workers in specialized residential settings, and certificates earned from specific clinical training in evidence-based, best and promising practices such as ACT, DBT, PMTO, FPE, and motivational interviewing.

#### **6.4.2 Provider Credentialing**

The CMHSP shall have written credentialing policies and procedures for ensuring that all providers rendering services to individuals are appropriately credentialed within the state and are qualified to perform their services. Credentialing shall take place every two years. The CMHSP must ensure that network providers residing and providing services in bordering states meet all applicable licensing and certification requirements within their state. The CMHSP also must have written policies and procedures for monitoring its providers and for sanctioning providers who are out of compliance with the CMHSPs standards.

#### **6.4.3 Collaboration with Community Agencies**

CMHSPs must work closely with local public and private community-based organizations and providers to address prevalent human conditions and issues that relate to a shared customer base. Such agencies and organizations include local health departments, local DHS offices, Substance Abuse Coordinating Agencies, community and migrant health centers, nursing homes, Area Agency and Commissions on Aging, Medicaid Waiver agents for the HCBW program, school

systems, and Michigan Rehabilitation Services. Local coordination and collaboration with these entities will make a wider range of essential supports and services available to the CMHSP's recipients. CMHSPs are encouraged to coordinate with these entities through participation in multipurpose human services collaborative bodies, and other similar community groups. The CMHSP shall have a written coordination agreement with each of the pertinent agencies noted above describing the coordination arrangements agreed to and how disputes between the agencies will be resolved. To ensure that the services provided by these agencies are available to all CMHSPs, an individual contractor shall not require an exclusive contract as a condition of participation with the CMHSP.

The CMHSP shall have a documented policy and set of procedures to assure that coordination regarding mutual recipients is occurring between the CMHSP and/or its provider network, and primary care physicians. This policy shall minimally address all recipients of CMHSP services for whom services or supports are expected to be provided for extended periods of time (e.g., people receiving case management or supports coordination) and/or those receiving psychotropic medications.

## **6.5 Management Information Systems**

The CMHSP shall ensure a Management Information System and related practices that reflect sufficient capacity to fulfill the obligations of this contract.

Management information systems capabilities are necessary for at least the following areas:

- Recipient registration and demographic information
- Provider enrollment
- Third party liability activity
- Claims payment system and tracking
- Grievance and complaint tracking
- Tracking and analyzing services and costs by population group, and special needs categories as specified by MDCH
- Encounter and demographic data reporting
- Quality indicator reporting
- HIPAA compliance
- UBP compliance
- Recipient access and satisfaction

### **6.5.1 Uniform Data and Information**

To measure the CMHSP's accomplishments in the areas of access to care, utilization, service outcomes, recipient satisfaction, and to provide sufficient information to track expenditures, the CMHSP must provide the MDCH with uniform data and information as specified in this contract, and other such additional or different reporting requirements or data elements as the parties may agree upon from time to

time. Any changes in the reporting requirements required by state or federal law will be communicated to the CMHSP at least 90 days before they are effective unless state or federal law requires otherwise. Other changes beyond routine modifications to the data reporting requirements must be agreed to by both parties.

The CMHSP's timeliness in submitting required reports and their accuracy will be monitored by the MDCH and will be considered by the MDCH in measuring the performance of the CMHSP. The CMHSP CEO or designee must certify the accuracy of the data.

The CMHSP must cooperate with the MDCH in carrying out validation of data provided by the CMHSP by making available recipient records and a sample of its data and data collection protocols.

The CMHSP shall submit the information below to the MDCH consistent with the time frames and formats specified in Attachment C 6.5.1.1. This information shall include:

A. Recipient Level Information

1. Demographic Characteristics - this information shall be updated at least annually for recipients receiving continuing supports or services.
2. Functional Capacities for Children with Severe Emotional Disturbance - this information shall be updated at least annually for recipients receiving continuing supports or services.
3. Service Utilization/Encounter Data

B. CMHSP Level Information

1. Sub-Element Cost Report
2. Quality Management Data
3. Report of Deaths
4. Office of Recipient Rights
5. Sentinel Events

C. The CMHSP shall submit a written review of death for every recipient whose death occurred within six (6) months of the recipient's discharge from a state-operated service. The review shall include:

1. Recipient's name
2. Gender
3. Date of birth
4. Date, time, place of death
5. Diagnoses (mental and physical)
6. Cause of death

7. Recent changes in medical or psychiatric status, including notation of most recent hospitalization
  8. Summary of condition and treatment (programs and services being provided to the recipient) preceding death
  9. Any other relevant history
  10. Autopsy findings if one was performed and available
  11. Any action taken as a result of the death
- D. Should additional statistical or management information from data currently collected by the CMHSP be required by the MDCH, at least 45 days written notice shall be provided. The written request shall identify who is making the request and the purpose of the request. The MDCH shall make earnest efforts not to request additional information (above and/or beyond what is required in this contract and/or any modification of the contract informational requirements). Particular exceptions include additional informational requirements issued by funding and regulatory sources and/or resulting from legislative action.

#### Attachment C 6.5.1.1 – CMHSP Reporting Requirements

Reporting Requirements for the period October 1, 2011 to September 30, 2012 are included in Attachment C 6.5.1.1

### **6.5.2 Encounter Data Reporting**

In order to assess quality of care, determine utilization patterns and access to care for various health care services, the CMHSP shall submit encounter data containing detail for each recipient encounter reflecting all services provided by the CMHSP. Encounter records shall be submitted monthly via electronic media in the format specified by the MDCH. Encounter level records must have a common identifier that will allow linkage between the MDCH's and the CMHSPs management information systems. Encounter data requirements are detailed in the Reporting Requirements attached to this contract. The CMHSP agrees to participate in the reporting of encounter data quality improvement data, Medicaid performance indicator data and sub element cost data consistent with PIHP Medicaid requirements.

## **6.6 Financial Management System**

### **6.6.1 General**

The CMHSP shall maintain all pertinent financial and accounting records and evidence pertaining to this contract based on financial and statistical records that can be verified by qualified auditors. The CMHSP will comply with generally accepted accounting principles (GAAP) for governmental units when preparing financial statements. The CMHSP will use the principles and standards of OMB Circular A-87



for determining all costs reported on the financial status report, except for a) local funds, not obligated to meet local match requirements nor required as reserve against possible obligations or liabilities; b) selected items of allowable cost – agreed upon by the CMHSP and MDCH – where state law or county regulations differ from federal policy as outlined in OMB Circular A-87 and requires adherence to different principles or a different methodology for cost allocation, distribution or estimation, c) earned revenue not encumbered to satisfy local match obligations, nor required as an adjustment or credit or distribution to offset or reduce expense items allocated to a federal award or to state general fund allocation; d) other grants or awards where the grantor requires principles and standards other than those described in OMB Circular A-87. Expenditures of General Fund Formula Funds reported on the financial status report must comply with Sections 240 241 and 242 of the Mental Health Code. Cost settlement of the General Fund Formula Funding to the CMHSP will be based upon costs reported on the financial status report. If a conflict exists between OMB Circular A-87 and Section 242 of the Mental Health Code regarding expenditures the more restrictive sections of Section 242 of Mental Health Code will prevail.

The accounting and financial systems established by the CMHSP shall be a double entry system having the capability to identify application of funds to specific funding streams participating in service costs for recipients. Such funding streams consist of, but are not limited to: Medicaid payments, State General Funds, MICHild, Children's Waiver, and other party reimbursements. Additionally, the system shall be capable of identifying the funding source participation in such a way as to determine whether the expenditure qualifies for exemption from Section 308 (90% match) of the Mental Health Code. The accounting system must be capable of reporting the use of these specific fund sources by major population groups (MIA, MIC, DD and Other Populations). In addition, cost accounting must follow the same methods for Medicaid and GF funds, and the methods must be uniform across all members within an affiliation.

The CMHSP shall maintain adequate internal control systems. An annual independent audit shall evaluate and report on the adequacy of the accounting system and internal control systems.

#### **6.6.2 Intentionally Left Blank**

#### **6.6.3 Claims Management System**

The CMHSP shall make timely payments to all providers for clean claims. This includes payment at 90% or higher of all clean claims from affiliates and network sub-contractors within 30 days of receipt, and at least 99% of all clean claims within 90 days of receipt, except services rendered under a sub-contract in which other timeliness standards have been specified and agreed to by both parties.

A clean claim is a valid claim completed in the format and time frames specified by the CMHSP and that can be processed without obtaining additional information from

the provider of service or a third party. It does not include a claim from a provider who is under investigation for fraud or abuse, or a claim under review for medical necessity. A valid claim is a claim for supports and services that the CMHSP is responsible for under this contract.

The CMHSP shall have an effective provider appeal process to promptly and fairly resolve provider billing disputes.

#### **6.6.3.1 Post-payment Review**

The CMHSP may utilize a post-payment review methodology to assure claims have been paid appropriately.

#### **6.6.3.2 Total Payment**

The CMHSP or its providers shall not require any co-payments, recipient pay amounts, or other cost sharing arrangements unless specifically authorized by state or federal regulations. The CMHSP's providers may not bill recipients for the difference between the provider's charge and the CMHSP's payment for services. The providers shall not seek nor accept additional supplemental payment from the recipient, his/her family, or representative, for services authorized by the CMHSP.

#### **6.6.3.3 Electronic Billing Capacity**

The CMHSP must be capable of accepting electronic billing for services billed to the CMHSP, or the CMHSP claims management agent, as stipulated in Chapter IV of the Medicaid Manual. The CMHSP may require its providers to meet the same standard as a condition for payment. CMHSPs are expected to make progress in reducing duplicate data entry requirements across CMHSP and provider systems.

#### **6.6.3.4 Third Party Resource Requirements**

CMHSPs are payers of last resort and will be required to identify and seek recovery from all other liable third parties in order to make themselves whole. Third party liability (TPL) refers to any other health insurance plan or carrier (e.g., individual, group, employer-related, self-insured or self-funded plan or commercial carrier, automobile insurance and worker's compensation) or program (e.g., Medicaid, Medicare) that has liability for all or part of a recipient's covered benefit. The CMHSP shall collect all payments available from other parties for services provided to its recipients. The CMHSP shall be responsible for identifying and collecting third party liability information and may retain third party collections, as provided for in Section 226a of the Michigan Mental Health Code.

#### **6.6.3.5 Vouchers**

Vouchers issued to recipients for the purchase of services provided by professionals may be utilized in non-contract agencies that have a written referral network agreement with the CMHSP that specifies credentialing and utilization review requirements. Voucher rates for such services shall be predetermined by the CMHSP using actual cost history for each service category and average local provider rates for like services.

Voucher arrangements for purchase of recipient-directed supports delivered by non-professional practitioners may be through a fee-for-service arrangement.

The use of vouchers is not subject to the provisions of Part II, Section 6.4.1 (Provider Contracts). However, the CMHSP remains responsible for ensuring the appropriate use of funds allocated to the recipient through a voucher, for establishing and verifying relevant qualifications of service providers, and for maintaining and reporting required fiscal, demographic and service data.

#### **6.6.3.6 Payment of State-Delivered Services**

- A. The CMHSP shall authorize payment, within forty-five (45) days of receiving the bill, for the actual number of authorized days of care provided to its recipients in state facilities.
- B. Payment for state-operated services shall be made at the net state-billing rate in effect on October 1 of each fiscal year. The net state-billing rate is based on the cost of providing appropriate care to patients less all other sources of reimbursement. The state net billing rate and the state operated service (purchase of services) rate provided to the CMHSP will be the same amount.
- C. The CMHSP shall authorize payment of the county match portion of the net cost of services provided to people who are residents as defined by Section 306 and Section 307 of the Michigan Mental Health Code.
- D. Authorization of undisputed bills shall be made within forty-five (45) days of receipt of the billing.
- E. The CMHSP shall identify to the MDCH disputes concerning bills on a case-by-case basis within 30 days of the bill and shall work with the MDCH in resolving these disputes on a timely basis.
- F. The MDCH may refer to the Michigan Department of Treasury (MDT) for collection of all bills that are both undisputed and overdue.

- G. Billing disputes must include details that clarify and justify the dispute, and should be submitted to the MDCH Accounting Section, if not resolved with the hospital/center reimbursement office.

## **6.7 State Lease Expiration**

The MDCH shall notify the CMHSP, in writing, of the expiration of the state lease for each residential facility at least one year prior to the expiration date of each residential facility. The CMHSP shall be responsible for any lease costs it causes the MDCH or any state agency subsequent to the expiration of the lease.

## **6.8 Quality Assessment and Performance Improvement Program Standards**

### **6.8.1 General**

The CMHSP shall have a fully operational Quality Assessment and Performance Improvement Program in place that meets the conditions specified in the Quality Assessment and Performance Improvement Program Technical Requirement.

**Note** that if a CMHSP is a Prepaid Health Plan or is affiliated with a Prepaid Health Plan, which is required through its Medicaid contract with MDCH to implement two QAPIP quality improvement projects, the involvement of the CMHSP in those two projects satisfies the QAPIP requirement for two performance improvement projects for the CMHSP under this contract.

### **6.8.2 Annual Effectiveness Review**

The CMHSP shall annually conduct an effectiveness review of its QAPIP. The effectiveness review must include analysis of whether there have been improvements in the quality of health care and services for recipients as a result of quality assessment and improvement activities and interventions carried out by the CMHSP. The analysis should take into consideration trends in service delivery and health outcomes over time and include monitoring of progress on performance goals and objectives. Information on the effectiveness of the CMHSP's QAPIP must be provided annually to network providers and to recipients upon request. Information on the effectiveness of the CMHSP's QAPIP must be provided to the MDCH upon request.

### **6.8.3 Behavior Treatment Plan Review Committee**

The CMHSP shall use a specially-constituted committee, such as a behavior treatment plan review committee, to review and approve or disapprove any plans that propose to use restrictive or intrusive interventions with individuals served by the public mental health system who exhibit seriously aggressive, self-injurious or other behaviors that place the individual or others at risk of physical harm. The Committee shall substantially incorporate the standards in Attachment C.6.8.3.1

Technical Requirement for Behavior Treatment Plans.

## **6.9 Service and Utilization Management**

The CMHSP shall assure that customers located in the service area have clear and identifiable access to needed supports and services when they are needed, and that supports and services are of high quality and delivered according to established regulations, standards, and best practice guidelines. The CMHSP shall also perform utilization management functions sufficient to control costs and minimize risk while assuring quality care and compliance with Section 208 of the Mental Health Code. Additional requirements are described in the following sub-sections.

### **6.9.1 State Managed Services**

- A. The CMHSP shall authorize medically necessary inpatient care in advance for all admissions in those instances where there is no community inpatient alternative. The CMHSP shall review treatment at intervals determined jointly between the authorizing CMHSP and the State Facility and authorize medically necessary continued stay. The application of this provision to NGRI and IST cases requires additional clarification stemming from the conditions specified in Chapter X of the Michigan Mental Health Code. The clarification and requirements are specified in the NGRI Protocol, Attachment C 6.9.1.1. The provisions of Chapter 10 shall apply to all authorizations.
- B. The MDCH and CMHSP agree that admissions must be medically necessary, that criteria specified in the Michigan Mental Health Code must be met for adults and children with mental illness, or that the criteria for judicial or administrative admission of a person with developmental disabilities must be met, and that inpatient care in a state hospital/center must be the most appropriate level of care available. The parties further agree that continued stay will be authorized, as long as the requirements for medical necessity are met.
- C. The CMHSP's authorization of admission and of continued treatment shall be the basis on which the CMHSP will reimburse the MDCH for the state cost of inpatient services provided in a state-managed hospital/center. The CMHSP's obligation for the local match cost of such services shall not be affected by this section. Service authorizations shall be conveyed in writing to the hospital/center. The MDCH contract manager shall be notified by the CMHSP within seven (7) days of the decision when the CMHSP determines that continued inpatient care is no longer warranted based on the criteria stated in the above item B, but the hospital/center did not discharge the recipient according to the recognized placement plan

developed according to Sections 209(a) and 209(b) of the Michigan Mental Health Code. The CMHSP shall not be liable for any inpatient services that have not been authorized by the CMHSP in this circumstance. Likewise, the MDCH contract manager shall be notified by the hospital/center whenever an authorization of continued stay by the CMHSP is clinically unwarranted in the judgment of the hospital/center. Such notification shall initiate a process for resolution of the differences.

- D. The CMHSP shall comply with the requirements of attachment C6.9.1.2 of this contract.

### **6.9.2 Individual Service Records**

The CMHSP shall establish and maintain a comprehensive individual service record system consistent with the provisions MCL 330.1746(1), other requirements stipulated in statute and rule, applicable standards contained in MSA Policy Bulletin Chapter I as it relates to the Children's Waiver, and – if the CMHSP has obtained accreditation consistent with MCL 330.1232a (3) - the standards set by the national accrediting organization. The CMHSP shall maintain in a legible manner, via hard copy or electronic storage/imaging, individual service records necessary to fully disclose and document the quantity, quality, appropriateness, and timeliness of services provided. The records shall be retained for a period of seven (7) years from the date of service or termination of service for any reason. This requirement must be extended to all of the CMHSP's provider agencies.

### **6.9.3 Other Service Requirements**

The CMHSP shall assure that in addition to those provisions specified in Part II, Section 3.0 “Access Assurance,” services are planned and delivered in a manner that reflects the values and expectations contained in the following guidelines:

- A. Housing Practice Guideline (Attachment C 6.9.3.1)
- B. Inclusion Practice Guideline (Attachment C 6.9.3.2)
- C. Consumerism Practice Guideline (Attachment C 6.9.3.3)

### **6.9.4 Coordination**

The CMHSP shall assure that services to each individual are coordinated with primary health care providers and other service agencies in the community that are serving the recipient. In this regard, the CMHSP will implement practices and agreements described in Part II, Section 6.4.3 of this contract.

### **6.9.5 Jail Diversion**

The CMHSP shall provide services designed to divert people that qualify for MH/DD services from a possible jail incarceration, when appropriate. Such services should be consistent with the Jail Diversion Practice Guideline. The CMHSP will collect data reflective of jail diversion activities and outcomes as indicated in the Practice Guideline, Attachment C 6.9.5.1 to this contract.

#### **6.9.6 School-to Community Transition**

The CMHSP shall participate in the development of school-to-community transition services for individuals with serious mental illness, serious emotional disturbance, or developmental disability. Participation shall be consistent with the MDCH School-to-Community Transition Guideline, Attachment 6.9.6.1 to this contract.

#### **6.9.7 Children's Waiver**

- A. The CMHSP shall identify children who meet the eligibility criteria for the Children's Waiver Program and submit to MDCH prescreens for those children.
- B. The CMHSP shall carry out administrative and operational functions delegated by MDCH to the CMHSPs as specified in the CMH approved (c) waiver application. These delegated functions include: level of care determination; review of participant service plans; prior authorization of waiver services; utilization management; qualified provider enrollment; quality assurance and quality improvement activities.
- C. The CMHSP shall determine the appropriate Category of Care/Intensity of Care and the amount of publicly funded hourly care for each Children's Waiver Program recipient per the Medicaid Provider Manual.
- D. The CMHSP shall assure that services are provided in amount, scope, and duration as specified in the approved plan.
- E. The CMHSP shall comply with this policy covering credentialing, temporary/provisional credentialing and re-credentialing processes for those individuals and organizational providers directly or contractually employed by the CMHSPs, as it pertains to the rendering of services within the Children's Waiver Program. CMHSPs are responsible for ensuring that each provider, directly or contractually employed, credentialed or non-credentialed, meets all applicable licensing, scope of practice, contractual and Medicaid Provider Manual qualifications and requirements. Please reference the applicable licensing statutes and standards, as well as the Medicaid Provider manual should you have questions concerning scope of practice or whether Medicaid funds can be used to pay for a specific service.

- F. The CMHSP shall bill Medicaid on a fee-for-service basis for all covered services delivered, in accordance with the most recent Medicaid manual, and in a timely manner.
- G. The CMHSP Office of Recipient Rights shall assure that the semi-annual and annual recipient rights data reports required by MCL 330.1755(5)(j) and MCL 330.1755(6) are submitted to the PIHP Quality Assessment and Performance Improvement Program (QAPIP) in addition to other entities and individuals specified in law. The CMHSPs shall ensure that there is a signed agreement between the CMHSP Office of Recipient Rights, the MDHS Bureau of Child and Adult Licensing (BCAL) and MDHS Children's Protective Services (CPS) regarding reporting and investigation of suspected abuse, neglect, and exploitation in programs operated or contracted with the CMHSP.

## **7.0 CONTRACT FINANCING**

The provisions provided in the following subsections describe the financing arrangements in support of this contract. The authorized funding to be provided by the MDCH to the CMHSP is included as Attachment C 7.0.1 to this contract.

DCH may revise the funding authorization contained in Attachment C 7.0.1 during the contract year without formal amendment. Such revisions in authorizations shall be incorporated in a final authorization that is transmitted to the CMHSP and shall be utilized for cost settlement purposes. These revisions may include state facility rate changes; resolved state facility full management/Purchase of Service disputes; state facility prior year adjustments; redistribution of unexpended ABW general fund balances as required by Appropriations Boilerplate and associated trade-offs as well as residential lease close outs and categorical authorization changes when these have been authorized by DCH. Additionally, with the mutual written concurrence of each of the involved CMHSPs and DCH, these authorization revisions may include transfers pursuant to section 236 and section 307 of the Mental Health Code.

### **7.1 Local Obligation**

The CMHSP shall provide the local financial obligation for services requiring local match, as stipulated by the Mental Health Code. In the event a CMHSP is unable to provide the required local obligation, the CMHSP shall notify the MDCH immediately. This may result in MDCH reducing the state portion of total financing available through this contract. The state obligation shall continue to be at the reduced level in the subsequent year unless the CMHSP provides the MDCH with a plan and assurances that the local obligation shortfall has been rectified.

### **7.2 Revenue Sources for Local Obligation**



The following sub-sections describe potential revenue sources for the CMHSP's local obligation:

### **7.2.1 County Appropriations**

Appropriations of general county funds to the CMHSP by the County Board of Commissioners.

### **7.2.2 Other Appropriations and Service Revenues**

Appropriations of funds to the CMHSP or its contract agencies by cities or townships; funds raised by fee-for-service contract agencies and/or network providers as part of the agencies' contractual obligation, the intent of which is to satisfy and meet the local match obligation of the CMHSP, as reflected in this contract.

### **7.2.3 Gifts and Contributions**

Grants, bequests, donations, gifts from local non-governmental sources, charitable institutions or individuals -- Gifts that specify the use of the funds for any particular individual identified by name or relationship may not be used as local match funds.

Local funds exclude grants or gifts received by the County, the CMHSP, or agencies contracting with the CMHSP, from an individual or agency contracting to provide services to the CMHSP.

An exception may be made, where the CMHSP can demonstrate that such funds constitute a transfer of grants or gifts made for the purposes of financing mental health services, and are not made possible by CMHSP payments to the contract agency that are claimed as matchable expenses for the purpose of state financing.

### **7.2.4 Special Fund Account**

CMHSPs may establish and maintain the Community Mental Health Special Fund Account that comports with Section 226a of the Michigan Mental Health Code.

CMHSPs may enter into subcontract agreements with Medicaid Health Plan (MHP) managed care organizations to provide the MHP's beneficiaries with outpatient mental health services.

So long as the reimbursement the CMHSPs receives from the MHPs fully covers the CMHSPs underlying cost of providing their beneficiaries with health plan services, the payments received from the MHP qualify as third party reimbursements under Section 226a of the Mental Health Code. Such funds may only be used as local match for State general fund/general purpose funding.

MHP funds held in a special fund account can never be used as matching funds for any federal program that requires match or used to provide matching funding to MDCH under contract section 7.4.5 implementation of P. A. 131 of 2009, Section 428. The CMHSP shall account for and report all MHP third party reimbursements separately from all other local fund revenue sources.

The Supplemental Security Income (SSI) benefit received by some residents in adult foster care homes is a Federal income supplement program designed to help aged, blind, and disabled people, who have little or no income. It provides cash to meet basic needs for food, clothing, and shelter. SSI income shall not be collected or recorded as a recipient fee or third-party reimbursement for purposes of Section 226a of the Mental Health Code. This includes the state supplement to SSI.

The Social Security Administration (SSA) benefit received by a CMHSP on behalf of a consumer does not qualify as a recipient fee or third-party reimbursement for purposes of Section 226a of the Mental Health Code.

#### **7.2.5 Investment Interest**

Interest earned on funds deposited or invested by or on behalf of the CMHSP, except as otherwise restricted by GAAP or OMB Circular A-87. Also, interest earned on MDCH funds by contract agencies and/or network providers as specified in its contracts with the CMHSP.

#### **7.2.6 Other Revenues for Mental Health Services**

As long as the source of revenue is not federal or state funds, revenues from other county departments/funds (such as childcare funds) and from public or private school districts for CMHSP mental health services.

#### **7.2.7 Intentionally Left Blank**

#### **7.2.8 MICHild**

Unexpended MICHild revenues are local funds.

### **7.3 Local Obligations - Requirement Exceptions**

The following services shall not require the CMHSP to provide a local obligation:

- A. Residential programs as defined in Section 309 of the Michigan Mental Health Code. Specialized residential services, as defined in Section 100d (6) of the Michigan Mental Health Code, includes mental health services that are expressly designed to provide rehabilitation and therapy to a recipient, that are

provided in the residency of the recipient, and that are part of a comprehensive individual plan of services.

- B. Services provided to people whose residency is transferred according to the provisions in Section 307 of the Michigan Mental Health Code.
- C. Programs for which responsibility is transferred to the CMHSP and the state is responsible for 100% of the cost of the program, consistent with the Michigan Constitution.
- D. Services provided to an individual under criminal sentence to a state prison.

## **7.4 MDCH Funding**

MDCH funding includes both state and federal funds (Children's Waiver, MIChild program, federal block grants,), which the state is responsible to manage. MDCH financial responsibility is specified in Chapter 3 of the Michigan Mental Health Code (P.A. 258 of the Public Acts of 1974, as amended) and the level of funding contained in the current year state legislative Appropriations Act. The financing in this contract is always contingent on the annual Appropriations Act.

### **7.4.1 State Mental Health General Fund Formula Funding**

The MDCH shall provide the CMHSP full year state mental health General Fund Formula Funding (GF formula funds) for recipients who meet the population and service requirements described in this contract. These funds shall be distributed based upon a formula.

The MDCH contract obligation is the aggregate of the GF Formula Funds and the as identified in Attachment C 7.0.1. Final authorization will be based on the actual payments, with the GF Formula funds being the residual authorization.

Beginning with the first month of this contract, the MDCH shall provide to the CMHSP an amount equal to one-month payment of the funding authorized in Attachment C 7.01 as Operations Base, State facility and Categorical. This pre-payment will be issued on the first Wednesday of each month. Prior to the issuance of the September GF payment, MDCH will reconcile the year-to-date GF payments and the actual payments for to determine the final GF obligation.

The full year GF formula funds authorized for this contract year is reflected in Attachment C 7.0.1.

#### **7.4.1.1 GF Formula Funds Calculation**

The General Funds appropriated to CMH that are non-categorical and not needed to support Medicaid payments, together with the General Funds authorized to CMH under the Purchase of Service line within the state budget, make up the GF formula funds provided to CMHSPs.

This funding is based upon the prior year full-year authorizations, including state facility funding, together with adjustments for executive orders, transfers and other program/policy requirements, including adjustments for hospital/center placements earned in the prior year and changes in current year state facility rates, plus any current year appropriation changes. The funding for state facility purchase of services and the state billing for net state rates will be the same amount. The MDCH has redistributed some of these formula funds across CMHSPs in prior years, and may do so again to further reduce identified financing inequities. Prior notice will be given to the CMHSP in the event of a redistribution.

#### **7.4.1.2 GF Funds Associated with Placements from the Developmental Disabilities Center**

It has been and continues to be state policy that Medicaid funding will be made available to support placements from the state center for persons with developmental disabilities. The CMHSP GF Formula Funds will be adjusted for state match needed for addition of Habilitation Supports Waiver certificates associated with DD Center placements. As part of the planning for the placement, the CMHSP and their respective PIHP will notify MDCH that they will be pursuing additional Habilitation Supports waiver enrollments at the time of the placement. The number of additional certificates will be capped based on the state funding that is available as part of the tradeoff and the number of 1915 (c) waiver certificates that state funding can support for that PIHP. In order to exercise this option, the PIHP cannot have had offsetting admissions to the center. Increased payments for Habilitation Supports waivers will be made in conjunction with decreases in the GF payments made to the PIHP or one of its CMHSP affiliates.

#### **7.4.1.3 Adjustment in GF Funds Due to Over-Payments for 1915 (c) Enrollment**

When PIHPs receive payments in excess of their identified dollar expenditure cap for 1915 (c) waiver payments for the fiscal year, except as approved by MDCH through re-allocation of certificates between PIHPs, and the statewide cap for the 1915 (c) waiver payments for the fiscal year is also exceeded, MDCH will apply a hierarchy of remedies to cover these costs. Remedies to be used include reductions in general fund allocations, as a final resort, to cover costs for both state and federal shares of payments received. In the case of affiliations, if the general fund allocation to the PIHP is reduced, MDCH will approve GF transfers, between the PIHP and its affiliates, for the year in which the general fund

allocation reduction is applied, to allow for the alignment, by county, of the lost general funds with the over-allocation of C waiver funds.

#### **7.4.2 Special and/or Designated Funds: Exclusions**

Special and/or Designated Funds (including categorical and earned revenue funds) are those funds that are earmarked by the MDCH for a specific purpose, project, and/or target population and are not included in the GF formula funding.

These funds and programs may be authorized through separate contractual arrangements between the CMHSP and the MDCH. These agreements typically include performance and outcome expectations, reporting requirements, and finance-related specifications. The CMHSP shall identify the revenues and expenditures associated with these projects as part of financial reporting required by this contract.

The full year Special and/or Designated Funds identified as categorical funding are state General Funds earmarked by the appropriation and the MDCH for a specific purpose, project, and/or target population. The categorical funding authorized through this contract is specified in Attachment C 7.0.1. Funding for any Special and/or Designated Funds shall not be redirected by the CMHSP without prior written approval of the MDCH.

#### **7.4.3 Fee-for-Service**

The Children's Waiver is a fee-for-service Medicaid program. The MDCH shall reimburse the CMHSP, in accordance with MDCH-approved budgets and Medicaid reimbursement policies, for billings submitted by the CMHSP for each beneficiary with a MDCH approved Children's Waiver. The CMHSP will be reimbursed based on the billings submitted, as this program shall not be pre-paid.

#### **7.4.4 MICHild**

The MDCH shall provide to the CMHSP the federal share of MICHild funds as a capitated payment based upon a Per Enrolled Child Per Month (PECPM) methodology for MICHild-covered mental health services. The primary MICHild payments will be scheduled based on the fourth Wednesday of each month. Payment will be available on the Thursday following the fourth Wednesday of the month. When applicable additional payments may be scheduled (i.e. retro-rate implementation). HIPAA compliant 834 and 820 transactions will provide eligibility and remittance information. See Attachment C 7.0.1 for the PECPM rates.

Unexpended MICHild capitated payments may be used as local funds in the following year.

#### **7.4.5 Implementation of Current Year Appropriation Act**

The CMHSP will participate in the implementation of the current year appropriation act which requires each PIHP shall provide, from internal resources, local funds to be used as a bona fide part of the state match required under the Medicaid program in order to increase capitation rates for the PIHPs.

The CMHSP agrees to provide local funds to the MDCH through the PIHP. The CMHSP agrees to provide local funds, in the amount stipulated in Attachment C 7.0.1, to the MDCH through the PIHP. These funds shall not include either state funds received by a CMHSP for services provided to non-Medicaid recipients or the state matching portion of the Medicaid capitation payments made to a CMHSP or an affiliation of CMHSPs. In the event that a CMHSP fails to meet this obligation and the PIHP has not made available other bona fide local funds to offset this obligation, MDCH will reduce the CMHSP State Mental Health General Fund authorization/payment to the CMHSP by an equivalent amount.

#### **7.5 Operating Practices**

The CMHSP shall comply with Generally Accepted Accounting Principles and other federal and state regulations. The final expenditure report shall reflect incurred but not paid claims. CMHSP program accounting procedures must comply with:

- A. Generally Accepted Accounting Principles for Governmental Units.
- B. Audits of State and Local Governmental Units, issued by the American Institute of Certified Public Accountants (current edition).
- C. OMB Circular A-87 except for the conditions described in 6.6.1.

#### **7.6 Audits**

The PIHP/CMHSP shall ensure the completion of a fiscal year end Financial Statement Audit conducted in accordance with Generally Accepted Auditing Standards (GAAS); and a fiscal year end Compliance Examination conducted in accordance with the American Institute of CPA's (AICPA's) Statements on Standards for Attestation Engagements (SSAE) 10 - Compliance Attestation, and the CMH Compliance Examination Guidelines in Attachment C 7.6.1.

The PIHP/CMHSP shall submit to the MDCH the Financial Statement Audit Report, the Compliance Examination Report, a Corrective Action Plan for any audit or examination findings that impact MDCH-funded programs, and management letter (if issued) with a response within 30 days after receipt of the practitioner's report, or June 30<sup>th</sup> following the contract year end. The PIHP or CMHSP must submit the reporting package by e-mail to MDCH at [MDCH-AuditReports@michigan.gov](mailto:MDCH-AuditReports@michigan.gov). The required materials must be assembled as one document in PDF file compatible with Adobe Acrobat (read only). The subject line must state the agency name and fiscal year end. MDCH reserves the right to

request a hard copy of the compliance examination report materials if for any reason the electronic submission process is not successful.

If the PIHP/CMHSP does not submit the required Financial Statement Audit Report, Compliance Examination Report, management letter (if issued) with a response, and Corrective Action Plan by the due date and an extension has not been approved by MDCH, MDCH may withhold from the current funding an amount equal to five percent of the audit year's grant funding (not to exceed \$200,000) until the required filing is received by MDCH. MDCH may retain the amount withheld if the PIHP/CMHSP is more than 120 days delinquent in meeting the filing requirements and an extension has not been approved by MDCH.

MDCH shall issue a management decision on findings and questioned costs contained in the PIHP/CMHSP Compliance Examination Report within eight months after the receipt of a complete and final reporting package. The management decision will include whether or not the Compliance Examination finding is sustained; the reasons for the decision; the expected PIHP/CMHSP action to repay disallowed costs, make financial adjustments, or take other action; and a description of the appeal process available to the PIHP/CMHSP. Prior to issuing the management decision, MDCH may request additional information or documentation from the PIHP/CMHSP, including a request for practitioner verification or documentation, as a way of mitigating disallowed costs.

The appeal process available to the PIHP/CMHSP relating to MDCH management decisions on Compliance Examination findings and disallowed costs is included in Attachment C 7.6.2.

## **7.7 Financial Planning**

In developing an overall financial plan, the CMHSP shall consider, the reinvestment of carry-forward savings, and the strategic approach in the management of risk, as described in the following sub-sections.

### **7.7.1 Savings Carry Forward**

Provisions regarding the carry forward of state mental health General Funds – authorized under MCL 330.1226(2)(c) - are included in the following sub-sections. Note that these provisions may be limited or canceled by the closeout provision in Part I, Section 13.0, Closeout, and may be modified by actions stemming from Part II, Section 8.0, Contract Remedies and Sanctions.

#### **7.7.1.1 General Fund Carry Forward**

At the conclusion of the fiscal year, the CMHSP may carry forward up to 5% of state mental health General Funds (formula funding) authorized through this contract. These funds shall be treated as state funds and shall be budgeted as a

CMHSP planned expenditure in the subsequent year. All carry-forward funds unexpended in the subsequent year shall be returned to the MDCH.

#### **7.7.2 Intentionally Left Blank**

#### **7.7.3 Intentionally Left Blank**

#### **7.7.4 Expenditures to Retire Unfunded Pension Liabilities**

The CMHSP may include expenditures to retire unfunded pension liabilities on the Financial Status Report if the liability is supported by an actuarial report, and the retirement of the unfunded pension liability complies with generally accepted accounting principles (GAAP). The CMHSP shall not, however, include expenditures to retire unfunded pension liabilities on the Financial Status Report if such expenditures would cause the CMHSP to exceed the contractual budget authorization from MDCH.

### **7.8 Finance Planning, Reporting and Settlement**

The CMHSP shall provide financial reports to the MDCH as specified in attachment C7.8.1. Forms and instructions are posted to the MDCH website address at: [http://www.michigan.gov/mdch/0,1607,7-132-2941\\_38765---,00.html](http://www.michigan.gov/mdch/0,1607,7-132-2941_38765---,00.html)

### **7.9 Legal Expenses**

The following legal expenses are ALLOWABLE:

- 1) Legal expenses required in the administration of the program on behalf of the State of Michigan or Federal Government.
- 2) Legal expenses relating to employer activities, labor negotiation, or in response to employment related issues or allegations, to the extent that the engaged services or actions are not prohibited under federal principles of allowable costs.
- 3) Legal expenses incurred in the course of providing consumer care. The PIHP/CMHSP must maintain documentation to evidence that the legal expenses are allowable. Invoices with no detail regarding services provided will not be sufficient documentation.

The following legal expenses are UNALLOWABLE:

- 1) Where the Michigan Department of Community Health (MDCH) or the Centers for Medicare & Medicaid Services (CMS) takes action against the provider by initiating an enforcement action or issuing an audit finding, then the legal costs of responding to the action are unallowable except as noted in the following circumstances.
  - a) The PIHP/CMHSP prevails and the action is reversed.  
Example: The audit finding is not upheld and the audit adjustment is reversed.



b) The PIHP/CMHSP prevails as defined by reduction of the contested audit finding(s) by 50 percent or more.

Example: An audit finding for an adjustment of \$50,000 is reduced to \$25,000. Or, in the case of several audit findings, a total adjustment of \$100,000 is reduced to \$50,000.

c) The PIHP/CMHSP enters into a settlement agreement with MDCH or CMS prior to any Hearing.

2) Legal expenses for the prosecution of claims against the State of Michigan or the Federal Government.

3) Legal expenses contingent upon recovery of costs from the State of Michigan or the Federal Government.

## **8.0 CONTRACT REMEDIES AND SANCTIONS**

The state will utilize a variety of means to assure compliance with contract requirements. The state will pursue remedial actions and possibly sanctions as needed to resolve outstanding contract violations and performance concerns. The application of remedies and sanctions shall be a matter of public record. The MDCH may utilize actions in the following order:

- A. Notice of the contract violation and conditions will be issued to the CMHSP with copies to the board.
- B. Require a plan of correction and specified status reports that become a contract performance objective (Attachment C 7.0.2).
- C. If previous items above have not worked, impose a direct dollar penalty and make it a non-matchable CMHSP administrative expense and reduce earned savings by the same dollar amount.
- D. For sanctions related to reporting compliance issues, the MDCH may delay 10% of scheduled payment amount to the CMHSP until after compliance is achieved. The MDCH may add time to the delay on subsequent uses of this provision. (Note: The MDCH may apply this sanction in a subsequent payment cycle and will give prior written notice to the CMHSP).
- E. Initiate contract termination.

The implementation of any of these actions does not require a contract amendment to implement. The sanction notice to the CMHSP is sufficient authority according to this provision. The use of remedies and sanctions will typically follow a progressive approach, but the MDCH reserves the right to deviate from the progression as needed to seek correction of serious, or repeated, or patterns of substantial non-compliance or performance problems. The CMHSP can utilize the dispute resolution provision of the contract to dispute a contract compliance notice issued by the MDCH.

The following are examples of compliance or performance problems for which remedial actions including sanctions can be applied to address repeated, or substantial breaches, or reflect a pattern of non-compliance or substantial poor performance. This listing is not meant to be exhaustive, but only representative.

- A. Reporting timeliness, quality and accuracy.
- B. Performance Indicator Standards.
- C. Repeated Site-Review non-compliance (repeated failure on same item).
- D. Failure to complete or achieve contractual performance objectives.
- E. Substantial inappropriate service denial of services required by this contract or substantial services not corresponding to condition. Substantial can be a pattern or large volume or small volume, but severe impact.
- F. Repeated failure to honor appeals/grievance assurances. Substantial or repeated health and/or safety violations.

## **9.0 RESPONSIBILITIES OF THE DEPARTMENT OF COMMUNITY HEALTH**

The MDCH shall be responsible for administering the public mental health system. It will administer contracts with CMHSPs, monitor contract performance, and perform the following activities:

### **9.1 General Provisions**

- A. Notify the CMHSP of changes in contractual services or conditions of providing contractual services.
- B. Protect against fraud and abuse involving MDCH funds and recipients in cooperation with appropriate state and federal authorities.
- C. Administer an alternative dispute resolution process for recipients not Medicaid eligible to consider issues regarding suspension, termination or reduction of services and supports defined in the Grievance and Appeal Technical Requirement.
- D. Collaborate with the CMHSP on quality improvement activities, fraud and abuse issues, and other activities that impact on the services provided to recipients.
- E. Conduct a recipient quality of life survey and publish the results.

- F. Review CMHSP marketing materials.
- G. Apply contract remedies necessary to assure compliance with contract requirements.
- H. Monitor the operation of the CMHSP to ensure access to quality care for all individuals in need of and qualifying for services.
- I. Monitor quality of care provided to recipients of CMHSP services and supports.
- J. Refer local issues back to the CMHSP.
- K. Coordinate efforts with other state departments involved in services to these populations.
- L. Administer the Children's Waiver Program.
- M. Administer the PASARR Program.
- N. When repeated health and welfare issues/emergencies are raised or concerns regarding timely implementation of medically necessary services the MDCH authority to take action is acknowledged by the CMHSP. During FY 10 MDCH will issue a protocol that addresses what actions will be taken.

## **9.2 Contract Financing**

The MDCH shall pay to the CMHSP, state general funds, MICHild capitation, and PASARR funds, as agreed to in the contract.

The MDCH shall immediately notify the CMHSP of modifications in funding commitments in this contract under the following conditions:

- A. Action by the Michigan state legislature that removes any MDCH funding for, or authority to provide for, specified services.
- B. Action by the Governor pursuant to Const. 1963, Art. 5, 320 that removes the MDCH's funding for specified services or that reduces the MDCH's funding level below that required to maintain services on a statewide basis.
- C. A formal directive by the Governor, or the Michigan Department of Management and Budget (State Budget Office) on behalf of the Governor, requiring a reduction in expenditures.

In the event that any of the conditions specified in the above items A through C occur, the MDCH shall issue an amendment to this contract reflective of the above condition.

## **9.3 State Facilities**

The MDCH agrees:

- A. To supply to the CMHSP, at the time of completion, copies of the State Facilities' ability-to-pay determination on each county resident admitted to a state facility, to inform the CMHSP of any claims on the financial assets of recipients and their families, and of any appeals by recipients or their families.
- B. To pursue all possible first- and third-party reimbursements.
- C. To provide the CMHSP with rates for state-managed services no later than October 1 of each fiscal year. Rates shall be issued that include the net state rate paid by the CMHSP and the gross rate on which the local share of facility billings is based.
- D. The protection and investigation of the rights of recipients while on inpatient status at the state hospital or center shall be the responsibility of the MDCH Office of Recipient Rights. When requested, the MDCH Office of Recipient Rights shall share appropriate information on investigations related to the CMHSP's residents in accordance with the confidentiality provisions of the Michigan Mental Health Code (P.A. 258 of 1974 as amended, Section 748).
- E. To comply with the NGRI Protocol C.6.9.1.1.
- F. To comply with attachment C6.9.1.2.

#### **9.4 Reviews and Audits**

The MDCH may conduct reviews and audits of the CMHSP regarding performance under this contract. The MDCH shall make good faith efforts to coordinate reviews and audits to minimize duplication of effort by the CMHSP and independent auditors conducting Compliance Examinations.

These reviews and audits will focus on CMHSP compliance with state and federal laws, rules, regulations, policies, and waiver provisions, in addition to contract provisions and CMHSP policy and procedure.

Reviews and audits shall be conducted according to the following protocols, except when conditions appear to be severe and warrant deviation or when state or federal laws supersede these protocols.

##### **9.4.1 MDCH Reviews**

Some parts of the Review and Audit procedures outlined in this section do not apply to MDCH site visits, in that those site visits combine the review of the CMHSP and the PIHP.

- A. As used in this section, a review is an examination or inspection by the MDCH or its agent, of policies and practices, in an effort to verify compliance with requirements of this contract.
- B. The MDCH will schedule reviews at mutually acceptable start dates to the extent possible, with the exception of those reviews for which advance announcement is prohibited by rule or federal regulation, or when the deputy director for the Health Care Administration determines that there is demonstrated threat to consumer health and welfare or substantial threats to access to care.
- C. Except as precluded in Part II, Section 9.4.1 (A) above, the guideline, protocol and/or instrument to be used to review the CMHSP, or a detailed agenda if no protocol exists, shall be provided to the CMHSP at least 30 days prior to the review.
- D. At the conclusion of the review, the MDCH shall conduct an exit interview with the CMHSP. The purpose of the exit interview is to allow the MDCH to present the preliminary findings and recommendations.
- E. Following the exit review, the MDCH shall generate a report within 45 days identifying the findings and recommendations that require a response by the CMHSP.
  - 1. The CMHSP shall have 30 days to provide a Plan of Correction (POC) for achieving compliance. The CMHSP may also present new information to the MDCH that demonstrates they were in compliance with questioned provisions at the time of the review. (New information can be provided anytime between the exit interview and the POC.) When access or care to individuals is a serious issue, the CMHSP may be given a much shorter period to initiate corrective actions, and this condition may be established, in writing, as part of the exit conference identified in C above.
  - 2. The MDCH will review the POC, seek clarifying or additional information from the CMHSP as needed, and issue an approval of the POC within 30 days of having required information from the CMHSP. The MDCH will take steps to monitor the CMHSPs implementation of the POC as part of performance monitoring.
  - 3. The MDCH shall protect the confidentiality of the records, data and knowledge collected for or by individuals or committees assigned a peer review function in planning the process of review and in preparing the review or audit report for public release.
- F. The CMHSP can appeal findings reflected in review reports through the dispute resolution process identified in this contract.

#### **9.4.2 MDCH Audits**

Some parts of the Review and Audit procedures outlined in this section do not apply to MDCH site visits, in that those site visits combine the review of the CMHSP and the PIHP.

- A. As used in this section, an audit is an examination of the CMHSP and their contract service providers' financial records, policies, contracts, and financial management practices, conducted by the MDCH Office of Audit or its agent, to verify the CMHSP's compliance with legal and contractual requirements.
- B. The MDCH will schedule audits at mutually acceptable start dates to the extent possible. The MDCH will provide the CMHSP with a list of documents to be audited at least 30 days prior to the date of the audit. An entrance meeting will be conducted with the CMHSP to review the nature and scope of the audit.
- C. The MDCH audits of CMHSPs will generally supplement the independent auditor's Compliance Examination and may include one or more of the following objectives:
  - 1. To assess the CMHSP's effectiveness and efficiency in complying with the contract, and establishing and implementing specific policies and procedures as required by the contract;
  - 2. To assess the CMHSP's effectiveness and efficiency in reporting their financial activity to the MDCH in accordance with contractual requirements; applicable federal, state, and local statutory requirements; Medicaid regulations; and applicable accounting standards; and
  - 3. To determine the MDCH's share of costs in accordance with applicable MDCH requirements and agreements, and any balance due to/from the CMHSP.

To accomplish the above listed audit objectives, MDCH auditors will review CMHSP documentation, interview CMHSP staff members, and perform other audit procedures as deemed necessary.

- D. The audit report and appeal process is identified in Attachment C 9.3.2.1 and is a part of this contract.

## **10.0 RESPONSIBILITIES OF THE DEPARTMENT OF ATTORNEY GENERAL**

The MDCH has responsibility and authority to make all fraud and/or abuse referrals to the Department of the Attorney General, Health Care Fraud Division. Contractors who have any suspicion or knowledge of fraud and/or abuse within any of the MDCH's programs must report directly to the MDCH by calling (866) 428-0005 or by sending a memo to:

Program Investigations Section  
Michigan Department of Community Health  
Capitol Commons Center Building  
400 S. Pine, 6th Floor  
Lansing, MI 48909

When reporting suspected fraud and/or abuse, the contractor should provide, if possible, the following information to the MDCH:

- Nature of the complaint
- The name of the individuals or entity involved in the suspected fraud and abuse, including name address, phone number and Medicaid identification number and/or any other identifying information

The contractor shall not attempt to investigate or resolve the reported alleged fraud and/or abuse. The contractor must cooperate fully in any investigation by the MDCH or Department of the Attorney General, and with any subsequent legal action that may arise from such investigation.

In addition, the PIHP must report the following to the MDCH on an annual basis:

- Number of complaints of fraud and abuse made to the state that warrants preliminary investigation.
- For each which warrants investigation, supply the
  1. Name
  2. ID number
  3. Source of complaint
  4. Type of provider
  5. Nature of complaint
  6. Approximate dollars involved, and
  7. Legal & administrative disposition of the case.

The annual report on fraud and abuse complaints is due to MDCH on January 31st, and should cover complaints filed with the state during the fiscal year. It should be filed electronically at MDCH-MHSA-Contracts-MGMT@michigan.gov.

**COUNTY OF FINANCIAL RESPONSIBILITY**  
**Technical Requirement for CMHSPs**  
**(Revised for FY12)**

**I. INTRODUCTION.**

Lack of statutory clarity with respect to establishing County of Financial Responsibility (COFR) has, in some cases, resulted in delays of appropriate services to consumers, protracted disputes and inconsistency of resolution across the state. This is particularly true for consumers who have never received services from a state operated facility and for whom financial responsibility is thus not addressed directly by Chapter 3 of the Mental Health Code. CMHSPs are statutorily responsible for serving persons 'located' in their jurisdiction even when responsibility for payment is in question. This technical requirement provides a contractual basis for determining County of Financial Responsibility and a process for resolving disputes, regardless of funding source.

This technical requirement is based on the following principles:

- Consumer's have a right to choose where they live, unless restricted by court order.
- Consumer requests for particular providers, regardless of location, must be considered within the person centered planning process.
- Capitation payments are intended to be a means of funding PIHPs to provide defined benefits to eligible beneficiaries within a system of services. As such, they are not intended as payment for services to any identified individual consumer. Therefore, this Requirement assumes that the receipt of a PEPM payment should not be considered in determining the COFR, nor is specific consideration of the amount of a PEPM a factor in determining the obligation to pay of the COFR.
- Funding for persons served through the Habilitation Services (1915-C) Waiver is intended to support services to named individuals. Thus, such funding should be considered when determining the payment obligation of a COFR when the consumer is served outside the COFR.
- Consumers served according to the terms of this contract must be provided appropriate service without delay resulting from issues of financial responsibility. Community Mental Health Services Programs/Prepaid inpatient Health Plans will act ethically to provide service to consumers meeting eligibility requirements when the COFR is disputed.

**II. ESTABLISHING COUNTY OF RESPONSIBILITY**

- A. General Rule.** For persons served under the terms of this contract, the financially responsible CMHSP is the one that served them in the county where they last lived independently.
- B. Children.** The COFR will be the county where the child and parents have their primary residence, unless the child (including individuals through age 19) is a temporary or permanent ward of the court. For temporary and permanent wards of the court (including tribal), the COFR is the county served by the 'court of record', which is where the child was made a ward of the court, or where jurisdiction of the court was transferred upon movement of the child. This court is the 'court of record', which is the 'court of jurisdiction'. For adopted children, once adoption proceedings are completed, the COFR is the county where the adoptive parents have their primary residence.

In the case of divorced parents, the COFR is the county in which the parent with legal and physical custody resides. If the parents have joint legal and physical custody, the COFR is the county of residence of the parent with whom the child lives while attending school.

In the case of a child placed by parents into the custody of a legal guardian with authority to consent, the COFR is the county in which the guardian resides, for the period of the placement. If the parent(s) place the child into the custody of another adult without guardianship, the COFR remains the county where the parent with legal and physical custody resides.



In the case of a voluntary placement of a child by parents into a 24-hour dependent care facility funded by a CMHSP, the COFR is the residence of the parent with legal and physical custody at the time of placement. If the parent(s) move during the placement, upon the children's discharge, the COFR is the county in which the parent with legal and physical custody resides.

A child who is legally emancipated, or reaches age 18, and establishes an independent residence shall be considered a resident of the county where he or she resides. A child who is discharged from a dependent care setting upon reaching age 18, and who is not a ward of the court, and establishes an independent residence shall be considered a resident of the county of that residence. The General Rule (A above) shall apply to a child who attains adult status by reaching the age of 18 or through legal emancipation when discharged into a new dependent setting, or when that adult chooses to remain in the same dependent setting, so long as that individual is no longer a ward of the court.

- C. Adults.** Consumers have the right to choose where they live, unless restricted by a court order.
- The choice shall be considered to be the consumer's/guardian's choice when it is not instigated or facilitated by a service manager or provider. Assistance by service managers or providers in a County to notify another County of the consumer's decision to move shall not be determined to be facilitation of the choice.

When a consumer, who is living dependently, chooses to relocate from County A to County B into a dependent living situation, the COFR shall remain the county in which he/she last lived independently.

When a consumer relocates to a dependent setting in County B from an independent setting in County A, County A shall remain the COFR, under any of the following circumstances:

- There is an existing agreement between County A and County B; or
- County A has continued to provide and pay for Mental Health Services; or
- The consumer requests services from County B within 120 days of relocation

When the CMH (including direct or contracted service providers), or DHS office initiates and facilitates the relocation of an adult consumer from County A to County B, County A shall remain the COFR.

When the consumer and/or his/her family wishes to obtain services in county B because services in County A have been determined to be unavailable through a Person-Centered Planning process, County A remains the COFR, with responsibility to authorize and pay for the service, if that service meets eligibility guidelines utilized by County A.

#### **D. Persons Living in Unlicensed Settings.**

Unlicensed settings are generally considered to be independent living. The COFR is the CMHSP serving the county where the residence is located. If the consumer's Level of Care and Intensity of Service required is equivalent to a dependent living setting, the consumer shall be considered to be in dependent care for the purposes of COFR. Equivalency to dependent care shall be established when the individual's Person Centered Plan provides for provision of eight or more hours of specialized services and/or supports in the residence each day.

#### **E. Provision of Specialized Mental Health Treatment Services to Persons in Nursing Homes.**

For provision of OBRA Specialized Services, the COFR is the county in which the nursing home is located. For mental health services which are not specialized, financial responsibility shall be assigned as in A. above.

**F. Jail.**

CMHSPs are responsible to provide mental health services to their local county correctional facilities (jails) on the same basis as they provide services to other persons located in their geographical jurisdiction. CMHSPs shall work with Jail personnel to ensure that all reimbursements for health services are pursued, including the county's (not the CMHSP's) responsibility to pay for the costs of health care. If a jailed individual requires State provided inpatient care, the COFR shall be the COFR prior to the individual entering jail. When an individual is released from jail and establishes an independent residence in the county of the jail, the COFR shall be the county in which the residence is located. If the person is released into a dependent setting, the COFR shall be assigned according to the General Rule (A. above).

**G. State Correctional Facility.**

When an individual is released, at the end of his/her sentence or on Parole, the COFR shall be the County in which the individual last lived independently prior to entering the correction facility, under the following circumstances:

- The individual has been receiving *specialized* mental health services in Prison, and is determined to have a continued and immediate need for services; or
- The individual requests specialized services, or is involuntarily committed for specialized services within 30 days of release AND
- Meets the eligibility standards for Medicaid or access standards of the CMHSP for GF funded services.

**H. Extent of Financial Liability.**

The County which is financially responsible shall pay the full cost of authorized services provided beginning on the date the consumer enters the service system.

It is the responsibility of the serving CMHSP to notify the CMHSP which is, or may be determined under this requirement to be, the COFR that a consumer has initiated a request for service or has been served in a crisis situation. Should the consumer's clinical condition prohibit gathering of information to determine COFR, the COFR's liability shall be limited to 30 days prior to notification by the serving board.

**I. Standard for Response by COFR.**

Upon notification that a consumer has requested services outside its jurisdiction, the COFR shall respond to a request by the servicing Program/PHP within the Access Standard timelines for all consumers, as specified in this contract.

**J. PEPM Payments/Medicaid Residency Status.**

Serving CMHSPs shall work to change Medicaid Residency Status, and the corresponding PEPM payment, where appropriate. However, Medicaid Residency status, and the PIHP receiving the capitated payment are not determining factors in establishing COFR.

**K. Contractual Arrangements.**

Nothing in this Requirement precludes a contractual arrangement between CMHSPs/PIHPs which specifies conditions, standards, or protocols other than those contained in this document, so long as those provisions are consistent with statute and regulation and do not violate provisions found elsewhere in this contract.

**III. DISPUTE RESOLUTION**

Good faith efforts to resolve disputes, utilizing principles of ethical conduct, and the standards contained in this document must be made prior to initiating this Dispute Resolution process. In order to facilitate informal dispute resolution, each CMHSP/PIHP shall provide the name of a responsible contact person to the manager of this contract and to the MACMHB for publication on its website. This good faith effort shall include documented notification of the Executive Director of each CMHSP regarding the known facts and areas of disagreement within two business days of identification of the disagreement.

When formal Dispute Resolution is required, the following process shall be used:

**A. Dispute Resolution Committee.**

A COFR Dispute Resolution Committee, consisting of three persons, shall be constituted annually, at the beginning of the fiscal year. One person shall be appointed by DCH and two shall be appointed by the MACMHB. Vacancies on the committee shall be filled within ten days. The Committee shall appoint its chair by consensus. The MACMHB shall appoint a third person who will serve as an alternate representative in cases which would present a conflict of interest for one of the regular representatives.

**B. Initiation of Dispute Resolution.**

Either party may initiate dispute resolution by notifying the MACMHB and the DCH Contract Manager identified in this contract in writing.

**C. Fact Finding.**

The MACMHB shall notify each Board/PIHP, and all members of the Dispute Resolution Committee, within three business days of receiving notification, that a formal dispute has been received. Each CMHSP shall respond to DCH and the MACMHB, with a copy to the other CMHSP/PIHP, within three business days with a written response, including

- The facts as each entity sees them;
- The rationale for their position, including documents to support their position. In cases involving a child who is a ward of the court, documents must include a court order which establishes the 'court of record/jurisdiction'. Additional documents may be presented at the hearing.

**D. Dispute Resolution Meeting.**

The Dispute Resolution Committee will designate a time and place for a

resolution meeting, which will be held no later than 30 days following submission of the facts identified in B. above. At this time

- Each CMHSP's (or PIHP's in cases involving Medicaid) designated responsible representative will attend. Each representative will be provided an opportunity to make a verbal presentation regarding the case. Each CMHSP (PIHP) representative must be empowered by its CMHSP (PIHP) to negotiate a settlement of the dispute.
- Should a negotiated settlement not be reached at this meeting, the committee will meet, without others present, to arrive at a decision reached by majority vote of the Resolution Committee.
- The decision shall be reached, and conveyed to the disputing parties, on the day of the meeting.
- A record of each proceeding, including documentation of the facts and the decision, shall be kept by the DCH and by the MACMHB for public review.

#### **IV. DEFINITIONS**

**“Living Independently”**. The following factors will be used to determine whether a person is ‘living independently’:

- The location in which the person is residing is not transient. For example, residing in a motel or hotel which is rented by the day or week, without intent to remain in the community is not considered ‘living independently.’ Likewise, placement in a half-way house upon release from jail or prison is not considered ‘living independently.’ Living in a vehicle is also not considered ‘living independently.’
- Migrant workers shall be considered the responsibility of the CMHSP in which they are housed.
- The intent of the individual to be part of the community shall be considered. For example, persons who are homeless, living on the street or in a shelter shall be considered part of the community, when the intent of the person is to remain in the community.
- The location in which the person resided prior to moving into a county was not a boarding school, a facility, or a dependent living setting as defined in the Mental Health Code and utilized in Section 306 thereof.

**Provider.** As used in Part II, C above, means a provider of specialized behavioral health services or a dependent living site regardless of whether such services are delivered under contract with a CMHSP/PIHP.

## **PREPAID INPATIENT HEALTH PLANS AND COMMUNITY MENTAL HEALTH SERVICES PROGRAMS**

### **ACCESS SYSTEM STANDARDS**

Revised October, 2011

#### **Preamble**

It is the expectation of the Michigan Department of Community Health (MDCH) that Prepaid Inpatient Health Plans' (PIHPs) and Community Mental Health Services Programs' (CMHSPs) access systems function not only as the front doors for obtaining services from their helping systems but that they provide an opportunity for residents with perceived problems resulting from trauma, crisis, or problems with functioning to be heard, understood and provided with options. The Access System is expected to be available and accessible to all individuals on a telephone and a walk-in basis. Rather than screening individuals "in" or "out" of services, it is expected that access systems first provide the person "air time," and express the message: "How may I help you?" This means that individuals who seek assistance are provided with guidance and support in describing their experiences and identifying their needs in their own terms, then assistance with linking them to available resources. CMHSPs and PIHPs are also expected to conduct active outreach efforts throughout their communities to assure that those in need of mental health services are aware of service entry options and encouraged to make contact. In order to be welcoming to all who present for services, the access systems must be staffed by workers who are skilled in listening and assisting the person with trauma, crisis or functioning difficulties to sort through their experience and to determine a range of options that are, in practical terms, available to that individual. Access Systems are expected to be capable of responding to all local resident groups within their services area, including being culturally-competent, able to address the needs of persons with co-occurring mental illness and substance use disorders. Furthermore, it is expected that the practices of access systems and conduct of their staff reflect the philosophies of support and care that MDCH promotes and requires through policy and contract, including person-centered, self-determined, recovery-oriented, trauma-informed, and least restrictive environments.

#### **Functions**

The key functions of an access system are to:

1. **Welcome** all individuals by demonstrating empathy and providing opportunity for the person presenting to describe situation, problems and functioning difficulties, exhibiting excellent customer service skills, and working with them in a non-judgmental way.
2. **Screen** individuals who approach the access system to determine whether they are in crisis and, if so, assure that they receive timely, appropriate attention.
3. **Determine** individuals' eligibility for Medicaid specialty services and supports, Adult Benefits Waiver (ABW), MICHild or, for those who do not have any of

these benefits as a person whose presenting needs for mental health services make them a priority to be served.

4. **Collect information** from individuals for decision-making and reporting purposes.
5. **Refer** individuals in a timely manner to the appropriate mental health practitioners for assessment, person-centered planning, and/or supports and services; or, if the individual is not eligible for PIHP or CMHSP services, to community resources that may meet their needs.
6. **Inform** individuals about all the available mental health and substance abuse services and providers and their due process rights under Medicaid, ABW or MICHild, and the Michigan Mental Health Code.
7. **Conduct outreach** to under-served and hard-to-reach populations and be accessible to the community-at-large.

### **STANDARDS**

These standards apply to all PIHPs and CMHSPs, whether the access system functions are directly provided by the PIHP or CMHSP, or are ‘delegated’ in whole or in part to a subcontract provider(s). Hereinafter, the above entities are referred to as “the organization.” These standards provide the framework to address all populations that may seek out or request services of a PIHP or CMHSP including adults and children with developmental disabilities, mental illness, and co-occurring mental illness and substance use disorder. For individuals with substance use disorders, the Access Management Standards for Substance Use Disorder Services shall apply for access to substance use disorder treatment. Access Management Standards for Substance Use Disorder Services can be found at:

[http://www.michigan.gov/documents/mdch/Policy\\_Tx\\_07\\_AMS\\_183337\\_7.pdf](http://www.michigan.gov/documents/mdch/Policy_Tx_07_AMS_183337_7.pdf)

#### **I. WELCOMING**

- a. The organization’s access system services shall be available to all residents of the state of Michigan, regardless of where the person lives, or where he/she contacts the system. Staff shall be welcoming, accepting and helping with all applicants for service<sup>1</sup>.
- b. The access system shall operate or arrange for an access line that is available 24 hours per day, seven days per week; including in-person and by-telephone access for hearing impaired individuals. Telephone lines are toll-free; accommodate Limited English Proficiency (LEP); are accessible for individuals with hearing impairments; and have electronic caller identification, if locally available<sup>2</sup>.
  - i. Callers encounter no telephone “trees,” and are not put on hold or sent to voicemail until they have spoken with a live representative from the access system and it is determined, following an

<sup>1</sup> MDCH Specialty Pre-Paid Health Plan 2002 Application for Participation (AFP), Section 3.1

<sup>2</sup> 42 CFR § 438.10 and 438.206. Michigan Mental Health Code, P.A. 258 of 1974 (MHC) §330.1206. MDCH/PIHP & CMHSP Contracts, Part II, Section 3.4.2. MDCH AFP, Section 3.1.8

- empathetic opportunity for the caller to express their situation and circumstances, that their situation is not urgent or emergent.
- ii. All crisis/emergent calls are immediately transferred to a qualified practitioner without requiring an individual to call back.
  - iii. For non-emergent calls, a person's time on-hold awaiting a screening must not exceed **three minutes** without being offered an option for callback or talking with a non-professional in the interim.
  - iv. All non-emergent callbacks must occur within **one business day** of initial contact.
  - v. For organizations with decentralized access systems, there must be a mechanism in place to forward the call to the appropriate access portal without the individual having to re-dial.
- c. The access system shall provide a timely, effective response to all individuals who walk in.
- i. For individuals who walk in with urgent or emergent needs<sup>3</sup>, an intervention shall be immediately initiated.
  - ii. Those individuals with routine needs must be screened or other arrangements made within **thirty minutes**.
- d. The access system shall maintain the capacity to immediately accommodate individuals who present with:
- i. LEP and other linguistic needs
  - ii. Diverse cultural and demographic backgrounds
  - iii. Visual impairments
  - iv. Alternative needs for communication
  - v. Mobility challenges<sup>4</sup>
- e. The access system shall address financial considerations, including county of financial responsibility as a secondary administrative concern, only after any urgent or emergent needs of the person are addressed. Access system screening and crisis intervention shall never require prior authorization; nor shall access system screening and referral ever require any financial contribution from the person being served<sup>5</sup>.
- f. The access system shall provide applicants with a summary of their rights guaranteed by the Michigan Mental Health Code, including information about their rights to the person-centered planning process and assure that they have access to the pre-planning process as soon as the screening and coverage determination processes have been completed<sup>6</sup>.

## II. SCREENING FOR CRISES

- a. Access system staff shall first determine whether the presenting mental health need is urgent, emergent or routine and, if so, will address emergent

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<sup>3</sup> For definition of emergent and urgent situations, see MHC §330.1100a and 1100d

<sup>4</sup> 42 CFR § 438.10. MDCH/PIHP & CMHSP Contracts, Part II, Section 3.4.2. MDCH AFP, Section 3.1.8

<sup>5</sup> 42 CFR §438.114

<sup>6</sup> MDCH/PIHP & CMHSP Contracts, Part II, Section 3.4.1 and Attachment 3.4.1.1; MCL 330.1706

and urgent need first. To assure understanding of the problem from the point of view of the person who is seeking help, methods for determining urgent or emergent situations must incorporate “caller or client-defined” crisis situations. Workers must be able to demonstrate empathy as a key customer service method.

- b. The organization shall have emergency intervention services with sufficient capacity to provide clinical evaluation of the problem; to provide appropriate intervention; and to make timely disposition to admit to inpatient care or refer to outpatient services<sup>7</sup>. The organization may use: telephonic crisis intervention counseling, face-to-face crisis assessment, mobile crisis team, and dispatching staff to the emergency room, as appropriate. The access system shall perform or arrange for inpatient assessment and admission, or alternative hospital admissions placements, or immediate linkage to a crisis practitioner for stabilization, as applicable<sup>8</sup>.
- c. The access system shall inquire as to the existence of any established medical or psychiatric advance directives relevant to the provision of services<sup>9</sup>.
- d. The organization shall assure coverage and provision of post stabilization services for Medicaid beneficiaries once their crises are stabilized<sup>10</sup>. Individuals who are not Medicaid beneficiaries, but who need mental health services and supports following crisis stabilization, shall be referred back to the access system for assistance.

### **III. DETERMINING COVERAGE ELIGIBILITY FOR PUBLIC MENTAL HEALTH OR SUBSTANCE ABUSE TREATMENT SERVICES**

- a. The organization shall ensure access to public mental health services in accordance with the MDCH/PIHP and MDCH/CMHSP contracts<sup>11</sup> and:
  - i. The Mental Health and Substance Abuse Chapter of the Medicaid Provider Manual, if the individual is a Medicaid beneficiary.
  - ii. The Adult Benefits Waiver (ABW) Chapter of the Medicaid Provider Manual, if the individual is an ABW beneficiary.
  - iii. The MICHild Provider Manual if the individual is a MICHild beneficiary.
  - iv. The Michigan Mental Health Code and the MDCH Administrative Rules, if the individual is not eligible for Medicaid, ABW or MICHild<sup>12</sup>. CMHSPs shall serve individuals with serious mental illness, serious emotional disturbance and developmental disabilities, giving priority to those with the most serious forms of

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<sup>7</sup> MDCH Administrative Rule 330.2006

<sup>8</sup> MHC § 330.1206 and 1409

<sup>9</sup> 42 CFR §438.6; MCL 700.5501 et seq

<sup>10</sup> 42 CFR §438.114. MDCH/PIHP Contract, Part I, Section 1

<sup>11</sup> MDCH/PIHP & CMHSP Contracts, Part II, Section 3

<sup>12</sup> MHC §330.1208



- illness and those in urgent and emergent situations. Once the needs of these individuals have been addressed, MDCH expects that individuals with other diagnoses of mental disorders with a diagnosis found in the most recent Diagnostic and Statistical Manual of Mental Health Disorders (DSM)<sup>13</sup>, will be served based upon agency priorities and within the funding available.
- b. The responsible organization shall ensure access to public substance abuse treatment services in accordance with the MDCH/PIHP and MDCH/Substance Abuse Coordinating Agency (CA) contracts<sup>14</sup> and:
    - i. The Mental Health and Substance Abuse Chapter of the Medicaid Provider Manual, if the individual is a Medicaid beneficiary.
    - ii. The Adult Benefits Waiver Chapter of the Medicaid Provider Manual, if the individual is an ABW beneficiary.
    - iii. The MICHild Provider Manual if the individual is a MICHild beneficiary.
    - iv. The priorities established in the Michigan Public Health Code, if the individual is not eligible for Medicaid, ABW or MICHild<sup>15</sup>.
  - c. The organization shall ensure that screening tools and admission criteria are based on eligibility criteria in parts III.a. and III.b. above, and are valid, reliable, and uniformly administered<sup>16</sup>.
  - d. The organization shall be capable of providing the Early Periodic Screening, Diagnostic and Treatment (EPSDT) corrective or ameliorative services that are required by the MDCH/PIHP specialty services and supports contract<sup>17</sup>.
  - e. When clinical screening is conducted, the access system shall provide a written (hard copy or electronic) screening decision of the person's eligibility for admission based upon established admission criteria. The written decision shall include:
    - i. Identification of presenting problem(s) and need for services and supports.
    - ii. Initial identification of population group (DD, MI, SED, or SUD) that qualifies the person for public mental health and substance use disorder services and supports.
    - iii. Legal eligibility and priority criteria (where applicable).
    - iv. Documentation of any emergent or urgent needs and how they were immediately linked for crisis service.
    - v. Identification of screening disposition.
    - vi. Rationale for system admission or denial.

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<sup>13</sup> The **Diagnostic and Statistical Manual of Mental Disorders (DSM)** is an [American](#) handbook for [mental health professionals](#) that lists different categories of [mental disorders](#) and the criteria for diagnosing them, according to the publishing organization the [American Psychiatric Association](#)

<sup>14</sup> MDCH/CA contract, Attachment A, Statement of Work, and Attachment E, Methadone Enrollment Criteria and Access Management Policy

<sup>15</sup> Public Health Code P.A. 368 of 1978 §333.6100 and 6200 and MDCH Administrative Rule 325.14101

<sup>16</sup> MDCH AFP, Section 3.1.5

<sup>17</sup> MDCH/PIHP Contract, Part II, Section 3.4.3. Michigan Medicaid Provider Manual, Practitioner Chapter

- f. The access system shall identify and document any third-party payer source(s) for linkage to an appropriate referral source, either in network, or out-of-network.
- g. The organization shall not deny an eligible individual a service because of individual/family income or third-party payer source<sup>18</sup>.
- h. The access system shall document the referral outcome and source, either in-network or out-of-network.
- i. The access system shall document when a person with mental health needs, but who is not eligible for Medicaid, ABW or MICHild, is placed on a 'waiting list' and why<sup>19</sup>.
- j. The organization shall assure that an individual who has been discharged back into the community and is requesting entrance to a PIHP/CMHSP or provider, shall not have to go through the duplicative screening process. They shall be triaged for presenting mental health needs per urgent, emergent or routine.

#### **IV. COLLECTING INFORMATION**

- a. The access system shall avoid duplication of screening and assessments by using assessments already performed or by forwarding information gathered during the screening process to the provider receiving the referral, in accordance with applicable federal/state confidentiality guidelines (e.g. 42 CFR Part 2 for substance use disorders).
- b. The access system shall have procedures for coordinating information between internal and external providers, including Medicaid Health Plans and primary care physicians<sup>20</sup>.

#### **V. REFERRAL TO PIHP or CMHSP PRACTITIONERS**

- a. The access system shall assure that applicants are offered appointments for assessments with mental health professionals of their choice within the MDCH/PIHP and CMHSP contract-required standard timeframes<sup>21</sup>. Staff follows up to ensure the appointment occurred.
- b. The access system shall ensure that, at the completion of the screening and coverage determination process, individuals who are accepted for services have access to the person-centered planning process<sup>22</sup>.
- c. The access system shall ensure that the referral of individuals with co-occurring mental illness and substance use disorders to PIHP or CMHSP or other practitioners must be in compliance with confidentiality requirements of 42 CFR.

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<sup>18</sup> MHC §330.1208

<sup>19</sup> MHC §330.1226

<sup>20</sup> 42 CFR §438.208

<sup>21</sup> Choice of providers: 42 CFR §438.52. MDCH/PIHP & CMHSP Contracts, Part II, Section 3.4.4. Timeframes for access: Section 3.1

<sup>22</sup> MDCH AFP, Section 3.2. MDCH/PIHP & CMHSP Contracts, Part II, Section 3.4.1 and Attachment 3.4.1.1

## **VI. REFERRAL TO COMMUNITY RESOURCES**

- a.** The access system shall refer Medicaid beneficiaries who request mental health services, but do not meet eligibility for specialty supports and services, to their Medicaid Health Plans<sup>23</sup> or Medicaid fee-for-service providers.
- b.** The access system shall refer individuals who request mental health or substance abuse services but who are neither eligible for Medicaid, ABW, or MICHild mental health and substance abuse services, nor who meet the priority population to be served criteria in the Michigan Mental Health Code or the Michigan Public Health Code for substance abuse services, to alternative mental health or substance abuse treatment services available in the community.
- c.** The access system shall provide information about other non-mental health community resources or services that are not the responsibility of the public mental health system to individuals who request it<sup>24</sup>.

## **VII. INFORMING INDIVIDUALS**

### **a. General**

- i.** The access system shall provide information about, and help people connect as needed with, the organization's Customer Services Unit, peer supports specialists and family advocates; and local community resources, such as: transportation services, prevention programs, local community advocacy groups, self-help groups, service recipient groups, and other avenues of support, as appropriate<sup>25</sup>.

### **b. Rights**

- i.** The access system shall provide Medicaid, ABW and MICHild beneficiaries information about the local dispute resolution process and the state Medicaid Fair Hearing process<sup>26</sup>. When an individual is determined ineligible for Medicaid specialty service and supports, ABW or MICHild mental health services, he/she is notified both verbally and in-writing of the right to request a second opinion; and/or file an appeal through the local dispute resolution process; and/or request a state Fair Hearing.
- ii.** The access system shall provide individuals with mental health needs or persons with co-occurring substance use/mental illness with information regarding the local community mental health Office of Recipient Rights (ORR)<sup>27</sup>. The access system shall provide individuals with substance use disorders, or persons with

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<sup>23</sup> 42 CFR §438.10

<sup>24</sup> MDCH AFP, Section 2.9

<sup>25</sup> MDCH AFP, Section 2.9

<sup>26</sup> 42 CFR § 438.10. MDCH/PIHP Contract, Part II, Section 6.3.2 and Attachment 6.3.2.1

<sup>27</sup> MHC §330.1706

co-occurring substance use/mental illness with information regarding the local substance abuse coordinating Office of Recipient Rights<sup>28</sup>.

- iii. When an individual with mental health needs who is not a Medicaid beneficiary is denied community mental health services, for whatever reason, he/she is notified of the right under the Mental Health Code to request a second opinion and the local dispute resolution process<sup>29</sup>.
- iv. The access system shall schedule and provide for a timely second opinion, when requested, from a qualified health care professional within the network, or arrange for the person to obtain one outside the network at no cost. The person has the right to a face-to-face determination, if requested<sup>30</sup>.
- v. The access system shall ensure the person and any referral source (with the person's consent) are informed of the reasons for denial, and shall recommend alternative services and supports or disposition<sup>31</sup>.

**c. Services and Providers Available**

- i. The access system shall assure that applicants are provided comprehensive and up-to-date information about the mental health and substance abuse services that are available and the providers who deliver them<sup>32</sup>.
- ii. The access system shall assure that there are available alternative methods for providing the information to individuals who are unable to read or understand written material, or who have LEP<sup>33</sup>.

**VIII. ADMINISTRATIVE FUNCTIONS**

- a. The organization shall have written policies, procedures and plans that demonstrate the capability of its access system to meet the standards herein.
- b. **Community Outreach and Resources**
  - i. The organization shall have an active outreach and education effort to ensure the network providers and the community are aware of the access system and how to use it.
  - ii. The organization shall have a regular and consistent outreach effort to commonly un-served or underserved populations who include children and families, older adults, homeless persons, members of ethnic, racial, linguistic and culturally-diverse groups, persons with dementia, and pregnant women.<sup>34</sup>

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<sup>28</sup> MDCH Administrative Rule 325.14302

<sup>29</sup> MHC §330.1706, MDCH/CMHSP Contract, Part II, Attachment 6.3.2.1

<sup>30</sup> MDCH/PIHP & CMHSP Contract, Part II, Section 3.4.5

<sup>31</sup> 42 CFR § 438.10

<sup>32</sup> 42 CFR § 438.10, MDCH/PIHP Contract, Part II, Section 6.3.3. MDCH AFP, Section 3.1.1

<sup>33</sup> 42 CFR § 438.10, MDCH/PIHP Contract, Part II, Section 6.3.3

<sup>34</sup> MDCH AFP, Section 3.1.2

- iii. The organization shall assure that the access system staff are informed about, and routinely refer individuals to, community resources that not only include alternatives to public mental health or substance abuse treatment services, but also resources that may help them meet their other basic needs.
- iv. The organization shall maintain linkages with the community's crisis/emergency system, liaison with local law enforcement, and have a protocol for jail diversion.

**c. Oversight and Monitoring**

- i. The organization's Medical Director shall be involved in the review and oversight of access system policies and clinical practices.
- ii. The organization shall assure that the access system staff are qualified, credentialed and trained consistent with the Medicaid Provider Manual, MICHild Provider Manual, the Michigan Mental Health Code, the Michigan Public Health Code, and this contract<sup>35</sup>.
- iii. The organization shall have mechanisms to prevent conflict of interest between the coverage determination function and access to, or authorization of, services.
- iv. The organization shall monitor provider capacity to accept new individuals, and be aware of any provider organizations not accepting referrals at any point in time<sup>36</sup>.
- v. The organization shall routinely measure telephone answering rates, call abandonment rates and timeliness of appointments and referrals. Any resulting performance issues are addressed through the organization's Quality Improvement Plan.
- vi. The organization shall assure that the access system maintains medical records in compliance with state and federal standards<sup>37</sup>.
- vii. The organization staff shall work with individuals, families, local communities, and others to address barriers to using the access system, including those caused by lack of transportation<sup>38</sup>.

**d. Waiting Lists**

- i. The organization shall have policies and procedures for maintaining a waiting list for individuals not eligible for Medicaid, ABW or MICHild, and who request community mental health services but cannot be immediately served<sup>39</sup>. The policies and procedures shall minimally assure:

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<sup>35</sup> 42 CFR §438.214. MDCH/PIHP Contract, Part II, Attachment 6.7.1.1

<sup>36</sup> 42 CFR §438.10

<sup>37</sup> Michigan Medicaid Provider Manual, General Information Chapter, Section 13.1

<sup>38</sup> MDCH AFP, Section 3.1.10

<sup>39</sup> MHC §330.1124

1. No Medicaid, ABW and MICHild beneficiaries are placed on waiting lists for any medically necessary Medicaid, ABW or MICHild service.
2. A local waiting list shall be established and maintained when the CMHSP is unable to financially meet requests for public mental health services received from those who are not eligible for Medicaid, ABW, or MICHild<sup>40</sup>. Standard criteria will be developed for who must be placed on the list, how long they must be retained on the list, and the order in which they are served.
3. Persons who are not eligible for Medicaid, ABW, or MICHild, who receive services on an interim basis that are other than those requested shall be retained on the waiting list for the specific requested program services. Standard criteria will be developed for who must be placed on the list, how long they must be retained on the list, and the order in which they are served.
4. Use of a defined process, consistent with the Mental Health Code, to prioritize any service applicants and recipients on its waiting list.
5. Use of a defined process to contact and follow-up with any individual on a waiting list who is awaiting a mental health service.
6. Reporting, as applicable, of waiting list data to MDCH as part of its annual program plan submission report in accordance with the requirements of the Mental Health Code.

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<sup>40</sup> MHC §330.1208

**Michigan Recovery Council**  
**Recovery Policy and Practice Advisory**  
**Version: 6/13/11**

**Purpose and Application**

It is the policy of Michigan Department of Community Health (MDCH) that services and supports provided to individuals with mental illness including co-occurring conditions are based in recovery. This policy and practice guideline specifies the expectations for the Pre-paid Inpatient Health Plans (PIHPs), Community Mental Health Service Programs (CMHSPs) and their provider networks. It is the culmination of a series of intentional milestones that include: the creation of the Michigan Recovery Council (to give voice), establishment of the Michigan Recovery Center of Excellence (to share resources) and the development of a peer workforce (to share the journey).

In order to move toward a recovery-based system of services, the beliefs and knowledge about recovery must be strengthened. MDCH asked the Recovery Council to develop and has adopted the following recovery statement, guiding principles and expectations for systems change:

**Recovery Statement**

Recovery is choosing and reclaiming a life full of meaning, purpose and one's sense of self. It is an ongoing personal and unique journey of hope, growth, resilience and wellness. In that journey, recovery builds relationships supporting a person's use of their strengths, talents and passions. Recovery is within each and every individual.

**Guiding Principles of Recovery**

The following principles outline essential features of recovery for the individual:

1. *Recovery is a Personal Journey* and each person can attain and regain their hopes and dreams in their own way. Each journey is grounded in hope, and a sense of boundless possibilities. The strength, talent and abilities of each individual provide an opportunity to reach his or her own life goals. Everyone can attain and maintain recovery and move to a place of independence beyond the public mental health system.
2. *Recovery includes all Aspects of Life* and is driven through the services and supports selected and controlled by the individual. Partnerships are formed based on trust and respect. Recovery will be attained and maintained with the support of friends, family, peers, advocates and providers.
3. *Recovery is Life Long* and requires ongoing learning. Each individual has the courage to plan for and achieve wellness. Increased personal knowledge builds experience in advocating for services and supports.

4. *Recovery Supports Health and Wellness* and is the responsibility of each individual with support from others who provide physical and mental health services. Integrating physical and mental health is essential to wellness. Through self advocacy and support, the highest attainable quality of life will be achieved. With the integration of mental health and physical health, increased length of life is possible.

### **Expectations for Implementation of Recovery Practices**

Based on the above principles, the Recovery Council established the following expectations to guide organizations at all levels in creating an environment and system of supports that foster recovery:

1. Promote changes in state law and policies at all levels to establish effective communication between peers, within systems and among service providers.

#### Requirements:

- Provide ongoing education to stakeholders on recovery principles and practices in conjunction with state level policies including recovery, trauma informed care, person-centered planning, and self-determination.
  - Develop and maintain a plan to educate and increase communication within the broader community using guidance and leadership from local recovery committees and councils.
  - Provide knowledge and education in partnership with the Michigan Recovery Council to stakeholders on recovery related policies and practices.
2. Develop policies and procedures that ensure seamless and timely entry and re-entry into services and supports.

#### Requirements:

- Provide a person-centered and peer-oriented access and welcoming process for individuals assessed for eligibility that addresses the reduction and elimination of redundant/duplicative paperwork.
- Assure pathways are in place for expedited reentry into services for individuals who have been discharged, but once again need services and supports from the public mental health system.
- Provide guidance during discharge planning with verbal and written information on how to access mental health and other community services.



3. Align policies, procedures and practices to foster and protect individual choice, control and self-determination, from the person-centered planning process through the arrangement of supports and services.

Requirements:

- Develop a proactive plan using baseline data to increase the number of self-determination arrangements as a direct result of choice during the person-centered planning process.
  - Provide an estimate of the cost of services annually, when significant changes occur to the individual plan of service and as requested by the individual following the person-centered planning process.
  - Provide training and mentoring opportunities to individuals receiving services/peers to become independent facilitators of both person-centered planning and self-determination practices.
4. Encourage peer support including the choice of working with Certified Peer Support Specialists (CPSS) as a choice and option for individuals throughout the service array and within the person-centered planning process.

Requirements:

- Develop and implement an educational approach with written materials to provide information to stakeholders on peer services.
  - Provide information on the choices and options of working with peers in a journey of recovery including CPSS as part of the person-centered planning process.
  - Collect baseline data on the number of individuals who receive peer services with a proactive plan on increasing the number of individuals served.
5. Address the concerns raised by the National Association of State Mental Health Program Directors (NASMHPD) report *Morbidity and Mortality in People with Serious Mental Illness* by aligning services and supports to promote and ensure access to quality health care and the integration of mental and physical health care. Specific concerns to address include: screening; increased risk assessments; holistic health education; primary prevention; smoking cessation and weight reduction.

Requirements:

- Regularly offer and provide classes ideally promoted, led and encouraged by peers related to whole health, including Personal Action Toward Health

(PATH), Wellness Recovery Action Planning (WRAP), physical activity, smoking cessation, weight loss and management etc.

- Collect information on morbidity, mortality and co-morbid conditions with a strategic planning process to address and decrease risk factors associated with early death.
  - Provide referrals and outreach to assist individuals with meeting their basic needs, including finding affordable housing and having enough income to address risk factors associated with poverty.
  - Identify, develop and strengthen community partnerships to promote models and access for the integration of physical and mental health.
  - Discuss and coordinate transportation for individuals to attend appointments, classes and health-related activities discussed in the person-centered planning process.
6. Assess and continually improve recovery promotion, competencies and the environment in organizations throughout the service array.

Requirements:

- Complete a strategic planning process that builds on the actions and outcomes of the Michigan Recovery Council, including results from the Recovery Enhancing Environment (REE) and implementation of the statewide recovery curriculum.
- Provide ongoing education of recovery and environments that promote recovery with all staff, including executive management, psychiatrists, case managers, clinicians, support staff, leadership and board members.
- Include a list of competencies in recovery principles and practices in employee job descriptions and performance evaluations.
- Work in partnership with individuals receiving services, including CPSS, in all aspects of the development and delivery of recovery-oriented trainings and activities.

**How Michigan's Efforts Align with Federal Policy**

MDCH recognizes that recovery is highly individualized. It is also a process, vision, conceptual framework that should adhere to guiding principles, but most importantly it is recognized and supported through a series of initiatives, as well as state and national policies. Recovery emphasizes the strong voice and advocacy of people with lived experience. By drawing on their personal experiences and powerful passion, they have been and remain the primary force in promoting systems transformation.

In 2006, the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) published a National Consensus Statement that defined recovery as “a journey of healing and transformation enabling a person with a mental health problem to live a meaningful life in a community of his or her choice while striving to achieve his or her full potential.” Additionally, the Consensus Statement lists the following “Ten Fundamental Components of Recovery” that are reflected in the Council’s recommendations above:

Self-Direction	Individualized and Person-Centered
Empowerment	Holistic
Non-Linear	Strengths-Based
Peer Support	Respect
Responsibility	Hope

SAMHSA ten fundamental components and the MDCH recovery policy and practices are just beginning to achieve their desired results. True change will require a series of legislative actions, state and federal policies and Mental Health Code changes intentionally designed to promote choice, voice and control for individuals who receive supports and services. Few states, Michigan included, have developed a policy and practice guideline on recovery, thus, MDCH relied on the work, ideas and heart of the Recovery Council to craft this document.

Successful implementation of these guiding principles and recommendations for systems change will demand an active response from people in recovery across the state. The policy must be treated like recovery itself, with meaning, purpose, and dedication to support individual and system actions toward making it an “ongoing personal and unique journey of hope, growth, resilience and wellness.” Hard work will be required to ensure that this policy is embraced and implemented. The Recovery Council and MDCH look forward to assessing progress toward these principles every year.

**Michigan Department of Community Health**  
**Mental Health and Substance Abuse Administration**  
**Person-Centered Planning Policy and Practice Guideline**  
**3/15/2011**

*“Person-centered planning” means a process for planning and supporting the individual receiving services that builds upon the individual’s capacity to engage in activities that promote community life and that honors the individual’s preferences, choices, and abilities. MCL 330.1700(g)*

## **I. Introduction**

### **A. Summary/Background**

The purpose of the community mental health system is to support adults and children with developmental disabilities, adults with serious mental illness and co-occurring disorders (including co-occurring substance abuse disorders), and children with serious emotional disturbance to live successfully in their communities—achieving community inclusion and participation, independence, and productivity. Person-centered planning (PCP) enables individuals to achieve their personally defined outcomes. As described below, PCP for minors (family-driven and youth-guided practice) accommodates the entire family.

Person-centered planning is a way for individuals to plan their lives with the support and input from those who care about them. The process is used for planning the life that the individual aspires to have—taking the individual’s goals, hopes, strengths, and preferences and weaving them in plans for a life with meaning. PCP is used anytime an individual’s goals, desires, circumstances, preferences, or needs change.

Through the PCP process, an individual and those who support him or her:

- a. Focus on the individual’s life goals, interests, desires, preferences, strengths and abilities as the foundation for the planning process.
- b. Identify outcomes based on the individual’s life goals, interests, strengths, abilities, desires and preferences.
- c. Make plans for the individual to work toward and achieve identified outcomes.
- d. Determine the services and supports the individual needs to work toward or achieve outcomes including, but not limited to, services and supports available through the community mental health system.

- e. Develop an Individual Plan of Service (IPOS) that directs the provision of supports and services to be provided through the community mental health services program (CMHSP).

Meaningful PCP is at the heart of supporting individual choice and control. Person-centered planning focuses on the goals, interests, desires and preferences of the individual, while still exploring and addressing an individual's needs within an array of established life domains (including, but not limited to those listed in the Michigan Mental Health Code (the Code): the need for food, shelter, clothing, health care, employment opportunities, educational opportunities, legal services, transportation, and recreation). As appropriate for the individual, the PCP process may involve other MDCH policies and initiatives including, but limited to, Recovery, Self-Determination, Culture of Gentleness, Positive Behavior Supports, Treatment of Substance Abuse or other Co-Occurring Disorders, and Transition Planning.

PCP focuses on services and supports necessary (including medically necessary services and supports funded by the CMHSP) for the individual to work toward and achieve their personal goals rather than being limited to authorizing the individual to receive existing programs.

For children, the concepts of person-centered planning are incorporated into a family-driven, youth-guided approach (see the MDCH Family-Driven and Youth-Guided Policy and Practice Guideline). A family-driven, youth-guided approach recognizes the importance of family in the lives of children and that supports and services impact the entire family. In the case of minor children, the child/family is the focus of planning and family members are integral to success of the planning process. As the child ages, services and supports should become more youth-guided especially during transition into adulthood. When the individual reaches adulthood, his or her needs and goals become primary.

There are a few circumstances where the involvement of a minor's family may be not appropriate:

- a. The minor is 14 years of age or older and has requested services without the knowledge or consent of parents, guardian or person in loco parentis within the restrictions stated in the Mental Health Code;
- b. The minor is emancipated; or
- c. The inclusion of the parent(s) or significant family members would constitute a substantial risk of physical or emotional harm to the recipient or substantial disruption of the planning process as stated in the Code. Justification of the

exclusion of parents shall be documented in the clinical record.

## **B. Michigan Mental Health Code—Definition**

PCP, as defined by the Code, “means a process for planning and supporting the individual receiving services that builds upon the individual's capacity to engage in activities that promote community life and that honors the individual's preferences, choices, and abilities. The person-centered planning process involves families, friends, and professionals as the individual desires or requires.” MCL 330.1700(g).

The Code also requires use of PCP for development of an Individual Plan of Service:

“(1) The responsible mental health agency for each recipient shall ensure that a person-centered planning process is used to develop a written individual plan of services in partnership with the recipient. A preliminary plan shall be developed within 7 days of the commencement of services or, if an individual is hospitalized for less than 7 days, before discharge or release. The individual plan of services shall consist of a treatment plan, a support plan, or both. A treatment plan shall establish meaningful and measurable goals with the recipient. The individual plan of services shall address, as either desired or required by the recipient, the recipient's need for food, shelter, clothing, health care, employment opportunities, educational opportunities, legal services, transportation, and recreation. The plan shall be kept current and shall be modified when indicated. The individual in charge of implementing the plan of services shall be designated in the plan.” MCL 330.1712.

## **C. PCP Values and Principles**

Person-centered planning is a highly individualized process designed to respond to the expressed needs/desires of the individual.

- Every individual is presumed competent to direct the planning process, achieve his or her goals and outcomes, and build a meaningful life in the community.
- Every individual has strengths, can express preferences, and can make choices.

- The individual's choices and preferences are honored and considered, if not always implemented.
- Every individual contributes to his or her community, and has the ability to choose how supports and services enable him or her to meaningfully participate and contribute.
- Through the person-centered planning process, an individual maximizes independence, creates community connections, and works towards achieving his or her chosen outcomes.
- An individual's cultural background is recognized and valued in the person-centered planning process.

#### **D. Implementation of Person-Centered Planning**

While the Code requires that PCP be used to develop an Individual Plan of Service (IPOS) that includes community mental health services and supports, the purpose of person-centered planning is a process for an individual to define the life that he or she wants and what components need to be in place for the individual to have, work toward or achieve that life. Depending on the individual, community mental health services and supports may play a small or large role in supporting an him or her in having the life he or she wants. When an individual is in a crisis situation, that situation should be stabilized before the PCP process is used to plan the life the he or she desires to have.

Individuals are going to be at different points in the process of achieving the life to which they aspire and the PCP process should be individualized to meet the needs of the individual for whom planning is done, e.g. meeting an individual where he or she is. Some people may be just beginning to define the life they want and initially the PCP process may be lengthy as the individual's goals, hopes, strengths, and preferences are defined and documented and a plan for achieving them is developed. Once this initial work is completed, it does not need to be redone unless so desired by the individual. Once an IPOS is developed, subsequent use of the planning process, discussions, meetings, and reviews will work from the existing IPOS to amend or update it as circumstances and preferences change. The extent that the IPOS is updated will be determined by the needs and desires of the individual. If and when necessary, the IPOS can be completely redeveloped. The emphasis in using PCP should be on meeting the needs and desires of the individual when he or she has them.

## II. Essential Elements for Person-Centered Planning

The following characteristics are essential to the successful use of the PCP process with an individual and his/her allies.

1. **Person-Directed.** The individual directs the planning process (with necessary supports and accommodations) and decides when and where planning meetings are held, what is discussed, and who is invited.
2. **Person-Centered.** The planning process focuses on the individual, not the system or the individual's family, guardian, or friends. The individual's goals, interests, desires, and preferences are identified with an optimistic view of the future and plans for a satisfying life. The planning process is used whenever the individual wants or needs it, rather than viewed as an annual event.
3. **Outcome-Based.** Outcomes in pursuit of the individual's preferences and goals are identified as well as services and supports that enable the individual to achieve his or her goals, plans, and desires and any training needed for the providers of those services and supports. The way for measuring progress toward achievement of outcomes is identified.
4. **Information, Support and Accommodations.** As needed, the individual receives comprehensive and unbiased information on the array of mental health services, community resources, and available providers. Support and accommodations to assist the individual to participate in the process are provided.
5. **Independent Facilitation.** Individuals have the information and support to choose an independent facilitator to assist them in the planning process. See Section III below
6. **Pre-Planning.** The purpose of pre-planning is for the individual to gather all of the information and resources (e.g. people, agencies) necessary for effective person-centered planning and set the agenda for the process. Each individual (except for those individuals who receive short-term outpatient therapy only, medication only, or those who are incarcerated) is entitled to use pre-planning to ensure successful PCP. Pre-planning, as individualized for the person's needs, is used anytime the PCP process is used

The following items are addressed through pre-planning with sufficient time to take all necessary/preferred actions (i.e. invite desired participants):



- a. When and where the meeting will be held,
  - b. Who will be invited (including whether the individual has allies who can provide desired meaningful support or if actions need to be taken to cultivate such support),
  - c. What will be discussed and not discussed,
  - d. What accommodations the individual may need to meaningfully participate in the meeting (including assistance for individuals who use behavior as communication),
  - e. Who will facilitate the meeting,
  - f. Who will record what is discussed at the meeting.
7. **Wellness and Well-Being.** Issues of wellness, well-being, health and primary care coordination or integration, supports needed for an individual to continue to live independently as he or she desires, and other concerns specific to the individual's personal health goals or support needed for the individual to live the way they want to live are discussed and plans to address them are developed. If so desired by the individual, these issues can be addressed outside of the PCP meeting.
8. **Participation of Allies.** Through the pre-planning process, the individual selects allies (friends, family members and others) to support him or her through the person-centered planning process. Pre-planning and planning help the individual explore who is currently in his or her life and what needs to be done to cultivate and strengthen desired relationships.

### **III. Independent (External) Facilitation**

In Michigan, individuals receiving support through the community mental health system have a right to choose an independent or external facilitator of the person-centered planning process, unless the individual is receiving short-term outpatient therapy or medication only. The CMHSP must make available a choice of at least two independent facilitators to individuals interested in using independent facilitation. The facilitator is chosen by the individual and serves as the individual's guide (and for some individuals, their voice) throughout the process, making sure that his or her hopes, interests, desires, preferences and concerns are heard and addressed. The facilitator helps the individual with the pre-planning activities and co-leads any PCP meeting(s) with the individual.

The independent facilitator must not have any other role within the CMHSP. The independent facilitator must personally know or get to know the individual who is the focus of the planning including what he or she likes and dislikes as well as personal preferences, goals, modes of communication, and who supports or is important to the individual. The Medicaid Provider Manual (MPM) permits independent facilitation to be provided to Medicaid beneficiaries as one aspect of the coverage called "Treatment Planning" MPM MH&SAA Chapter, Section 3.25. If the independent facilitator is paid for the provision of these activities, the PIHP may report the service under the code H0032. It is advisable that the CMHSP support independent facilitators in obtaining training in PCP, regardless of whether the independent facilitator is paid or unpaid.

#### **IV. Individual Plan of Service**

The Code establishes the right for all individuals to develop individual plans of services (IPOS) through a person-centered planning process regardless of disability or residential setting. However, an IPOS needs to be more than the services and supports authorized by the community mental health system; it must include all of the components described below. The PCP process must be used at any time the individual wants or needs to use the process. The agenda for each PCP meeting should be set by the individual through the pre-planning process, not by agency or by the fields or categories in a form or an electronic medical record

Once an individual has developed an IPOS through the PCP process, the IPOS shall be kept current and modified when needed (reflecting changes in the intensity of the individual's needs, changes in the individual's condition as determined through the PCP process or changes in the individual's preferences for support). Assessment may be used to inform the PCP process, but is not a substitute for the process.

The individual and his or her case manager or supports coordinator should work on and review the IPOS on a routine basis as part of their regular conversations. An individual or his/her guardian or authorized representative may request and review the IPOS at any time. A formal review of the plan with the beneficiary and his/her guardian or authorized representative shall occur not less than annually through the PCP process to review progress toward goals and objectives and to assess beneficiary satisfaction. Reviews will work from the existing plan to amend or update it as circumstances, needs, preferences or goals change or to develop a completely new plan if so desired by the individual. Use of the PCP process in the review of the plan incorporates all of the Essential Elements as desired by the individual.

The individual decides who will take notes or minutes about what is discussed during the person-centered planning process. In addition, documentation maintained by the CMHSP within the Individual Plan of Service must include:

- (1) A description of the individual's strengths, abilities, goals, plans, hopes, interests, preferences and natural supports;
- (2) The outcomes identified by the individual and how progress toward achieving those outcomes will be measured;
- (3) The services and supports needed by the individual to work toward or achieve his or her outcomes including those available through the CMHSP, other publicly funded programs (such as Home Help, Michigan Rehabilitation Services (MRS)), community resources, and natural supports;
- (4) The amount, scope, and duration of medically necessary services and supports authorized by and obtained through the community mental health system.
- (5) The estimated/prospective cost of services and supports authorized by the community mental health system.
- (6) The roles and responsibilities of the individual, the supports coordinator or case manager, the allies, and providers in implementing the plan.
- (7) Any other documentation required by Section R 330.7199 Written plan of services of the Michigan Administrative Code.

The individual must be provided with a written copy of his or her plan within 15 business days of conclusion of the PCP process. This timeframe gives the case manager/supports coordinator a sufficient amount of time to complete the documentation described above.

## **V. Organizational Standards**

The following characteristics are essential for organizations responsible for providing supports and services through PCP:

- Individual Awareness and Knowledge—The organization provides accessible and easily understood information, support and when necessary, training, to individuals using services and supports and those who assist them so that they are aware of their right to PCP, the essential elements of PCP, the benefits of this approach and the support available to help them succeed (including, but not limited, pre-planning and independent facilitation).
- Person-Centered Culture—The organization provides leadership, policy direction, and activities for implementing person-centered planning at all levels of the organization. Organizational language, values, allocation of resources, and behavior reflect a person-centered orientation.

- Training—The organization has a process to identify and train staff at all levels on the philosophy of PCP. Staff who are directly involved in PCP are provided with additional training.
- Roles and Responsibilities—As an individualized process, PCP allows each individual to identify and work with chosen allies and other supports. Roles and responsibilities for facilitation, pre-planning, and developing the IPOS are identified; the IPOS describes who is responsible for implementing and monitoring each component of the IPOS.
- Quality Management—The QA/QM System includes a systemic approach for measuring the effectiveness of PCP and identifying barriers to successful person-centered planning. The best practices for supporting individuals through PCP are identified and implemented (what is working and what is not working in supporting individuals). Organizational expectations and standards are in place to assure support the individual directs the PCP process and ensures that PCP is consistently done well.

## **VI. Dispute Resolution**

Individuals who have a dispute about the PCP process or the IPOS that results from the process have the rights to grievance, appeals and recipient rights as set forth in detail in the Contract Attachment 6.4.1.1 Grievance and Appeal Technical Requirement/PIHP Grievance System for Medicaid Beneficiaries. As described in this Contract Attachment, some of the dispute resolution options are limited to Medicaid beneficiaries and limited in the scope of the grievance (such as a denial, reduction, suspension or termination of services). Other options are available to all recipients of Michigan mental health services and supports. Supports Coordinators, Case Managers and Customer Services at PIHP/CMHSPs must be prepared to help people understand and negotiate dispute resolution processes.

June 20, 2012

**MICHIGAN DEPARTMENT OF COMMUNITY HEALTH**  
**Behavioral Health and Developmental Disabilities**  
**SELF-DETERMINATION POLICY & PRACTICE GUIDELINE<sup>1</sup>**

**INTRODUCTION**

Self-determination is the value that people served by the public mental health system must be supported to have a meaningful life in the community. The components of a meaningful life include: work or volunteer activities that are chosen by and meaningful to person, reciprocal relationships with other people in the community, and daily activities that are chosen by the individual and support the individual to connect with others and contribute to his or her community. With arrangements that support self-determination, individuals have control over an individual budget for their mental health services and supports to live the lives they want in the community. The public mental health system must offer arrangements that support self-determination, assuring methods for the person to exert direct control over how, by whom, and to what ends they are served and supported.

Person-centered planning (PCP) is a central element of self-determination. PCP is the crucial medium for expressing and transmitting personal needs, wishes, goals and aspirations. As the PCP process unfolds, the appropriate mix of paid/non-paid services and supports to assist the individual in realizing/achieving these personally defined goals and aspirations are identified.

The principles of self-determination recognize the rights of people supported by the mental health system to have a life with freedom, and to access and direct needed supports that assist in the pursuit of their life, with responsible citizenship. These supports function best when they build upon natural community experiences and opportunities. The person determines and manages needed supports in close association with chosen friends, family, neighbors, and co-workers as a part of an ordinary community life.

Person-centered planning and self-determination underscore a commitment in Michigan to move away from traditional service approaches for people receiving services from the public mental health system. In Michigan, the flexibility provided through the Medicaid 1915(b) Managed Specialty Supports and Services Plan (MSSSP), together with the Mental Health Code requirements of PCP, have reoriented organizations to respond in new and more meaningful ways. Recognition has increased among providers and professionals that many individuals may not need, want, or benefit from a clinical regimen, especially when imposed without clear choice. Many provider agencies are learning ways to better support the individual to choose, participate in, and accomplish a life with personal meaning. This has meant, for example, reconstitution of segregated programs into non-segregated options that connect better with community life.

Self-determination builds upon the choice already available within the public mental health system. In Michigan, all Medicaid beneficiaries who services through the public mental health system have a right under the Balanced Budget Act (BBA) to choose the providers of the services and supports that are identified in their individual plan of service “to the extent possible and appropriate.” Qualified providers chosen by the beneficiary, but who are not currently in the network or on the provider panel, should be

placed on the provider panel. Within the PIHP, choice of providers must be maintained at the provider level. The individual must be able to choose from at least two providers of each covered support and service and must be able to choose an out-of-network provider under certain circumstances. Provider choice, while critically important, must be distinguished from arrangements that support self-determination. The latter arrangements extend individual choice to his/her control and management over providers (i.e., directly employs or contracts with providers), service delivery, and budget development and implementation.

In addition to choice of provider, individuals using mental health services and supports have access to a full-range of approaches for receiving those services and supports. Agencies and providers have obligations and underlying values that affirm the principles of choice and control. Yet, they also have long-standing investments in existing programs and services, including their investments in capital and personnel resources. Some program approaches are not amenable to the use of arrangements that support self-determination because the funding and hiring of staff are controlled by the provider (for example, day programs and group homes) and thus, preclude individual employer or budget authority.

It is not anticipated that every person will choose arrangements that support self-determination. Traditional approaches are offered by the system and used very successfully by many people. An arrangement that supports self-determination is one method for moving away from predefined programmatic approaches and professionally managed models. The goals of arrangements that support self-determination, on an individual basis, are to dissolve the isolation of people with disabilities, reduce segregation, promote participation in community life and realize full citizenship rights.

The Department of Community Health supports the desire of people to control and direct their specialty mental health services and supports to have a full and meaningful life. At the same time, the Department knows that the system change requirements, as outlined in this policy and practice guideline, are not simple in their application. The Department is committed to continuing dialogue with stakeholders; to the provision of support, direction and technical assistance so the system may make successful progress to resolve technical difficulties and apparent barriers; and to achieve real, measurable progress in the implementation of this policy. This policy is intended to clarify the essential aspects of arrangements that promote opportunity for self-determination and define required elements of these arrangements.

## **PURPOSE**

- I. To provide policy direction that defines and guides the practice of self-determination within the public mental health system (as implemented by Prepaid Inpatient Health Plans/Community Mental Health Services Programs (PIHP/CMHSPs)<sup>1</sup> in order to assure that arrangements that support self-determination are made available as a means for achieving personally-designed plans of specialty mental health services and supports.

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<sup>1</sup> Both PIHPs and CMHSPs are referenced throughout the document because the both have contractual obligations to offer and support implementation of arrangements that support self-determination. However, it is understood that, on an individual basis, self-determination agreements are executed at the CMHSP level.

## CORE ELEMENTS

- I. People are provided with information about the principles of self-determination and the possibilities, models and arrangements involved. People have access to the tools and mechanisms supportive of self-determination, upon request. Self-determination arrangements commence when the PIHP/CMHSP and the individual reach an agreement on an individual plan of services and supports (IPOS), the amount of mental health and other public resources to be authorized to accomplish the IPOS, and the arrangements through which authorized public mental health resources will be controlled, managed, and accounted for.
- II. Within the obligations that accompany the use of funds provided to them, PIHP/CMHSPs shall ensure that their services planning and delivery processes are designed to encourage and support individuals to decide and control their own lives. The PIHP/CMHSP shall offer and support easily-accessed methods for people to control and direct an individual budget. This includes providing them with methods to authorize and direct the delivery of specialty mental health services and supports from qualified providers selected by the individual.
- III. People receiving services and supports through the public mental health system shall direct the use of resources in order to choose meaningful specialty mental health services and supports in accordance with their IPOS as developed through the person-centered planning process.
- IV. Fiscal responsibility and the wise use of public funds shall guide the individual and the PIHP/CMHSP in reaching an agreement on the allocation and use of funds comprising an individual budget. Accountability for the use of public funds must be a shared responsibility of the PIHP/CMHSP and the person, consistent with the fiduciary obligations of the PIHP/CMHSP.
- V. Realization of the principles of self-determination requires arrangements that are partnerships between the PIHP/CMHSP and the individual. They require the active commitment of the PIHP/CMHSP to provide a range of options for individual choice and control of personalized provider relationships within an overall environment of person-centered supports.
- VI. In the context of this partnership, PIHP/CMHSPs must actively assist people with prudently selecting qualified providers and otherwise support the them with successfully using resources allocated in an individual budget.
- VII. Issues of wellness and well-being are central to assuring successful accomplishment of a person's IPOS. These issues must be addressed and resolved using the person-centered planning process, balancing individual preferences and opportunities for self-determination with PIHP/CMHSP obligations under federal and state law and applicable Medicaid Waiver regulations. Resolutions should be guided by the preferences and needs, and implemented in ways that maintain the greatest opportunity for control and direction.

- VIII. Self-determination requires recognition that there may be strong inherent conflicts of interest between a person's choices and current methods of planning, managing and delivering specialty mental health services and supports. The PIHP/CMHSP must watch for and seek to minimize or eliminate either potential or actual conflicts of interest between itself and its provider systems, and the processes and outcomes sought by the person.
- IX. Arrangements that support self-determination are administrative mechanisms, allowing a person to choose, control and direct providers of specialty mental health services and supports. With the exception of fiscal intermediary services, these mechanisms are not themselves covered services within the array of state plan and mental health specialty services and supports. Self-determination arrangements must be developed and operated within the requirements of the respective contracts between the PIHPs and CMHSPs and the Michigan Department of Community Health and in accordance with federal and state law. Using arrangements that support self-determination does not change a n individual's eligibility for particular specialty mental health services and supports.
- X. All of the requirements for documentation of Medicaid-funded supports and services, financial accountability for Medicaid funds, and PIHP/CMHSP monitoring requirements apply to services and supports acquired using arrangements that support self-determination.
- XI. Arrangements that support self-determination involve mental health specialty services and supports, and therefore, the investigative authority of the Recipient Rights office applies.



## **POLICY**

I. Opportunity to pursue and obtain an IPOS incorporating arrangements that support self-determination shall be established in each PIHP/CMHSP, for adults with developmental disabilities and adults with mental illness. Each PIHP/CMHSP shall develop and make available a set of methods that provide opportunities for the person to control and direct their specialty mental health services and supports arrangements.

- A. Participation in self-determination shall be a voluntary option on the part of each person.
- B. People involved in self-determination shall have the authority to select, control and direct their own specialty mental health services and supports arrangements by responsibly controlling the resources allotted in an individual budget, towards accomplishing the goals and objectives in their IPOS.
- C. A PIHP/CMHSP shall assure that full and complete information about self-determination and the manner in which it may be accessed and applied is provided to everyone receiving mental health services from its agency. This shall include specific examples of alternative ways that a person may use to control and direct an individual budget, and the obligations associated with doing this properly and successfully.
- D. Self-determination shall not serve as a method for a PIHP/CMHSP to reduce its obligations to a person or avoid the provision of needed specialty mental health services and supports.
- E. Each PIHP/CMHSP shall actively support and facilitate a person's application of the principles of self-determination in the accomplishment of his/her IPOS.

II. Arrangements that support self-determination shall be made available to each person for whom an agreement on an IPOS along with an acceptable individual budget has been reached. A person initiates this process by requesting the opportunity to participate in self-determination. For the purposes of self-determination, reaching agreement on the IPOS must include delineation of the arrangements that will, or may, be applied by the person to select, control and direct the provision of those services and supports.

- A. Development of an individual budget shall be done in conjunction with development of an IPOS using a person-centered planning process.
- B. As part of the planning process leading to an agreement about self-determination, the arrangements that will, or may, be applied by the person to pursue self-determination shall be delineated and agreed to by the person and the PIHP/CMHSP.
- C. The individual budget represents the expected or estimated costs of a concrete approach to accomplishing the person's IPOS.

- D. The amount of the individual budget shall be formally agreed to by both the person and the PIHP/CMHSP before it may be authorized for use by the person. A copy of the individual budget must be provided to the person prior to the onset of a self-determination arrangement.
- E. Proper use of an individual budget is of mutual concern to the PIHP/CMHSP and the person.
1. Mental Health funds included in an individual budget are the assets and responsibility of the PIHP/CMHSP, and must be used consistent with statutory and regulatory requirements. Authority over their direction is delegated to the individual, for the purpose of achieving the goals and outcomes contained in the individual's IPOS. The limitations associated with this delegation shall be delineated to the individual as part of the process of developing the IPOS and authorizing the individual budget.
  2. An agreement shall be made in writing between the PIHP/CMHSP and the individual delineating the responsibility and the authority of both parties in the application of the individual budget, including how communication will occur about its use. The agreement shall reference the IPOS and individual budget, which shall all be provided to the person. The directions and assistance necessary for the individual to properly apply the individual budget shall be provided to the individual in writing when the agreement is finalized.
  3. An individual budget, once authorized, shall be provided to the individual. An individual budget shall be in effect for a specified period of time. Since the budget is based upon the individual's IPOS, when the IPOS needs to change, the budget may need to be reconsidered as well. In accordance with the Person-Centered Planning Policy and Practice Guideline, the IPOS may be reopened and reconsidered whenever the individual, or the PIHP/CMHSP, feels it needs to be reconsidered.
  4. The individual budget is authorized by the PIHP/CMHSP for the purpose of providing a defined amount of resources that may be directed by a person to pursue accomplishing his/her IPOS. An individual budget shall be flexible in its use.
    - a. When a person makes adjustments in the application of funds in an individual budget, these shall occur within a framework that has been agreed to by the person and the PIHP/CMHSP, and described in an attachment to the person's self-determination agreement.
    - b. A person's IPOS may set forth the flexibility that an individual can exercise to accomplish his or her goals and objectives.

When a possible use of services and supports is identified in

the IPOS, the person does not need to seek prior approval to use the services in this manner.

- c. If a person desires to exercise flexibility in a manner that is not identified in the IPOS, then the IPOS must be modified before the adjustment may be made. The PIHP/CMHSP shall attempt to address each situation in an expedient manner appropriate for the complexity and scope of the change.
  - d. Funds allotted for specialty mental health services may not be used to purchase services that are not specialty mental health services. Contracts with providers of specialty mental health services should be fiscally prudent.
5. Either party—the PIHP/CMHSP or the person—may terminate a self-determination agreement, and therefore, the self-determination arrangement. Common reasons that a PIHP/CMHSP may terminate an agreement after providing support and other interventions described in this guideline, include, but are not limited to: failure to comply with Medicaid documentation requirements; failure to stay within the authorized funding in the individual budget; inability to hire and retain qualified providers; and conflict between the individual and providers that results in an inability to implement IPOS. Prior to the PIHP/CMHSP terminating an agreement, and unless it is not feasible, the PIHP/CMHSP shall inform the individual of the issues that have led to consideration of a discontinuation or alteration decision, in writing, and provide an opportunity for problem resolution. Typically resolution will be conducted using the person-centered planning process, with termination being the option of choice if other mutually-agreeable solutions cannot be found. In any instance of PIHP/CMHSP discontinuation or alteration of a self-determination arrangement, the local processes for dispute resolution may be used to address and resolve the issues.
  6. Termination of a Self-Determination Agreement by a PIHP/CMHSP is not a Medicaid Fair Hearings Issue. Only a change, reduction, or termination of Medicaid services can be appealed through the Medicaid Fair Hearings Process, not the use of arrangements that support self-determination to obtain those services.
  7. Discontinuation of a self-determination agreement, by itself, shall neither change the individual's IPOS, nor eliminate the obligation of the PIHP/CMHSP to assure specialty mental health services and supports required in the IPOS.
  8. In any instance of PIHP/CMHSP discontinuation or alteration, the person must be provided an explanation of applicable appeal, grievance and dispute resolution processes and (where required) appropriate notice.

POLICY continued

- III. Assuring authority over an individual budget is a core element of self-determination. This means that the individual may use, responsibly, an individual budget as the means to authorize and direct their providers of services and supports. A PIHP/CMHSP shall design and implement alternative approaches that people electing to use an individual budget may use to obtain individual-selected and -directed provider arrangements.
- A. Within prudent purchaser constraints, a person shall be able to access any willing and qualified provider entity that is available to provide needed specialty mental health services and supports.
- B. Approaches shall provide for a range of control options up to and including the direct retention of individual-preferred providers through purchase of services agreements between the person and the provider. Options shall include, upon the individual's request and in line with their preferences:
1. Services/supports to be provided by an entity or individual currently operated by or under contract with the PIHP/CMHSP.
  2. Services/supports to be provided by a qualified provider chosen by the individual, with the PIHP/CMHSP agreeing to enter into a contract with that provider.
  3. Services/supports to be provided by an individual-selected provider with whom the individual executes a direct purchase-of-services agreement. The PIHP/CMHSP shall provide guidance and assistance to assure that agreements to be executed with individual-selected providers are consistent with applicable federal regulations governing provider contracting and payment arrangements.
    - a. Individuals shall be responsible for assuring those individuals and entities selected and retained meet applicable provider qualifications. Methods that lead to consistency and success must be developed and supported by the PIHP/CMHSP.
    - b. Individuals shall assure that written agreements are developed with each provider entity or individual that specify the type of service or support, the rate to be paid, and the requirements incumbent upon the provider.
    - c. Copies of all agreements shall be kept current, and shall be made available by the individual, for review by authorized representatives of the PIHP/CMHSP.

POLICY Section III.B.3 continued

- d. Individuals shall act as careful purchasers of specialty mental health services and supports necessary to accomplish their IPOS. Arrangements for services shall not be excessive in cost. Individuals should aim for securing a better value in terms of outcomes for the costs involved. Existing personal and community resources shall be pursued and used before public mental health system resources.
  - e. Fees and rates paid to providers with a direct purchase-of-services agreement with the individual shall be negotiated by the individual, within the boundaries of the authorized individual budget. The PIHP/CMHSP shall provide guidance as to the range of applicable rates, and may set maximum amounts that a person may spend to pay providers of specific services and supports.
  - f. Conflicts of interest that providers may have must be considered. For example, a potential provider may have a competing financial interest such as serving as the individual's landlord. If a provider with a conflict of interest is used, the conflict must be addressed in the relevant agreements. The Medicaid Provider Manual has directly addressed one conflict stating that, individuals cannot hire or contract with legally responsible relatives (for an adult, the individual's spouse) or with his or legal guardian.
4. A person shall be able to access one or more alternative methods to choose, control and direct personnel necessary to provide direct support, including:
    - a. Acting as the employer of record of personnel.
    - b. Access to a provider entity that can serve as employer of record for personnel selected by the individual (Agency with Choice).
    - c. PIHP/CMHSP contractual language with provider entities that assures individual selection of personnel, and removal of personnel who fail to meet individual preferences.
    - d. Use of PIHP/CMHSP-employed direct support personnel, as selected and retained by the individual.
  5. A person using self-determination shall not be obligated to utilize PIHP/CMHSP-employed direct support personnel or a PIHP/CMHSP-operated or -contracted program/service.
  6. All direct support personnel selected by the person, whether she or he is acting as employer of record or not, shall meet applicable provider requirements for direct support personnel, or the requirements pertinent to the particular professional services

offered by the provider.

7. A person shall not be required to select and direct needed provider entities or his/her direct support personnel if she or he does not desire to do so.
- IV. A PIHP/CMHSP shall assist a person using arrangements that support self-determination to select, employ, and direct his/her support personnel, to select and retain chosen qualified provider entities, and shall make reasonably available, consistent with MDCH Technical Advisory instructions, their access to alternative methods for directing and managing support personnel.
- A. A PIHP/CMHSP shall select and make available qualified third-party entities that may function as fiscal intermediaries to perform employer agent functions and/or provide other support management functions as described in the Fiscal Intermediary Technical Requirement (Contract Attachment P3.4.4), in order to assist the person in selecting, directing and controlling providers of specialty services and supports.
  - B. Fiscal intermediaries shall be under contract to the PIHP/CMHSP or a designated sub-contracting entity. Contracted functions may include:
    1. Payroll agent for direct support personnel employed by the individual (or chosen representative), including acting as an employer agent for IRS and other public authorities requiring payroll withholding and employee insurances payments.
    2. Payment agent for individual-held purchase-of-services and consultant agreements with providers of services and supports.
    3. Provision of periodic (not less than monthly) financial status reports concerning the individual budget, to both the PIHP/CMHSP and the individual. Reports made to the individual shall be in a format that is useful to the individual in tracking and managing the funds making up the individual budget.
    4. Provision of an accounting to the PIHP/CMHSP for the funds transferred to it and used to finance the costs of authorized individual budgets under its management.
    5. Assuring timely invoicing, service activity and cost reporting to the PIHP/CMHSP for specialty mental health services and supports provided by individuals and entities that have a direct agreement with the individual.
    6. Other supportive services, as denoted in the contract with the PIHP/CMHSP that strengthen the role of the individual as an employer, or assist with the use of other agreements directly involving the individual in the process of securing needed services.

For a complete list of functions, refer to the Fiscal Intermediary Technical Requirement (Contract Attachment P3.4.4),

- C. A PIHP/CMHSP shall assure that fiscal intermediary entities are oriented to and supportive of the principles of self-determination, and able to work with a range of personal styles and characteristics. The PIHP/CMHSP shall exercise due diligence in establishing the qualifications, characteristics and capabilities of the entity to be selected as a fiscal intermediary, and shall manage the use of fiscal intermediaries consistent with the Fiscal Intermediary Technical Requirement and MDCH Technical Assistance Advisories addressing fiscal intermediary arrangements.
- D. An entity acting as a fiscal intermediary shall be free from other relationships involving the PIHP/CMHSP or the individual that would have the effect of creating a conflict of interest for the fiscal intermediary in relationship to its role of supporting individual-determined services/supports transactions. These other relationships typically would include the provision of direct services to the individual. The PIHP/CMHSP shall identify and require remedy to any conflicts of interest of the entity that, in the judgment of the PIHP/CMHSP, interfere with the performance of its role as a fiscal intermediary.
- E. A PIHP/CMHSP shall collaborate with and guide the fiscal intermediary and each individual involved in self-determination to assure compliance with various state and federal requirements, and to assist the individual in meeting his/her obligations to follow applicable requirements. It is the obligation of the PIHP/CMHSP to assure that fiscal intermediaries are capable of meeting and maintaining compliance with the requirements associated with their stated functions, including those contained in the Fiscal Intermediary Technical Requirement.
- F. Typically, funds comprising an individual budget would be lodged with the fiscal intermediary, pending appropriate direction by the individual to pay individual-selected and contracted providers. Where a person selected and directed provider of services has a direct contract with the PIHP/CMHSP, the provider may be paid by the PIHP/CMHSP, not the fiscal intermediary. In that case, the portion of funds in the individual budget would not be lodged with the fiscal intermediary, but instead would remain with the PIHP/CMHSP, as a matter of fiscal efficiency.

## **DEFINITIONS**

### **Agency with Choice**

A provider agency that serves as employer of record for direct support personnel, yet enables the person using the supports to hire, manage and terminate workers.

### **Choice Voucher System**

The Choice Voucher System is the designation for set of arrangements that facilitate and support accomplishing self-determination, through the use of an individual budget, a fiscal intermediary, and direct individual-provider contracting. Its use shall be guided by Choice Voucher System Technical Advisory.

### **CMHSP**

For the purposes of this policy, a Community Mental Health Services Program is an entity operated under Chapter Two of the Michigan Mental Health Code, or an entity under contract with the CMHSP and authorized to act on its behalf in providing access to, planning for, and authorization of specialty mental health services and supports for people eligible for mental health services.

### **Fiscal Intermediary**

A fiscal Intermediary is an independent legal entity (organization or individual) that acts as a fiscal agent of the PIHP/CMHSP for the purpose of assuring fiduciary accountability for the funds comprising an individual budget. A fiscal intermediary shall perform its duties as specified in a contract with a PIHP/CMHSP or its designated sub-contractor. The purpose of the fiscal intermediary is to receive funds making up an individual budget, and make payments as authorized by the individual to providers and other parties to whom an individual using the individual budget may be obligated. A fiscal intermediary may also provide a variety of supportive services that assist the individual in selecting, employing and directing individual and agency providers. Examples of entities that might serve in the role of a fiscal intermediary include: bookkeeping or accounting firms and local Arc or other advocacy organizations.

### **Individual/Person**

For the purposes of this policy, "Individual" or "person" means a person receiving direct specialty mental health services and supports. The person may select a representative to enter into the self-determination agreement and for other agreements that may be necessary for the person to participate in arrangements that support self-determination. The person may have a legal guardian. The role of the guardian in self-determination shall be consistent with the guardianship arrangement established by the court. Where a person has been deemed to require a legal guardian, there is an extra obligation on the part of the CMHSP and those close to the person to assure that it is the person's preferences and dreams that drive the use of self-determination arrangements, and that the best interests of the person are primary.

### **Individual Budget**

An individual budget is a fixed allocation of public mental health resources denoted in dollar terms. These resources are agreed upon as the necessary cost of specialty mental health services and supports needed to accomplish a person's IPOS. The individual served uses the funding authorized to acquire, purchase and pay for specialty mental health services and supports in his or her IPOS .

### **IPOS**

An IPOS means the individual's individual plan of services and/or supports, as



developed using a person-centered planning process.

### **PIHP**

For the purposes of this policy, a Prepaid Inpatient Health Plan (PIHP) is a managed care entity that provides Medicaid-funded mental health specialty services and supports in an area of the state.

### **Qualified Provider**

A qualified provider is an individual worker, a specialty practitioner, professional, agency or vendor that is a provider of specialty mental health services or supports that can demonstrate compliance with the requirements contained in the contract between the Department of Community Health and the PIHP/CMHSP, including applicable requirements that accompany specific funding sources, such as Medicaid. Where additional requirements are to apply, they should be derived directly from the person-centered planning process, and should be specified in the IPOS, or result from a process developed locally to assure the health and well-being of individuals, conducted with the full input and involvement of local individuals and advocates.

### **Self-Determination**

Self-determination incorporates a set of concepts and values that underscore a core belief that people who require support from the public mental health system as a result of a disability should be able to define what they need in terms of the life they seek, have access to meaningful choices, and have control over their lives in order to build lives in their community (meaningful activities, relationships and employment). Within Michigan's public mental health system, self-determination involves accomplishing system change to assure that services and supports for people are not only person-centered, but person-defined and person-controlled. Self-determination is based on four principles. These principles are:

**FREEDOM:** The ability for individuals, with assistance from significant others (e.g., chosen family and/or friends), to plan a life based on acquiring necessary supports in desirable ways, rather than purchasing a program. This includes the **freedom** to choose where and with whom one lives, who and how to connect to in one's community, the opportunity to contribute in one's own ways, and the development of a personal lifestyle.

**AUTHORITY:** The assurance for a person with a disability to control a certain sum of dollars in order to purchase these supports, with the backing of their significant others, as needed. It is the **authority** to control resources.

**SUPPORT:** The arranging of resources and personnel, both formal and informal, to assist the person in living his/her desired life in the community, rich in community associations and contributions. It is the **support** to develop a life dream and reach toward that dream.

**RESPONSIBILITY:** The acceptance of a valued role by the person in the community through employment, affiliations, spiritual development, and caring for others, as well as accountability for spending public dollars in ways that are life-enhancing. This includes the **responsibility** to use public funds efficiently and to contribute to the community through the expression of responsible citizenship.

A hallmark of self-determination is assuring a person the opportunity to direct a fixed

amount of resources, which is derived from the person-centered planning process and called an individual budget. The person controls the use of the resources in his/her individual budget, determining, with the assistance of chosen allies, which services and supports he or she will purchase, from whom, and under what circumstances. Through this process, they possess power to make meaningful choices in how they live their life.

### **Specialty Mental Health Services**

This term includes any service/support that can legitimately be provided using funds authorized by the PIHP/CMHSP in the individual budget. It includes alternative services and supports as well as Medicaid-covered services and supports.

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<sup>1</sup>Language in ***bold italics*** indicates items that require action on the part of the PIHP/CMHSP

## **PASARR AGREEMENT**

### **I. PURPOSE**

The CMPSP will complete PRE-ADMISSION SCREENINGS and ANNUAL RESIDENT REVIEWS (hereinafter referred to as PASARR) for individuals who are located in the CMHSP's MH/DD service area presenting for nursing home admission, or who are currently a resident of a nursing home located in said service area, as required by the Omnibus Budget Reconciliation Act (hereinafter referred to as OBRA) of 1987. The method of costing, billing and payment for these services is described below. This Agreement replaces any previous contract or amendment related to pre-admission screenings and annual resident review.

### **II. REQUIREMENTS**

A. Evaluations and assessments as described herein shall be prepared and submitted in accordance with the following documents:

1. Medical Services Administration (MSA) Bulletin 03-11.
2. Federal Register/Vol 57, No. 230/Monday, November 30, 1992/ Rules and Regulations/Subpart C -- Pre-admission Screening and Annual Resident Review of Mentally Ill and Mentally Retarded Individuals. These are operationalized in the OBRA Manual (5-04).

The DEPARTMENT will notify the CMHSP of any changes in these documents due to federal rules and state requirements. The CMHSP will have implemented such changes within sixty (60) days of the DEPARTMENT's notification to the CMHSP unless otherwise provided by federal regulations.

### **PRE-ADMISSION SCREENING**

- B. The CMHSP will provide evaluations and assessments for all individuals located in the CMHSP's service area who are presented for admission to a nursing home regardless of the location of the admitting facility and for whom a Level I Pre-admission Screening procedure (DCH Form 3877) has identified the possible presence of a mental illness or a developmental disability. This evaluation and assessment will be completed and an appropriate determination made prior to admission of the individual to a nursing home. This evaluation and assessment will be completed utilizing criteria specified in Paragraph A. above.
- C. The CMHSP agrees that Pre-admission Screenings will be completed and required documentation submitted to the DEPARTMENT within four (4) working days of referral of the individual to the CMHSP by whatever agent performing the Level I

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identifies.

- D. In the event that a Pre-admission Telephone Authorization is necessary, because hospital discharge will occur within forty-eight (48) hours and a nursing home bed is available, the CMHSP may obtain a telephone authorization from the DEPARTMENT's OBRA office. When requesting a telephone authorization, the CMHSP will have completed all evaluations and assessments as specified in Paragraph A. above and will verbally provide all necessary information for the DEPARTMENT to make the required determinations. Following the approval or denial of the placement, the CMHSP will submit the completed evaluation, in writing, to the Department within four (4) working days of the referral as specified in Paragraph C. above. Upon review of the submitted documents, the decision related to admission and to the level of service may be altered if the information does not match the information provided during the telephone approval.

**ANNUAL RESIDENT REVIEW**

- E. The CMHSP will provide Annual Resident Reviews to all nursing home residents who are located in the CMHSP's service area and who have been identified through the Pre-admission Screening or Annual Resident Review process as having either a mental illness or developmental disability or who have otherwise been identified to the CMHSP by submission of DCH Form 3877. This evaluation and assessment must be completed utilizing criteria specified in Paragraph A. above.
- F. The CMHSP agrees that Annual Resident Reviews will be completed and required documentation submitted to the DEPARTMENT within fourteen (14) calendar days of receipt by the CMHSP of an appropriately completed DCH Form 3877 from the nursing facility(ies). In the case of Annual Resident Reviews of persons who have been admitted to a nursing facility without a Pre-admission screening as an exempted hospital discharge, the CMHSP will complete a review and submit required documentation to the DEPARTMENT within seven (7) calendar days of referral. In either situation, if a CMHSP is unable to comply with this requirement in a particular case, the CMHSP will notify the DEPARTMENT.

**III. RECORDS, BILLINGS, AND REIMBURSEMENT**

- A. The CMHSP will maintain all documentation and records concerning services provided, client treatment recommendations and treatment plans, and verification of compliance with standards for subsequent audit, and actual cost documentation for a period of seven (7) years and assure that all such documentations will be accessible for audit by appropriate DEPARTMENT staff and other authorized agencies.
- B. The CMHSP will submit monthly billings to the DEPARTMENT for services provided based on an actual cost basis as defined in "Revised Billing Procedures for OBRA Pre-Admission Screening, and Annual Resident Review for Nursing Home

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Clients" DCH memorandum, William J. Allen, October 2, 1996, which is which is included to this agreement. Only one (1) bill will be considered for payment per month, and should be submitted for payment to the DEPARTMENT within forty-five (45) days after the end of the month in which the service was provided, except for the September bill which shall be submitted within fifteen (15) days after the end of the month. In the event that the CMHSP realizes costs incurred after a billing has been submitted, the CMHSP may submit a revised billing. In any event, all bills for services provided under this Agreement must be received by the DEPARTMENT within fifteen (15) days following the end of the fiscal year. Submitted bills will also include the number of evaluations completed during the month being billed by completing the "Detail of Services Billed" form. The PASARR forms located in the MDCH Technical Manual must be utilized by the CMHSP for reporting and billing.

The CMHSP will submit a "Certificate of Indirect Costs" for indicating the indirect rate being used for indirect costs billed to the department. The form, attached, should be filled out annually.

- C. Payments earned by the CMHSP for these services will be included as earned revenue from the DEPARTMENT on the revenue and expenditure reports required by this contract. PASARR expenditures will be specifically identified as part of the "Other Services" section of the final FSR. Separation by MI and DD is not required. All payments made under this Agreement are subject to the requirements under the Single Audit Act of 1984. The CFDA number for the federally funded portion of payments made to the CMHSP under this Agreement is 93.778.

**IV. DEPARTMENT RESPONSIBILITIES**

- A. The DEPARTMENT agrees that for bills received pertaining to this Agreement and which are correctly and completely submitted on a timely basis as specified in Paragraph III.B. above, payments will be made within forty-five (45) days of receipt of bills for approved services. All payments will be made at 100% of the CMHSP's charge as submitted.
- B. Preparing claims for federal financial participation and submitting these claims to the Medical Services Administration will be the responsibility of the DEPARTMENT. The CMHSP will provide the DEPARTMENT with such documentation as may be required to support claims for federal financial participation.
- C. The DEPARTMENT will hold the CMHSP financially harmless where the CMHSP has followed procedures as outlined in Federal Office of Management and Budget Circular A-87, and has documentation as to the services performed. The Federal Office of Management and Budget, Circular A-87, is included in the MDCH Technical Manual. The CMHSP will be responsible where procedures related to these identified evaluations are not followed or where documentation is lacking.

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**V. TERMINATION**

The Agreement may be terminated by either party within sixty (60) days notice. Said notice shall be made in writing and sent by certified mail. Termination will take effect sixty (60) days from receipt of said notice.

**DETAIL OF SERVICES BILLED**

**Nursing Home Evaluations**

**CMH Board Name:** \_\_\_\_\_ **Month/Year:** \_\_\_\_\_

<b>Name of Resident</b>	<b>Date of Birth</b>	<b>*Type of Screening</b>	<b>MI or DD</b>	<b>Date of Service</b>
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				

**\*Indicate PAS or ARR**

MDCH/CMHSP MANAGED SPECIALTY SUPPORTS AND SERVICES CONTRACT FY 13:  
Attachment C 4.7.1

**SUMMARY BILLING FOR FY 2006 and FY 2007 PRE-ADMISSION  
SCREENING and ANNUAL RESIDENT REVIEWS (PASARR)  
DEPARTMENT OF COMMUNITY HEALTH**

CMH BOARD \_\_\_\_\_ TELEPHONE NUMBER: \_\_\_\_\_  
 PERSON COMPLETING FORM: \_\_\_\_\_  
 MONTH ENDING: \_\_\_\_\_ DATE SUBMITTED: \_\_\_\_\_  
 NUMBER of Reviews: DD \_\_\_\_\_ MI \_\_\_\_\_ TOTAL \_\_\_\_\_

<u>I. DIRECT COSTS</u>	TOTAL
A. Direct labor(excluding overtime, shift or holiday premiums and fringe benefits)	\$ _____
B. Other Labor(overtimes, shift or holiday premiums and fringe benefits).	\$ _____
C. Other Direct Costs(contractual services, supplies/materials, travel, equipment, telephone, office space, etc.)	\$ _____
D. Subtotal Direct Costs:	\$ _____

II. INDIRECT COSTS

Computation Method:  
 1. Approved Cost Allocation Plan: (Plan must be reviewed and approved by DCH before using indirect rate based on actual costs)  
 Direct Costs(I.D) above \_\_\_\_\_ x Indirect Rate \_\_\_\_\_ \$ \_\_\_\_\_

III. TOTAL COSTS (Direct and Indirect Costs) \$ \_\_\_\_\_

IV. FEDERAL REIMBURSEMENT  
 (Total Costs ..III Above) Total Costs \_\_\_\_\_ x .75 = \$ \_\_\_\_\_

CMHSP CERTIFICATION

The CMHSP has reported all costs at actual and in conformance with Federal OMB Circular A-87. The CMHSP acknowledges that all costs are subject to audit for federal reimbursement purposes and assumes full responsibility and proper documentation.

\_\_\_\_\_  
**COMMUNITY MENTAL HEALTH SERVICES PROGRAMS    DATE**  
**DIRECTOR**

I authorize the Total Costs (III above) to be paid to the Community Mental Health Services Board or Authority.



MDCH/CMHSP MANAGED SPECIALTY SUPPORTS AND SERVICES CONTRACT FY 13:  
Attachment C 4.7.1

\_\_\_\_\_  
DCH Authorized Staff

\_\_\_\_\_  
DATE

## CERTIFICATE OF INDIRECT COSTS

This is to certify that the indirect cost rate proposal has been reviewed and is submitted herewith the knowledge and belief:

1. All costs included in this proposal, dated \_\_\_\_\_, to establish billing or final indirect costs rates for fiscal year \_\_\_\_\_, are allowable in accordance with the requirements of the Federal Award to which they apply and OMB Circular A-87, "Cost Principles for State, and Local Governments." Unallowable costs have been adjusted for in allocating costs as indicated in the cost allocation plan.

2. All costs included in this proposal are properly allocable to Federal awards on the basis of a beneficial or casual relationship between the expenses incurred and the agreements to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated as indirect costs have not been claimed as direct costs. Similar types of costs have been accounted for consistently and the Federal Government will be notified of any accounting changes that would affect the predetermined rate. If the department finds that the indirect rate was not determined correctly, the CMH agrees to pay the department any difference of all payments made.

I declare that the foregoing is true and correct.

Community Mental Health Agency:

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**1915(c) Home and Community Based Waiver Services and State Plan Services to Children with Serious Emotional Disturbance (SEDW)**

**Purpose:**

The intent of this program is to provide 1915(c) Home and Community Based Waiver Services, as approved by Centers for Medicare and Medicaid Services (CMS) for children with Serious Emotional Disturbances, along with state plan services in accordance with the Medicaid Provider Manual.

The Department will reimburse SEDW enrolled CMHSPs on a fee-for-service basis for all services provided in accordance with the Medicaid Provider Manual, to those children that have been enrolled in the SEDW by MDCH.

The CMHSP is obligated to ensure sufficient local match funds are provided to purchase all necessary services identified in each child's individualized plan of service, and for the total number of children approved for the SEDW enrollment with the CMHSP. The Department under the terms of the agreement will provide funding not to exceed the federal portion for the CMHSP allowable expenditures. The federal funding provided by the Department is 100% federal funding.

**Statement of Work:**

The CMHSP agrees to undertake, perform and complete the services described in attachment A, which is part of this agreement through reference.

**Responsibilities**

The Department in accordance with the general purposes and objectives of this agreement will provide reimbursement on a fee-for-service basis in accordance with the terms and conditions of this agreement contingent upon appropriate reports, records, and documentation being maintained by the CMHSP.

**Financial Requirements**

**1. Reimbursement Method**

This 1915 (c) Home and Community Based Waiver Services and State Plan Services provided to eligible Children with Serious Emotional Disturbance Waiver (SEDW) is a fee-for-service Medicaid program. The Department agrees to reimburse the CMHSP the federal portion of their allowable costs or the federal portion of the Medicaid fee-screen amount, whichever is less. The CMHSP will submit claims in accordance with instructions issued by the Department. The CMHSP assures that all reported allowable costs and reimbursement requests for the SEDW activities it delivered are in accordance with OMB Circular A-87 and the requirements provided in Medicaid Provider Manual. If, as a result of an

audit or review, the federal government disallows costs associated with this program, the CMHSP will be liable for the repayment of federal match made for this project to the Department.

## **2. Financial Status Report Submission**

All CMHSPs participating in the SED Waiver program must report their revenues, local match obligations and actual expenditures related to this waiver as part of their Financial Status Report (FSRs) submissions to the Department.

## **3. Termination**

Participation in this waiver program may be terminated by either party, with thirty (30) days written notice sent by certified mail. Termination will take effect thirty (30) days from receipt of the notice.

**ATTACHMENT A**

**STATEMENT OF WORK**

**1915(c) Home and Community Based Waiver for Children with a  
Serious Emotional Disturbance (SEDW)**

**Responsibility of CMHSP:**

- A. Identify and seek MDCH enrollment of their program and eligible children in the SEDW.
- B. Develop and implement the Individual Plan of Service (IPOS), associated budget and other materials for the waiver applicants, according to instructions issued by MDCH.
- C. The CMHSP shall notify consumers of their right to appeal and provide verification that this right was explained to the consumer.
- D. The CMHSP will collect and report to MDCH on an annual basis sentinel event data by individuals serviced by the SEDW.
- E. Either provide services directly or secure contracts with qualified providers sufficient to meet the identified needs of the population and assure that services are provided at levels specified in the IPOS.
- F. Submit claims on a timely basis to Medicaid on a fee for service basis for covered services delivered in accordance with the most recent Medicaid provider manual.
- G. Submit required monitoring reports to MDCH and provide access to verify accuracy.
- H. Medicaid fee for service funds paid to the CMHSP under the SEDW may be utilized for the implementation of, or continuing participation in, locally established multi-agency shared funding arrangements developed to address the needs of beneficiaries served through multiple public systems. Local interagency agreements and/or memoranda of understanding will stipulate the amount and source of local funding. Medicaid is to be billed on a fee-for-service basis for services to children enrolled in the SEDW when the service is: 1) a covered service in the SEDW; 2) determined to be medically necessary; 3) not covered or paid for from other sources including Title IV-E funds. Monitoring safeguards and relevant documents must be in place to ensure compliance.

- I. As allowed under the MDCH/CMHP master contract, a CMHSP may use State General Funds to cover those costs (indirect administrative costs, direct program costs, and/or direct service cost which exceed the Medicaid fee-for-service reimbursement rate.
- J. The CMHSP shall provide the local financial obligation for the federal funds paid under the SEDW for services to recipients enrolled in the SEDW as long as the recipient continues to be eligible for the waiver and has service needs as determined through a wraparound process. This may include state or local general fund /general purpose dollars.

Annually, the CMHSP shall provide certification to MDCH, for each waiver recipient that local/state funds are available specifically for each waiver recipient. The CMHSP certification shall also certify that these funds are identified in the budget and do quality as bona fide match to Federal funds. The CMHSP shall include documentation of the type and source of funds used to meet the match obligation under the waiver. In the event that partner agencies are unable to provide the required local obligation, or provide funds that don't qualify as match for Federal Medicaid funds the CMHSP is responsible for providing the match obligation. MDCH will reduce the state portion of the general fund formulae dollars of the total financing available to the CMHSP to meet the match obligation. In either event above the CMHSP shall notify the MDCH immediately.

As part of periodic audits, if there is a retroactive disallowance of one of the fund sources for the match, the CMHSP is responsible for that portion that is reimbursed to the federal government.

- K. The CMHSP and its partner agencies may elect to use excess local contributions to fund the 1915(c) Waiver for Children with Serious Emotional Disturbance (SED) to pay for the cost of products or services that do not qualify as allowable under this waiver. The CMHSP shall separately report this use of excess local contributions as specified in the FSR.

When a child and his/her family move to a county within Michigan that has an enrolled CMHSP provider for the SEDW, the child remains eligible for the waiver. However, if the child and his/her family move to a county where the CMHSP is not an enrolled provider of the SEDW, the child's waiver must be terminated. When a child enrolled in the SEDW moves to another county the following process should be used: If the new CMHSP has waiver slot vacancies, the transferring child receives one of the vacancies. If the new CMHSP does not have a waiver vacancy, the waiver slot from the originating CMHSP follows the child to the new CMHSP. When the new CMHSP has a waiver vacancy, that slot is returned to the CMHSP who lost a slot to that CMHSP. This will be facilitated by MDCH through written correspondence.

**1915(c) Home and Community Based Waiver Services and State Plan Services to  
Children with Serious Emotional Disturbance (SEDW) enrolled in the  
Michigan Department of Human Services (MDHS) SEDW Pilot**

**Purpose:**

The intent of this Pilot is to provide 1915(c) Home and Community Based Waiver Services and state plan services to Michigan Department of Human Services (MDHS) children who: have a Serious Emotional Disturbance (SED); meet the criteria for the SEDW, including eligibility for psychiatric hospitalization at Hawthorn Center (as stipulated in the Medicaid Provider Manual); and are in foster care awaiting adoption or reunification with their family or another relative. For purposes of this amendment the SED Waiver will be defined as the Department of Human Services (DHS) SED Waiver (SEDW) Pilot. The MDHS will transfer funds to the Michigan Department of Community Health (MDCH) to match Medicaid for those services provided to MDHS children enrolled on the SEDW. The pilot will include five CMHSPs and counties currently approved to provide SEDW services: Ingham, Kalamazoo, Macomb, Oakland, and Saginaw.

The MDCH will reimburse SEDW enrolled CMHSPs on a fee-for-service basis for all services provided in accordance with the Medicaid Provider Manual, to those children that have been enrolled in the MDHS SEDW Pilot by MDCH.

For the CMHSPs participating, in the MDHS SEDW Pilot, MDCH will reimburse them the state and federal match for services billed on a fee for service basis. Actual expenditures will be adjusted for the American Recovery and Reinvestment Act of 2009 (ARRA) FMAP in effect on the date of payment.

**Statement of Work:**

The CMHSP agrees to undertake, perform and complete the services described in Attachment A, which is part of this agreement through reference.

**Responsibilities**

The MDCH in accordance with the general purposes and objectives of this agreement will provide reimbursement on a fee-for-service basis in accordance with the terms and conditions of this agreement contingent upon appropriate reports, records, and documentation being maintained by the CMHSP.

**Financial Requirements**

**1. Reimbursement Method**

This 1915 (c) Home and Community Based Waiver Services and State Plan Services provided to Children enrolled in the SEDW is a fee-for-service Medicaid program. The MDCH agrees to reimburse the CMHSP their allowable costs up to

the Medicaid fee-screen amount. The CMHSP will submit claims in accordance with instructions issued by MDCH.

The CMHSP assures that all reported allowable costs and reimbursement requests for the MDHS SEDW Pilot activities it delivers are in accordance with OMB Circular A-87 and the requirements provided in Medicaid Provider Manual. If, as a result of an audit or review, the federal government disallows costs associated with this program, the CMHSP will be liable for the repayment of federal match made for this project to the MDCH.

## **2. Financial Status Report Submission**

All CMHSPs participating in the MDHS SEDW Pilot must report their revenues, local match obligations and actual expenditures related to this waiver as part of their Financial Status Report (FSRs) submissions to the MDCH.

## **3. MDHS SEDW Pilot Procedural Requirements**

- Develop local agreements with County MDHS offices outlining roles and responsibilities regarding the MDHS SEDW Pilot.
- MDHS workers and CMHSP Wraparound Supervisors must review completed SEDW Questionnaire for determination of referral to the MDHS SEDW Pilot.
- Complete eligibility determination process (including CAFAS) and submit to MDCH within 30 days of referral.
- Develop and ensure SEDW services capacity for SEDW enrollees through provider networks.
- Ensure all staff provider qualifications are met.
- Complete monthly billing invoices.
- Participate in required SEDW Pilot State/Local technical assistance meetings.

## **4. Wraparound Model Fidelity**

- CMHSPs must meet standards of MDCH Wraparound enrollment.

## **5. Termination**

CMHSP participation in this MDCH SEDW Pilot may be terminated by either party, with thirty (30) days written notice sent by certified mail. Termination will take effect thirty (30) days from receipt of the notice. Services to children enrolled in the MDHS SEDW Pilot must continue, as outlined in the child's plan of service, regardless of the CMHSP participation in the MDHS SEDW Pilot.

**ATTACHMENT A****STATEMENT OF WORK****1915(c) Home and Community Based Waiver for Children with a Serious Emotional Disturbance (SEDW) enrolled in the Department of Human Services SEDW Pilot****Responsibility of CMHSP:**

- A. Work with MDHS staff to review completed SEDW Questionnaires for determination of referral to the MDHS SEDW Pilot.
- B. Agree to a specific referral process for children identified by MDHS as potentially eligible for SEDW and serve those children identified as eligible for the MDHS SEDW Pilot.
- C. Develop and implement the Individual Plan of Service (IPOS), associated budget and other materials for the MDHS SEDW Pilot applicants, according to instructions issued by MDCH.
- D. Notify children, youth and their families of their right to appeal and provide verification that this right was explained to the child, youth and their family.
- E. Collect and report to MDCH on an annual basis recipient rights investigations and sentinel event data of children and youth serviced by the MDHS SEDW Pilot.
- F. Collect and report to MDCH all data specified in the local agreement with MDHS for children and youth enrolled in the MDHS SEDW Pilot.
- G. Either provide services directly or secure contracts with qualified providers sufficient to meet the identified needs of the children and youth served and assure that services are provided at levels specified in the Individual Plan of Service (IPOS).
- H. Submit claims on a timely basis to Medicaid on a fee for service basis for covered services delivered in accordance with the most recent Medicaid Provider Manual.
- I. For those children enrolled in the MDHS SEDW Pilot the CMHSP shall be paid the total amount billed, up to the Medicaid screen amount.
- J. Submit required monitoring reports to MDCH and provide access to verify accuracy.
- K. As allowed under the MDCH/CMHP master contract, a CMHSP may use State General Funds to cover those costs (indirect administrative costs, direct program costs, and/or direct service cost which exceed the Medicaid fee-for-service reimbursement rate).



- L. Children enrolled in the DHS SEDW Pilot that move to a county within Michigan that has an enrolled CMHSP provider for the SEDW, the child remains eligible for the SEDW and the new CMHSP assumes responsibility to management of the waiver. However, if the child moves to a county that is not currently included in the MDHS SEDW Pilot, the child's residency, for purposes of the SEDW, will remain in the original county and the CMHSP will continue to manage the SEDW.

**TECHNICAL REQUIREMENT FOR SED CHILDREN  
FINAL REVISED April 10, 2012**

**REGARDING: 1) MEDICAID ELIGIBILITY CRITERIA FOR CHILDREN WITH SERIOUS EMOTIONAL DISTURBANCE; AND  
2) ESTABLISHING GENERAL FUND PRIORITY FOR MENTAL HEALTH SERVICES FOR CHILDREN WITH SERIOUS  
EMOTIONAL DISTURBANCE**

**General Considerations:**

This requirement provides a framework to be used by Prepaid Inpatient Health Plans (PIHPs) and Community Mental Health Services Programs (CMHSPs) for determining eligibility for Medicaid specialty mental health services for children with serious emotional disturbance (SED). The framework is also to be used for non-Medicaid children, for establishing general fund priority for mental health services to children with SED according to the requirements of the Michigan Mental Health Code (Section 330.1208). The criteria for Medicaid eligibility for specialty mental health services and the framework for general fund priority for non-Medicaid children is based on the definition of serious emotional disturbance delineated in the Mental Health Code (Section 330.1100d) which includes the three dimensions of diagnosis, functional impairment and duration.

A key feature of the Medicaid eligibility criteria and general fund priority framework in the Technical Requirement is that diagnosis alone is not sufficient to determine eligibility for Medicaid specialty mental health services, nor general fund priority for services. This means that the practice of using a defined or limited set of diagnoses to determine Medicaid eligibility, or general fund priority for services should cease. As stated in the Mental Health Code, any diagnosis in the DSM can be used (with the exception of developmental disorder, substance abuse disorder or “V” codes unless these disorders occur in conjunction with another diagnosable serious emotional disorder), and should be coupled with functional impairment and duration criteria for determination of serious emotional disturbance in a child.

The Medicaid eligibility criteria and general fund priority framework delineated in this document are intended to: (1) assist Prepaid Inpatient Health Plans (PIHPs) and Community Mental Health Services Programs (CMHSPs) in determining severity, complexity and duration that would indicate a need for specialty mental health services and supports for Medicaid children and for non-Medicaid children establish priority for service under the Michigan Mental Health Code, and (2) bring more uniformity to these decisions for children across the system. Children meeting the criteria delineated in this document are considered to have a serious emotional disturbance, as defined in the Mental Health Code. (Please note that the criteria contained in this document do not apply to MICHild beneficiaries. CMHSPs are the sole provider of the mental health benefit for MICHild

beneficiaries who are to be provided medically necessary mental health services by CMHSPs regardless of functional impairment.)

## **Selection of Services**

For Medicaid children, once an eligibility determination has been made based on the criteria delineated in this document, selection of services is determined based on person-centered planning and family-centered practice. Selection of services should also be made based on medical necessity criteria, and, where applicable, the service-specific criteria, coverage policy and decision parameters contained in the most recent version of the Medical Services Administration’s Medicaid Policy Manual. However, decisions regarding access/eligibility should not be based on medical necessity criteria or service-specific criteria since these decisions are a separate and subsequent process to eligibility determinations.

Special Note: For Direct Prevention Services Models (CCEP, School Success Program, Infant Mental Health, Parent Education) with a family or child care provider regarding an individual child, the service should be noted in the child’s plan of services as “medically necessary” and should be reported using the child’s beneficiary identification number. PIHPs typically use “unspecified” diagnosis codes found in the ICD-9 for infants, young children and individuals who receive one-time crisis intervention.

## **Definition of Child with Serious Emotional Disturbance 7 through 17 Years**

The definition of SED for children 7 through 17 years delineated below is based on the Mental Health Code, Section 330.1100d. In addition, extensive reviews and examinations of Child and Adolescent Functional Assessment Scale (CAFAS) data submitted by CMHSPs for the children currently served were undertaken to establish functioning criteria consistent with the Michigan Mental Health Code definition of serious emotional disturbance.<sup>1</sup> The parameters delineated below do not preclude the diagnosis of and the provision of services to an adult beneficiary who is a parent and who has diagnosis within the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) or International Classification of Diseases (ICD) that results in a care-giving environment that places the child at-risk for serious emotional disturbance.

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<sup>1</sup> The recommendations for the CAFAS scores as detailed under the functioning dimension described in this document would capture about 84.2% of the children currently being served by CMHSPs.

The following is the criteria for determining when a child 7 through 17 years is considered to have a serious emotional disturbance. All of the dimensions must be considered when determining whether a child is eligible for mental health services and supports as a child with serious emotional disturbance. The child shall meet each of the following:

#### Diagnosis

Serious emotional disturbance means a diagnosable mental, behavioral, or emotional disorder affecting a minor that exists or has existed during the past year for a period of time sufficient to meet diagnostic criteria specified in the most recent diagnostic and statistical manual of mental disorders published by the American Psychiatric Association and approved by the department and that has resulted in functional impairment as indicated below. The following disorders are included only if they occur in conjunction with another diagnosable serious emotional disturbance: (a) a substance abuse disorder, (b) a developmental disorder, or (c) "V" codes in the diagnostic and statistical manual of mental disorders.

#### Degree of Disability/Functional Impairment

Functional impairment that substantially interferes with or limits the minor's role or results in impaired functioning in family, school, or community activities. This is defined as:

- A total score of 50 (using the eight subscale scores on the Child and Adolescent Functional Assessment Scale (CAFAS), or
- Two 20s on any of the first eight subscales of the CAFAS, or
- One 30 on any subscale of the CAFAS, except for substance abuse only.

#### Duration/History

Evidence that the disorder exists or has existed during the past year for a period of time sufficient to meet diagnostic criteria specified in the most recent diagnostic and statistical manual of mental disorders published by the American Psychiatric Association.

#### **Definition of Child with Serious Emotional Disturbance, 4 through 6 Years (48 through 71 months)**

For children 4 through 6 years of age, decisions should utilize similar dimensions to older children to determine whether a child has a serious emotional disturbance and is in need of mental health services and supports. The dimensions include:

- (1) a diagnosable behavioral or emotional disorder;
- (2) functional impairment/limitation of major life activities; and
- (3) duration of condition.

However, as with infants and toddlers (birth through age three years), assessment must be sensitive to the critical indicators of development and functional impairment for the age group. Impairments in functioning are revealed across life domains in the young child's regulation of emotion and behavior, social development (generalization of relationships beyond parents, capacity for peer relationships and play, etc.), physical and cognitive development, and the emergence of a sense of self. All of the dimensions must be considered when determining whether a young child is eligible for mental health services and supports as a child with serious emotional disturbance.

The parameters delineated below do not preclude the provision of services to an adult beneficiary of a young child who is a parent and who has a diagnosis within the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) or International Classification of Diseases (ICD) that results in a care-giving environment that places the child at-risk for serious emotional disturbance.

The following is the criteria for determining when a young child beneficiary is considered to have a serious emotional disturbance. All of the dimensions must be considered when determining whether a young child is eligible for mental health services and supports.

The child shall meet each of the following:

#### Diagnosis

A young child has a mental, behavioral, or emotional disturbance sufficient to meet diagnostic criteria specified in the most recent diagnostic and statistical manual of mental disorders published by the American Psychiatric Association and approved by the department that has resulted in functional impairment as delineated below. The following disorders are included only if they occur in conjunction with another diagnosable serious emotional disturbance: (a) a substance abuse disorder, (b) a developmental disorder, or (c) "V" codes in the diagnostic and statistical manual of mental disorders.

#### Degree of Disability/Functional Impairment

Interference with, or limitation of, a young child's proficiency in performing developmentally appropriate tasks, when compared to other children of the same age, across life domain areas and/or consistently within specific domains as demonstrated by at least one indicator drawn from at least three of the following areas:

Area I:

Limited capacity for self-regulation, inability to control impulses, or modulate emotions as indicated by:

Internalized Behaviors:

- prolonged listlessness or sadness
- inability to cope with separation from primary caregiver
- shows inappropriate emotions for situation
- anxious or fearful
- cries a lot and cannot be consoled
- frequent nightmares
- makes negative self statements that may include suicidal thoughts

Externalized Behaviors:

- frequent tantrums or aggressiveness toward others, self and animals
- inflexibility and low frustration tolerance
- severe reaction to changes in routine
- disorganized behaviors or play
- shows inappropriate emotions for situation
- reckless behavior
- danger to self including self mutilation
- need for constant supervision
- impulsive or danger seeking
- sexualized behaviors inappropriate for developmental age
- developmentally inappropriate ability to comply with adult requests
- refuses to attend child care and/or school

- deliberately damages property
- fire starting
- stealing

Area II:

Physical symptoms, as indicated by behaviors that are not the result of a medical condition, include:

- bed wetting
- sleep disorders
- eating disorders
- encopresis
- somatic complaints

Area III:

Disturbances of thought, as indicated by the following behaviors:

- inability to distinguish between real and pretend
- difficulty with transitioning from self-centered to more reality-based thinking
- communication is disordered or bizarre
- repeats thoughts, ideas or actions over and over
- absence of imaginative play or verbalizations commonly used by preschoolers to reduce anxiety or assert order/control on their environment

Area IV:

Difficulty with social relationships as indicated by:

- inability to engage in interactive play with peers
- inability to maintain placements in child care or other organized groups
- frequent suspensions from school
- failure to display social values or empathy toward others
- threatens or intimidates others

- inability to engage in reciprocal communications
- directs attachment behaviors non-selectively

#### Area V:

Care-giving factors that reinforce the severity or intractability of the childhood disorder and the need for intervention strategies such as:

- a chaotic household/constantly changing care-giving environments
- parental expectations are inappropriate considering the developmental age of the young child
- inconsistent parenting
- subjection to others' violent or otherwise harmful behavior
- over-protection of the young child
- parent/caregiver is insensitive, angry and/or resentful to the young child
- impairment in parental judgment or functioning (mental illness, domestic violence, substance use, etc.)
- failure to provide emotional support to a young child who has been abused or traumatized

The standardized assessment tool specifically targeting social-emotional functioning for children 4 through 6 years of age recommended for use in determining degree of functional impairment is the Pre-School and Early Childhood Functional Assessment Scale (PECFAS).

#### Duration/History

The young age and rapid transition of young children through developmental stages makes consistent symptomatology over a long period of time unlikely.

However, indicators that a disorder is not transitory and will endure without intervention include one or more of the following:

- (1) Evidence of three continuous months of illness; or
- (2) Three months of symptomatology/dysfunction in a six-month period; or
- (3) Conditions that are persistent in their expression and are not likely to change without intervention; or
- (4) A young child has experienced a traumatic event involving actual or threatened death or serious injury or threat to



the physical or psychological integrity of the child, parent or caregiver, such as abuse (physical, emotional, sexual), medical trauma and/or domestic violence.

### **Definition of Child with Serious Emotional Disturbance, Birth through 3 Years (47 months of age)**

Unique criteria must be applied to define serious emotional disturbance for the birth through age three population, given:

- the magnitude and speed of developmental changes through pregnancy and infancy and early childhood;
- the limited capacity of the very young to symptomatically present underlying disturbances;
- the extreme dependence of infants and toddlers upon caregivers for their survival and well-being; and
- the vulnerability of the very young to relationship and environmental factors.

Operationally, the above parameters dictate that the mental health professional must be cognizant of:

- the primary indicators of serious emotional disturbance in infants and toddlers, and
- the importance of assessing the constitutional/physiological and/or care- giving/environmental factors that reinforce the severity and intractability of the infant-toddler's disorder.

Furthermore, the rapid development of infants and toddlers results in transitory disorders and/or symptoms, requiring the professional to regularly re-assess the infant-toddler in the appropriate developmental context.

The access eligibility criteria delineated below do not preclude the provision of services to an adult beneficiary who is a parent of an infant or toddler and who has a diagnosis within the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) or International Classification of Diseases (ICD) that results in a care-giving environment that places the infant or toddler at high risk for serious emotional disturbance.

The following is the criteria for determining when an infant or toddler beneficiary is considered to have a serious emotional disturbance or is at high risk for serious emotional disturbance and qualifies for mental health services and supports. All of the dimensions must be considered when determining eligibility.

The child shall meet each of the following:

Diagnosis

An infant or toddler has a mental, behavioral, or emotional disturbance sufficient to meet the diagnostic criteria specified in the most recent diagnostic and statistical manual of mental disorders published by the American Psychiatric Association consistent with the *Diagnostic Classification of Mental Health and Developmental Disorders of Infancy and Early Childhood: Revised Edition* (see attached crosswalk) that has resulted in functional impairment as indicated below. The following disorders are included only if they occur in conjunction with

another diagnosable serious emotional disturbance: (a) a substance abuse disorder, (b) a developmental disorder, or (c) "V" codes in the diagnostic and statistical manual of mental disorders.

### Degree of Disability/Functional Impairment

Interference with, or limitation of, an infant or toddler's proficiency in performing developmentally appropriate skills as demonstrated by at least one indicator drawn from two of the following three functional impairment areas:

#### Area I:

General and/or specific patterns of reoccurring behaviors or expressiveness indicating affect/modulation problems. Indicators are:

- uncontrollable crying or screaming
- sleeping and eating disturbances
- disturbance (over or under expression) of affect, such as pleasure, displeasure, joy, anger, fear, curiosity, apathy toward environment and caregiver
- toddler has difficulty with impulsivity and/or sustaining attention
- developmentally inappropriate aggressiveness toward others and/or toward self
- reckless behavior(s)
- regression as a consequence of a trauma
- sexualized behaviors inappropriate for developmental age

#### Area II:

Behavioral patterns coupled with sensory, sensory motor, or organizational processing difficulty (homeostasis concerns)

that inhibit the infant or toddler's daily adaptation and relationships. Behavioral indicators are:

- a restricted range of exploration and assertiveness
- severe reaction to changes in routines
- tendency to be frightened and clinging in new situations
- lack of interest in interacting with objects, activities in their environment, or relating to others and infant or toddler appears to have one of the following reactions to sensory stimulation:
  - hyper-sensitivity
  - hypo-sensitive/under-responsive
  - sensory stimulating-seeking/impulsive

### Area III:

Incapacity to obtain critical nurturing (often in the context of attachment-separation concerns), as determined through the assessment of infant/toddler,

parent/caregiver and environmental characteristics. Indicators in the infant or toddler are:

- does not meet developmental milestones (i.e., delayed motor, cognitive, social/emotional speech and language) due to lack of critical nurturing,
- has severe difficulty in relating and communicating,
- disorganized behaviors or play,
- directs attachment behaviors non-selectively,
- resists and avoids the caregiver(s) which may include childcare providers,
- developmentally inappropriate ability to comply with adult requests,  
disturbed intensity of emotional expressiveness (anger, blandness or is apathetic) in the presence of a parent/caregiver who often interferes with infant's goals and desires, dominates the infant or toddler through over-control, does not reciprocate to the infant or toddler's gestures, and/or whose anger, depression or anxiety results in inconsistent parenting. The parent/caregiver may be unable to provide critical nurturing and/or be unresponsive to the infant or toddler's needs due to diagnosed or undiagnosed peri-natal depression, other mental illness, etc.

An assessment tool specifically targeting social-emotional functioning for infants and toddlers and assessment of the relationship between primary caregiver(s)

will be determined based on field testing of recommended assessment tools.

Duration/History

The very young age and rapid transition of infants and toddlers through developmental stages makes consistent symptomatology over time unlikely. However, indicators that a disorder is not transitory and will endure without intervention include one or more of the following:

- (1) The infant or toddler’s disorder(s) is affected by persistent multiple barriers to normal development (inconsistent parenting or care-giving, chaotic environment, etc.); or
- (2) The infant or toddler has been observed to exhibit the functional impairments for more days than not for a minimum of two weeks (see Areas I-III above); or
- (3) An infant or toddler has experienced a traumatic event involving actual or threatened death or serious injury or threat to the physical or psychological integrity of the child, parent or caregiver, such as abuse (physical, emotional, sexual), medical trauma and/or domestic violence.

Infants and Toddlers (birth to 47 months) who Require Specialty Services and Supports  
**Crosswalk between DC 0-3R and ICD 10 and DSM-IV-TR**

DC 0-3 R	ICD 10	ICD 10 Diagnostic Category Description	DSM-IV	DSM-IV-TR
<b>100 Post Traumatic Stress Disorder</b>	F43.0	Acute stress reaction	308.3	Acute stress reaction
	F43.1	Post traumatic stress disorder	309.81	Post traumatic Stress Disorder
	F43.2x	Adjustment disorders-specify clinical form with 5 <sup>th</sup> character: F43.20 – Brief depressive reaction F43.21 – Prolonged depressive reaction		

DC 0-3 R	ICD 10	ICD 10 Diagnostic Category Description	DSM-IV	DSM-IV-TR
		F43.22 – Mixed anxiety and depressive reaction F43.23 – With predominant disturbance of other emotions F43.24 – With predominant disturbance of conduct		
	F44.0	Dissociative amnesia		
<b>150 Deprivation/ Maltreatment Disorder</b>	T74.0	Neglect or abandonment	313.89	Reactive Attachment Disorder
	T74.8	Other Maltreatment Syndromes		
	T74.9	Maltreatment syndrome, specified		
	F94.1	Reactive attachment disorder of childhood		
	F94.2	Disinhibited attachment disorder of childhood		
<b>200 Disorder of Affect</b>				
<b>210 Prolonged Bereavement/Grief Reaction</b>	F43.22	Adjustment disorder with mixed anxiety and depressive reaction	309.0	Adjustment Disorder with Depressed Mood
	F43.23	Adjustment disorder with predominant disturbance of other emotions		
<b>220 Anxiety Disorder</b>				
<b>221 Separation Anxiety</b>	F93.0	Separation anxiety disorder of childhood	309.21	Separation Anxiety Disorder
<b>222 Specific Phobia</b>	F93.1	Phobic anxiety disorder of childhood	300.01	Panic disorder w/o Agoraphobia

DC 0-3 R	ICD 10	ICD 10 Diagnostic Category Description	DSM-IV	DSM-IV-TR
<b>223 Social Anxiety Disorder</b>	F93.2	Social anxiety disorder of childhood	300.23	Social Phobia
<b>224 Generalized Anxiety Disorder</b>	F41.1	Generalized anxiety disorder	300.02	Generalized Anxiety Disorder
<b>225 Anxiety Disorder NOS</b>	F41.9	Anxiety disorder, unspecified	300.00	Anxiety Disorder NOS
<b>230 Depression of Infancy and Early Childhood</b>				
<b>231 Type I Major Depression</b>	F32.2	Severe depressive episode without psychotic symptoms	296.20	Major Depressive Disorder, Single Episode, Unspecified
	F32.3	Severe depressive episode with psychotic symptoms		
	F32.1	Moderate depressive episode	300.4	Dysthymic Disorder
	F33.x	Recurrent depressive disorder 4 <sup>th</sup> digit specifies severity (as with F32.x above) 0 - current episode mild 1 – current episode moderate 2 – current episode severe, without psychotic symptoms 3 – current episode severe, with psychotic symptom	296.30	Major Depressive Disorder, Recurrent, Unspecified
	F33.9	Recurrent depressive disorder, unspecified	296.30	Major Depressive Disorder, Recurrent, Unspecified
<b>232 Type II Depressive Disorder NOS</b>	F32.0	Mild depressive episode	311	Depressive Disorder NOS
	F32.9	Depressive episode, unspecified		
<b>240 Mixed disorder of emotional</b>				
	F92.9	Mixed disorder of conduct and emotions, unspecified	313.9	Disorder of Infancy, Childhood, or Adolescence NOS

DC 0-3 R	ICD 10	ICD 10 Diagnostic Category Description	DSM-IV	DSM-IV-TR
<b>expressiveness</b>				
<b>300 Adjustment Disorder</b>	F43.2	Adjustment disorders	309.9	Adjustment Disorder, Unspecified
	F43.0	Acute stress reaction		
<b>400 Regulation Disorders of Sensory Processing</b>			313.9	Disorder of Infancy, Childhood, or Adolescence NOS
<b>410 Hypersensitive</b>		(see codes for subtypes)		
<b>411 Type A –fearful/cautious</b>	F41.8	Other specific anxiety disorder		
<b>412 Type B – Negative/Defiant</b>	F92.8	Other mixed disorder of conduct and emotions		
<b>420 Hyposensitive/ Underresponsive</b>	F90.0	Disturbance of activity and attention		
<b>430 Sensory stimulations-seeking/Impulsive</b>	F90.1	Hyperkenetic conduct disorder		
<b>500 Sleep Behavior Disorder</b>			307.47	Dyssomnia NOS or Parasomnia NOS
<b>510 Sleep onset disorder</b>	G47.0	Disorders of initiating and maintaining sleep		
<b>520 Night waking disorder</b>	G47.2	Disorders of sleep-wake cycle		
	G 47.9	Sleep disorder , unspecified		
	F51.3	Sleep walking		
	F51.4	Sleep terrors (night terrors)		
	F51.9	Nonorganic sleep disorder, unspecified		

DC 0-3 R	ICD 10	ICD 10 Diagnostic Category Description	DSM-IV	DSM-IV-TR
<b>600 Feeding Behavior Disorders</b>			307.59	Feeding Disorder of Infancy or Early Childhood
<b>601 Feeding Disorder of State Regulation</b>	P92.9	Feeding problem of newborn, unspecified		
<b>602 Feeding Disorder of Caregiver-Infant Reciprocity</b>	R63.6	Feeding difficulties and mismanagement		
<b>603 Infantile Anorexia</b>	R63.0	Anorexia, loss of appetite		
<b>604 Sensory Food Aversions</b>	F98.2	Feeding disorder of infancy and childhood		
<b>605 Feeding Disorder associated with concurrent medical conditions</b>	F98.2	Feeding disorder of infancy and childhood		
<b>606 Feeding disorder associated with insults to gastrointestinal tract</b>	F50.9	Eating disorder, unspecified		
	F98.2	Feeding disorder of infancy and childhood		
	F50.9	Eating disorder, unspecified		
<b>700 Disorders of Relating and Communicating</b>		If 2 or older, use ICD codes for Pervasive developmental disorders See block F84	299.00	Autistic Disorder
<b>If under age 2</b>				
<b>710 Multisystem developmental disorder</b>	F84.9	Pervasive developmental disorder, unspecified	299.80	Pervasive developmental disorder NOS
<b>AXIS II: Relationship Classification</b>	From Illinois Crosswalk: For Axis II, relational disorders of any degree of severity, a psychosocial stressor must, by definition, also be present. When a relationship disorder or an			



DC 0-3 R	ICD 10	ICD 10 Diagnostic Category Description	DSM-IV	DSM-IV-TR
	interaction disorder seems to be the diagnosis of choice in the DC: 0-3R system, the very least that can be used in the DSM and ICD systems is the diagnosis of Adjustment disorder (to the psychosocial stressor).			
<b>900 Relationship Disorder</b>	F43.25	Adjustment disorder with predominant disturbance of emotions and conduct	309.4	Adjustment Disorder With Mixed Disturbance of Emotions and Conduct
	F41.2	Mixed anxiety and depressive disorder		

**MENTAL HEALTH COURT  
PARTICIPANT DATA REPORT INSTRUCTIONS  
Revised: July, 2012**

**Instructions:**

The Participant Data Report form is to be completed each quarter and is due 30 days following the end of the quarter. Due dates are January 30 for the first quarter, April 30 for the second quarter, July 30 for the third quarter and October 30 for the fourth quarter. Please email the completed form to Jackie Wood at [woodj10@michigan.gov](mailto:woodj10@michigan.gov). Questions regarding this request should be directed to Jackie Wood by phone at 517.373.4316 or e mail.

**Section A. Mental Health Court Participants**

This section of the spreadsheet is intended to identify, in rows A-1 through A-4 the number of mental health court participants by quarter. The areas highlighted in yellow are for entry.

**Column Descriptions**

- C-A This column represents the number of participants in the 1<sup>st</sup> quarter.
- C-B This column represents the number of participants in the 2<sup>nd</sup> quarter
- C-C This column represents the number of participants in the 3<sup>rd</sup> quarter
- C-D This column represents the number of participants in the 4<sup>th</sup> quarter

**Row Descriptions**

The first four rows are intended to identify the number of participants as of the last day of the previous quarter – the end of period participants is the beginning count for the next quarter. The subsequent rows are intended to identify new participants during that quarter and the number leaving during the time period. Row B-4 should represent the number of participants as of the end date of the reporting period.

**A-1 Beginning of the Time Period.** (Last day of previous quarter, automatically entered from previous quarter - except for Q1 when you have to manually enter "ending" from Q4 of previous fiscal year)

**A-2 New Participants During the Time Period**

**A-3 Participants Leaving Program During the Time Period** (Automatically enters from the sum rows of A-5 through A-7)

**A-4 End of the Time Period Participants** (Automatically enters into next quarter Beginning Time Period)

The next set of rows is intended to describe, in further detail, the participants entered in row B-3. That is, if 14 participants left the program during the reporting period, the sum of rows B-5 through B-8 should equal the number reported in B-3.

**Disposition of Persons Exiting the Program**

**A-5 Terminated by Program-Compliance**

**A-6 Dropped Out/Participant Choice**

**A-7 Completed**

**A-8 Other (describe)** For this row, provide additional information that describes the disposition of the participant.



**MENTAL HEALTH COURT  
CONSUMER UNIQUE ID REPORTING INSTRUCTIONS**

**GENERAL INFORMATION:**

Each CMHSP where a mental court project exists is required to submit information annually that will permit the Department to identify QI and encounter information for mental health court participants from the state warehouse.

The instructions below provide guidance for the transmittal of the necessary information for each mental health court participant. A standardized Excel spreadsheet format has been developed for this purpose.

**REPORTING PERIOD AND DUE DATE:**

Each project must submit information for each consumer participating in the mental health court projects during the report period. The report period requested covers the period of 10/1/2012 through 9/30/2013 and is due 10/31/2013.

**REPORTING FORMAT (EXCEL SPREADSHEET):**

The attached spreadsheet requires the following format and information requirements:

- Include the CMHSP name, the name of the contact person submitting the spreadsheet, and the contact email and phone number.

Column A. This column represents the PIHP ID

Column B. This column represents the CMHSP -ID

Column C. This column represents the Consumer Unique ID

Column D. This column represents the Medicaid ID if the consumer has a Medicaid ID.

Column E. This column represents the SCCM Case ID number. The SCAO SCCM number can be obtained by contacting the individual assigned by the court to enter participant data into the SCCM web-based database. Note-this is not the docket number but a unique number assigned by the SCCM database for each participant.

**DATA TRANSMITTAL:**

The completed Excel spreadsheet must be zipped and password protected prior to submission to MDCH. To password protect the file; please perform the following functions on the document:

1. At the top of the spreadsheet select **TOOLS**
2. Select **OPTIONS**
3. Select the tab **SECURITY**
4. In the **PASSWORD TO OPEN** space, **TYPE IN THE PASSWORD** that you have created and select the **OK** button.
5. **EMAIL** the spreadsheet to Jackie Wood at [woodj10@michigan.gov](mailto:woodj10@michigan.gov)
6. Please provide the password in a separate email to Jackie Wood at [woodj10@michigan.gov](mailto:woodj10@michigan.gov)

If you have any questions, please contact Jackie Wood at [woodj10@michigan.gov](mailto:woodj10@michigan.gov) or at (517) 373-4316.

**Mental Health Court Participant  
Consumer ID Numbers**

**For The Period 10/1/12 - 9/30/13**

**Due 10/31/13**

**CMHSP Name:** Type CMHSP Name Here  
**Contact Person:** Type Contact Name Here  
**Contact Telephone:** Type Contact Phone Number Here  
**Contact Email:** Type Contact Email Address Here

**PIHP ID      CMHSP ID      Unique ID      Medicaid ID      SCAO SCCM Case #**

## **CMHSP LOCAL DISPUTE RESOLUTION PROCESS**

### **I. SUMMARY BACKGROUND**

All consumers have the right to a fair and efficient process for resolving complaints regarding their services and supports managed and/or delivered by Community Mental Health Services Programs (CMHSPs) and their provider networks. A recipient of or applicant for public mental health services may access several options to pursue the resolution of complaints. These options are defined through the Recipient Rights requirements referenced in the Michigan Mental Health Code (hereafter referred to as the Code) for all recipients of public mental health services, and the MDCH/CMHSP contract. Additional options for Medicaid beneficiaries are explained in the Appeal and Grievance Technical Requirement located in Attachment P.6.3.2.1 of the MDCH contracts with the Pre-paid Inpatient Health Plans (PIHPs). It is important to note that an individual receiving mental health services and supports may pursue their complaint within multiple options simultaneously.

Chapters 7, 7a, 4 and 4a of the Code describe the broad set of rights and protections for recipients of public mental health services as well as the procedures for the investigation and resolution of recipient rights complaints. For the purposes of this requirement, the focus will be on those complaints related to the denial, reduction, suspension or termination of services and supports. Specifically, the purpose of this document is to provide operational guidance to CMHSPs to meet the requirements of the MDCH/CMHSP contract regarding grievance and appeal systems for recipients who are not Medicaid eligible, contained in Section 6.3.2 - Recipient Rights and Grievance/Appeals.

This requirement is based upon the premise that all recipients of, or applicants for, public mental health services will receive notice of their rights and an explanation of the grievance and appeal processes. This requirement in no way requires the exhaustion of grievance or alternative dispute resolution processes prior to the filing of a recipient rights complaint pursuant to Chapter 7 and 7a of the Code.

### **II. UNDERLYING VALUES AND PRINCIPLES**

Properly structured grievance and appeal processes for consumers should promote the resolution of consumer concerns, as well as support and enhance the overall goal of improving the quality of care. The internal and external grievance and appeal processes should be:

- \* Timely
- \* Fair to all parties
- \* Administratively simple
- \* Objective and credible
- \* Accessible and understandable to consumers
- \* Cost and resource efficient
- \* Subject to quality review

In addition, the process should:

- \* Not interfere with communication between consumers and their CMHSP service providers.
- \* Assure that service providers who participate in a grievance and appeal process on behalf of enrollees should be free from discrimination or retaliation.
- \* Assure that consumers who file a grievance should be free from discrimination or retaliation.

(Adapted from the Consumer Bill of Rights and Responsibilities, A report to the President of the United States, prepared by the Advisory Commission on Consumer Protection and Quality in the Health Care Industry, November 1997.)

### **III. RECIPIENT RIGHTS REQUIREMENTS REGARDING THE DENIAL OF SERVICES**

#### **A. Denial of Hospitalization**

1. If a pre-admission screening unit or children's diagnostic and treatment service of the CMHSP denies hospitalization, the individual, his/her guardian or his/her parent in the case of a minor child, may request a second opinion from the executive director of the CMHSP.

The request for the second opinion shall be processed in compliance with Sections 409(4), 498e(4) and 498h(5) of the Code. If the conclusion of the second opinion is different from the conclusion of the children's diagnostic and treatment service or the pre-admission screening unit, the executive director, in conjunction with the medical director, shall make a decision based upon all clinical information available within one business day.

2. If the request for a second opinion is denied, the individual or someone on his/her behalf may file a recipient rights complaint with the CMHSP Office of Recipient Rights.
3. If the initial request for inpatient admission is denied, **and** the individual is a current recipient of other CMHSP services, the individual or someone on his/her behalf may file a Chapter 7 complaint alleging a violation of his/her right to treatment suited to condition.
4. If the second opinion determines the individual is not clinically suitable for hospitalization **and** the individual is a current recipient of other CMHSP services, **and** a recipient rights complaint has not been filed previously on behalf of the individual, the individual or someone on his/her behalf may file a complaint with the CMHSP Rights Office for processing under Chapter 7A.
- 5.

#### **B. Denial of Access to Community Mental Health Service Program Services**

1. If an initial applicant for CMHSP services is denied such services, the applicant or his/her guardian, or the applicant's parent in the case of a minor must be informed of

their right to request a second opinion of the executive director. The request shall be processed in compliance with Section 705 of the Code and must be resolved within five business days.

2. The applicant may not file a recipient rights complaint for denial of services suited to condition as he/she does not have standing as a recipient of mental health services. He or she may, however, file a rights complaint if the request for a second opinion is denied.

#### C. Denial of Family Support Subsidy

1. Pursuant to Section 159(3) of the Code, "if an application for a family support subsidy is denied or a family support subsidy is terminated by a community mental health services program, the parent or legal guardian of the affected eligible minor may demand, in writing, a hearing by the community mental health services program. The hearing shall be conducted in the same manner as provided for contested case hearings under Chapter 4 of the Administrative Procedures Act of 1969, Act No. 306 of the Public Acts of 1969, being Sections 24.271 to 24.287 of the Michigan Compiled Laws."
2. Pursuant to the Administrative Rules: Copies of blank application forms, parent report forms, the forms for changed family circumstances, and appeal forms shall be available from the community mental health services program. (R330.1616 Availability of forms) (Note: It is acceptable to ask families to write a letter to the CMHSP requesting an appeals hearing, in lieu of a standardized form.)
3. A community mental health services program shall review an application and promptly approve or deny the application and shall provide written notice to the applicant of its action and of the opportunity to administratively appeal the decision if the decision is to deny the application. If the denial is due to the insufficiency of the information on the application form or the required attachments, the CMHSP shall identify the insufficiency. (Rule R330.1641 Application review)
4. If an application is denied or the subsidy terminated, a parent or legal guardian may file an appeal. The appeal shall be in writing and be presented to the community mental health service program within two months of the notice of denial or termination. (R330.1643 Appeal)
5. If an appeals hearing is held at the CMHSP and the presiding officer upholds the family's appeal in violation of Mental Health Code language, MDCH shall require that the CMHSP reimburse MDCH the disputed amount out of local funds.
6. Families wishing to appeal the decision of the CMHSP hearings officer may do so through circuit court in their county of residence.

#### **IV. REQUIRED LOCAL DISPUTE RESOLUTION PROCESS**



A. The CMHSP must have a local dispute resolution process, to address decisions by the CMHSP and/or their provider networks that impact the consumer's access to, or satisfaction with, services and supports.

Each CMHSP must have a written description of its local dispute resolution process available for review by MDCH. The description must reflect all of the requirements below and indicate if the CMHSP ORR system is to be used, and if so, any modifications or additions to the CMHSP ORR system to be implemented. CMHSPs are encouraged to utilize their local ORR system for this purpose rather than establishing another process that would be duplicative. The CMHSP shall not assign a Rights Officer as Hearings Officer due to the inherent conflict of roles and responsibilities.

B. The local dispute resolution process at a minimum must possess the following characteristics:

1. It provides for prompt resolution. The Code provides for up to 90 days for a recipient rights complaint to be resolved (Section 778).
2. It assures the participation of individuals with the authority to require corrective action. Someone with the authority to act upon the recommendations of the dispute resolution process must be involved. This would include the executive director or designee.
3. It assures that the person reviewing the grievance, complaint or dispute will not be the same person(s) who made the initial decision that is subject to the dispute, complaint or grievance.
4. It has a mechanism for expedited review of a grievance, complaint or dispute involving emergency situations as defined by the Code and further operationalized below.

Sections 409(4), 498e(4) and 498h(5) of the Code provide an opportunity for an individual denied hospitalization to request a second opinion from the CMHSP executive director. The executive director shall arrange for an additional evaluation to be performed within three days, excluding Sundays and legal holidays, after he/she receives the request. If the conclusion of the second opinion is different from the conclusion of the children's diagnostic and treatment service or the pre-admission screening unit, the executive director, in conjunction with the medical director, shall make a decision within one business day based upon all clinical information available.

5. It provides the individual with written notification of the local dispute resolution process decision and subsequent avenues available to the individual if he or she is not satisfied with the result, including the right of individuals without Medicaid coverage to access the MDCH Alternative Dispute Resolution process after exhausting local procedures.
6. It provides reports of disputes, complaints and grievances periodically to the CMHSP governing body.

7. Reports of disputes, complaints and grievances will be reviewed by the CMHSP Quality Improvement Program to identify opportunities for improvement.
8. Records of disputes, grievances, and complaints must be made available to the MDCH for review upon request.

## **V. DISPUTES, GRIEVANCES AND COMPLAINTS PROCESS FOR NON-MEDICAID RECIPIENTS**

### **A. Background**

A principle reflected throughout the MDCH/CMHSP contract is that all recipients of mental health services and supports shall be treated in the same manner, wherever possible. With respect to appeals and grievances, there is a fundamental difference between Medicaid-funded services and those funded through state funds.

Public formula funded mental health services are not an entitlement programs. The Code describes broad groups of individuals with certain qualifying conditions to whom public mental health services shall or may be directed, with priority always given to individuals with severe conditions and impairments. The Code does not establish an individual entitlement to mental health services in the way that the Federal Medicaid program does for health insurance, but rather it indicates that persons with certain qualifying conditions and impairments must have the first priority for available resources and services within the public mental health system.

The Code provides protections, second opinions and dispute resolution mechanisms for all individuals receiving public mental health services, with the expectation that all disputes will be resolved locally, with the ability to appeal to the MDCH in only those instances where it is alleged that the investigative findings of the local office of recipient rights are not consistent with the facts or with law, rules, policies or guidelines (Section 786). To implement the principle that all consumers are to be treated in the same manner whenever possible, this requirement expands the non-Medicaid individual's ability to appeal to the MDCH.

### **B. Expedited Processes for Service Denials:**

1. Whenever initial access to CMHSP services or supports are denied, the CMHSP must inform the individual, his or her guardian, or in the case of a minor, his/her parent, of their right to a second opinion consistent with Section 705 of the Code. The second opinion must be performed within five business days.
2. If access to psychiatric inpatient service is denied, the individual or, if a minor, his/her parent or guardian, must be informed of his/her right to a second opinion consistent with Sections 409(4), 498e(4) and 498h(5) of the Code and the CMHSP Local Dispute Resolution Process as described in Section III.A above.
2. In the event that a physician or licensed psychologist external to the CMHSP attests in writing that the individual (applicant or current recipient) meets the

definition of an emergency situation as defined in Section 100a (23)(a) or (c) of the Code, the CMHSP must assess the individual to determine if the individual meets the inpatient admission certification criteria, as defined in the MDCH Service Selection Guidelines. If psychiatric inpatient services are denied, the individual, his/her guardian, or his/her parent in the case of a minor child, must be informed of their right to a second opinion consistent with Section III.A above and their right to further contest an unfavorable second opinion through the Local Dispute Resolution Process, with the decision from that process to be reached within three business days.

If the CMHSP does not recommend hospitalization and an alternative service requested by the individual, his/her guardian, or his/her parent is denied, the CMHSP must inform the individual, his/her guardian, or in the case of a minor, his/her parent, of his/her ability to access the Local Dispute Resolution Process. The decision from that process for these persons must be reached within three business days.

The CMHSP must communicate the decision of the Local Dispute Resolution Process and inform the individual, his/her guardian, or his/her parent of a minor child of their right to access the MDCH Alternative Dispute Resolution Process.

C. Processes for Suspension, Reduction or Termination of Existing Services:

4. Whenever an existing service or support or existing services are to be suspended, terminated, or reduced by an agency or unit performing a utilization review (UR) function, or when the action is taken outside of the person-centered planning process when the CMHSP does not have an identifiable UR unit, the CMHSP must inform the individual **with written notification** of the change at least 10 business days prior to the effective date of the action. The notice shall include:

- a. A statement of what action the CMHSP intends to take;
- b. The reasons for the intended action;
- c. The specific justification for the intended action;
- d. An explanation of the Local Dispute Resolution Process

Actions taken as a result of the person-centered planning process or those ordered by a physician are not considered an adverse action.

5. In the event that the individual utilizes the Local Dispute Resolution Process or the second opinion processes as described above, the CMHSP must communicate in writing the outcome of that process to the individual. That communication must include notification to the individual of their ability to request access to the MDCH Alternative Dispute Resolution Process by sending such request to:

Department of Community Health  
Division of Program Development, Consultation and Contracts  
Bureau of Community Mental Health Services  
ATTN: Request for DCH Level Dispute Resolution  
Lewis Cass Building - 5th Floor  
Lansing, MI 48913

Access to the MDCH process does not require agreement by both parties, but may be initiated solely by the consumer.

The individual has 10 days from the written notice of the Local Dispute Resolution Process outcome to request access to the MDCH Alternative Dispute Resolution Process.

6. A Model Local Dispute Resolution Process for Persons without Medicaid is presented in Exhibit 1.

D. MDCH responsibilities regarding the Alternative Dispute Resolution Process for persons not receiving Medicaid.

1. MDCH shall review all requests within two business days of receipt.
2. If the MDCH representative, using a “reasonable person” standard believes that the denial, suspension, termination or reduction of services and/or supports will pose an immediate and adverse impact upon the individual’s health and safety, the issue is referred within one business day to the Community Services Division within Mental Health and Substance Abuse Services for contractual action consistent with Section 8.0 of the MDCH/CMHSP contract.
3. In all other cases, the MDCH representative shall attempt to resolve the issue with the individual and the CMHSP within 15 business days. The recommendations of the MDCH representative are non-binding in those cases where the decision poses no immediate impact to the health and safety of the individual.

## VI. DEFINITIONS

Resolution notice - notice to the consumer that is required within established time frames relative to the disposition of disputes, complaints and grievances, and resolution of the disputes, complaints and grievances.

Rights complaint - a written or verbal statement by a recipient or anyone acting on behalf of a recipient alleging a violation of a Mental Health Code protected right cited in Chapter 7, which is resolved through the processes established in Chapter 7A.

Utilization Review - A process in which established criteria are used to recommend or evaluate services provided in terms of cost-effectiveness, necessity, and effective use of resources.

**VIII. REFERENCES**

PA 516 of 1996  
PA 258 of 1974, as amended  
S.353-Health Insurance Bill of Rights of 1997  
42 CFR Chapter IV, Subpart E, Sections 431.200 et seq

**Exhibit 1**

**Model CMHSP Local Dispute Resolution Process**

1. The individual, guardian, or parent of a minor child or his/her legal representative may dispute the determination to suspend, terminate or reduce services by filing a written dispute with the CMHSP Recipient Rights Office within five business days of receipt of the advance notice.
2. The Recipient Rights Office shall then:
  - a. Log receipt of the written dispute for reporting to the CMHSP Quality Improvement Program.
  - b. Submit the written dispute to appropriate staff including a CMHSP administrator with the authority to require corrective action, none of whom shall have been involved in the initial determination.
  - c. Facilitate resolution of the dispute within 15 business days of receipt.
  - d. Assure an expedited review of the dispute involving an emergent situation where the standard 15-day time frame would seriously jeopardize the individual's health or safety. Such a review shall be completed within 24 hours of receipt of all necessary information by relevant CMHSP staff involved in the dispute resolution process.
  - e. Upon a decision by CMHSP staff involved in the local dispute resolution process and within the 24-hour or 15-day time frame, provide written notification of the outcome of the process to the individual, guardian, or parent of a minor child. The written notification shall include:
    - (1) Information regarding the individual, guardian, or parent of a minor child's ability to access the MDCH Alternative Dispute Resolution Process and an offer of assistance in doing this;
    - (2) Information on the individual, guardian, or parent of a minor child or his/her legal representative's right to file a recipient rights complaint with the Recipient Rights Office alleging a violation of the consumer's right to treatment suited to his/her condition.

FAMILY SUPPORT SUBSIDY PROGRAM  
FSS GUIDELINES FOR DETERMINING ELIGIBILITY OF APPLICANTS

February 2010

**I. SUMMARY/BACKGROUND**

The Michigan Department of Community Health Family Support Subsidy (FSS) program is a program that provides financial support to families who care for their child with severe disabilities in the family home. This financial support may help prevent or delay out-of-home placement. In other situations, the program may provide the funds necessary to allow the child to return home from an out-of-home placement.

Michigan's Mental Health Code and Administrative Rules establish the parameters and process for determining eligibility of applicants to the FSS program.

**II. VALUES AND PRINCIPLES**

Supporting families is a high priority of Michigan's public mental health system, as evidenced by the FSS program. Michigan's public policy is that children with developmental disabilities, like all children, need loving and enduring family relationships. For over two decades, the Michigan Department of Community Health's policy has been that children should be supported to live with their families and if out-of-home placement becomes necessary, it should be temporary and time limited with a goal of family reunification or, for some children, adoption.

Providing financial support to families that include a child with severe disabilities may enable families to stay together, allows them flexibility in purchasing special services at the local level, and saves taxpayer money by avoiding or reducing the need for more costly out-of-home placements. With this subsidy, families are empowered to make decisions and purchases based upon the special needs of their child.

### **III. FAMILY SUPPORT SUBSIDY GUIDELINES**

Pursuant to Section 157(2) of the Mental Health Code, "The department shall create application forms and shall make the forms available to community mental health services programs for determining the eligibility of applicants..."

A. Determining the eligibility of applicants includes:

- 1) Helping families understand the requirements of the program
- 2) Providing assistance in completing the application
- 3) Application processing to determine eligibility
- 4) Requesting technical assistance from DCH as appropriate
- 5) Liaison between families and DCH
- 6) Outreach to schools, medical offices, clinics, hospitals, etc.
- 7) Participating in the FSS program annual survey
- 8) Arranging a hearing, at the family's written request, if the community mental health agency denies or terminates a family support subsidy
- 9) Participating in efforts to recapture monies received by families after the child/family's change in eligibility.

B. Applicants to this program must complete DCH-1181, FSS application. The community mental health services program (CMHSP) FSS coordinator may assist the applicant and provide direction.

C. The child's date of birth must be verified. A copy of the child's legal birth certificate is preferable.

D. The name(s) and address as written on the application is the way it will appear on the subsidy warrant (check). Please make sure that all information is legible and accurate. If two names are listed on the application, both names will be used as dual payees on the warrant.

E. The educational eligibility category must be documented annually by certification from the Michigan local public or intermediate school district the child attends (or would attend if he/she were in the public school system). Certification can be in the form of the child's Multidisciplinary Evaluation Team



(MET) report, Individual Educational Program Team (IEPT) report or by a letter or memorandum on school letterhead. Suggested checklist language has been developed for this purpose and schools wishing to utilize it may contact the local CMHSP.

- 1) If the child's educational eligibility category is cognitive impairment, eligibility can be determined by the school psychologist or other qualified school representative who can verify, in writing, that the child's latest intellectual assessment shows development at a rate of 4.5 or more standard deviations below the mean.
  - 2) If the child's educational eligibility category is autism spectrum disorder, the school must verify the child's special education programming. Eligible programming for children with autism spectrum disorder is limited to the following: program for students with severe cognitive impairment (R340.1738), program for students with severe multiple impairments (R340.1748), or programs for students with autism spectrum disorder (R340.1758).
    - a) Please note that special education rule number 340.1758 describes two alternatives for educating children with ASD. Rule number 340.1758(1)(a) describes the traditional classroom for children with ASD, taught by a teacher of students with ASD. Rule number 340.1758(1)(b) describes a special education program, tailored to an individual student's needs, that assures the provision of educational programming for students with ASD. A 340.1758(1)(b) program can be carried out in many different school settings including the general education classroom or resource room. If a child's IEP states the special education rule number associated with a particular classroom setting and the programming includes components of 340.1758(1)(b), FSS educational eligibility could be determined if school authorities are able to assert, in writing, that the child's educational program also meets the requirements of 340.1758(1)(b).
- F. A copy of the family's most recently filed Michigan income tax form documents the family's taxable income. To be eligible for this program, the taxable income must be \$60,000 or less.
- 1) Other documentation is acceptable only if the family did not file a Michigan income tax form - having recently moved here from another state or country or having too little income to require filing. Other documentation that is acceptable if a state form is not filed includes (in descending order): a family's most recently filed federal income tax form, Supplemental Security Income statement, Michigan Department

of Human Services statement, W-2 form, recent check stub or a hand-written, signed note attesting to no taxable income. **A Medicaid card is not an acceptable proof of income.**

- G. **For new applicants only:** If the family's most recently filed Michigan income tax form shows a taxable income of more than \$60,000, but the family's financial worth has decreased since filing (layoff, death, divorce, etc.), documentation of projected income can be used to determine eligibility. When projected income is used to determine eligibility, the following year's tax form must reflect a taxable income of \$60,000 or less. If it is above \$60,000, the family must pay back the total amount of subsidy dollars received.
- H. The parent or legal guardian completing the application must verify that the child is living with him/her or temporarily with a relative.
- I. A parent or legal guardian must sign the form attesting to the truth of all information provided.
- J. The CMHSP FSS coordinator's signature on the bottom of the application confirms that all back up documentation proving eligibility is on file at the CMHSP and that the CMHSP is verifying that the family is entitled to receive FSS payments.
- K. The completed DCH-1181 application form is sent to:
  - Family Support Subsidy Program
  - Michigan Department of Community Health
  - 320 S. Walnut Street
  - 5<sup>th</sup> Floor, Lewis Cass Building
  - Lansing, MI 48913
- L. The FSS statewide coordinator reviews the applications, verifies that eligibility is appropriately determined and enters the data into the program's check processing system. This data is transmitted to the Michigan Department of Treasury on a monthly basis. Near the 20<sup>th</sup> of each month, the Michigan Department of Treasury processes, prints and releases payments to eligible families.

#### **IV. LEGAL REFERENCES**

Mental Health Code Act, 258 MI. 330.1156-330.1161

**Continuing Education Requirements for Recipient Rights Staff  
Technical Advisory  
August 2010**

**Background/Regulatory Overview**

The purpose of this Technical Advisory is to establish processes for meeting the educational mandates for Recipient Rights Officers/Advisors set forth in the following sections of the Michigan Mental Health Code and MDCH/CMHSP Managed Mental Health Supports and Services Contract.

**330.1754 State office of recipient rights; establishment by department; selection of director; powers and authority of state office of recipient rights.**

(2) The department shall ensure all of the following: (f) Technical assistance and training in recipient rights protection are available to all community mental health services programs and other mental health service providers subject to this act.

**330.1755 Office of recipient rights; establishment by community mental health services program and hospital.**

(2) Each community mental health services program and each licensed hospital shall ensure all of the following: (e) Staff of the office of recipient rights receive training each year in recipient rights protection.

**MDCH/CMHSP Managed Mental Health Supports and Services Contract: FY 11**

The Community Mental Health Service Program (CMHSP) shall assure that, within the first three months of employment, the Rights Officer/Advisor and any alternate(s) shall attend and successfully complete the Basic Skills Training programs offered by the Department's Office of Recipient Rights.....In addition, every three (3) years during their employment, the Rights Officer/Advisor and any alternate(s) must complete a Recipient Rights Update training as specified by the Department.

**Definitions**

1. Continuing Education Unit:

One Continuing Education Unit (CEU) is defined as one contact hour of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction. The primary purpose of the CEU is to provide a permanent record of the educational accomplishments of an individual who has completed one or more significant educational experiences.

2. Category I Credits: Operations

This category includes programs that support and enhance the fundamental scope of responsibilities and effective work of recipient rights staff. These may be directly related to prevention, complaint resolution, and monitoring and education that support the fundamental scope of a Rights Office's operations. Examples include:

- Rights Office Operations Techniques
- Enhancing Investigative Skills
- Inpatient Rights
- Out-of-catchment rights protection
- Writing effective rights-related contract language

- Conducting effective site visits
  - How to assess your own rights office using Attachments A & B
  - How to “fix” a troubled Rights Office
3. **Category II Credits: Legal Foundations**  
This category includes programs that enhance the understanding and application of the Mental Health Code, Administrative Rules, Disability and Human Rights Laws, Federal Laws and regulations and any other laws addressing the legal rights of a mental health recipient.
  4. **Category III Credits: Leadership**  
This category includes programs that support and enhance the leadership abilities of rights staff. Examples include:
    - Prepaid Inpatient Health Plan (PIHP) and Comprehensive Specialty Services Network (CSSN) issues
    - How to establish a rights presence in an organization
    - Understanding rights data and how to use it to trigger systemic organizational changes
    - What goes on in a Failure Mode Event Analysis (FMEA)/Adverse Event Review,
    - Working with key individuals in your organization—Customer Services, Contracts Unit, and how it can enhance rights
  5. **Category IV Credits: Augmented Training**  
This category includes training sessions that include information that would help rights staff better understand the people they serve, their disabilities, their families, or training indirectly related to rights but affecting rights. These may include trainings in mental health conditions and disabilities, treatment and support modalities, recovery, and self-determination. Examples include:
    - Understanding MI/SUD Co-occurring disorders
    - How to protect rights in a dual rights protection system
    - How to communicate with people with disabilities
    - Writing simplification
    - Ethics
    - HIPAA and the MHC
    - Consumers from different cultures (including deaf community)
    - Diversity Issues
  6. **CMHSP: Community Mental Health Service Provider**
  7. **Department: Michigan Department of Community Health**
  8. **LPH/U: Licensed Private Hospital/Unit**

## Standards

### A. Basic Requirements

All staff of the Department, a community mental health services program, or a licensed private hospital, employed for the purpose of providing recipient rights services shall, within the first 90 days of employment attend, and successfully complete, the Basic Skills Training curriculum as determined by the Michigan Department of Community Health Office of Recipient Rights.

## **B. Continuing Education Requirements**

1. All staff employed or contracted to provide recipient rights services shall receive education and training oriented toward maintenance, improvement or enhancement of the skills required to perform the functions as rights staff.
2. A minimum of 36 contact hours of education or training shall be required over a three (3) year period subsequent to the completion of the Basic Skills requirements, and in every three (3) year period thereafter.
3. The 36 contact hours obtained must be in rights-related activities and must fall within one or more of the categories identified in the definitions above.
  - a. A minimum of 12 contact hours must be obtained in programs classified as Category I.
4. CEU's may be received by attending programs or conferences developed by the Department, other rights-related organizations, organizations that have applied to the Office of Recipient Rights Training Division for approval of their programs, or by information provided by rights staff prior to their attendance at an educational program.
5. Recipient rights staff should retain documentation of meeting the CEU requirements for a period of four (4) years from the date of attendance. It is suggested that the following information be kept on file:
  - a. The title of the course or program and any identification number assigned to it by the education provider. The number of CEU hours completed.
  - b. The provider's name and identifying number.
  - c. Verification of your attendance by the provider.
  - d. The date and location of the course.
6. Reviews will be conducted by the DCH Office of Recipient Rights staff at each assessment of a recipient rights program to determine if all rights staff have met both the basic and continuing education requirements.
7. CMHSP's who contract with Licensed Private Hospitals/Units shall mandate compliance with the standards in this Technical Advisory by the Recipient Rights Office staff of those entities.

## **C. Procedures for Training approval**

1. Training that is automatically approved for CEU credits:
  - MDCH ORR training *excluding Basic Skills*

- Sessions at the MDCH ORR Annual Conference, including the Pre-Conference session
  - Training provided by, or sponsored by, MDCH Office of Recipient Rights
2. Training that may be approved for CEU credits, if meeting the criteria above, and with the submission of the necessary documents by the applicant:
- RROAM sponsored training
  - CMH/LPH/U sponsored training
  - Training provided by other agencies, entities, or professionals—law enforcement, mental health or physical health professional, accreditation bodies, risk management, corporation counsel/lawyer, etc.
  - Training provided to the Rights Officer/Advisor for their own profession's licensure.
  - Other training in the community at large, including on-line training, if requirements as detailed above are met.
3. Application Review, Approval and Notification

Applications from organizations outside the Department, or applications from individuals who have attended, or plan to attend training programs shall be reviewed by a committee appointed by the Director of the DCH Office of Recipient Rights upon recommendation from the Director of the Training Division of the Office of Recipient Rights. This committee shall consist of rights staff and management from DCH-ORR, CMHSP's, and LPH/U's and shall have at least one representative who is a Licensed Master's Social Worker (LMSW). This committee shall review applications and assign an appropriate category to each approved application. Committee members shall be appointed for a three-year term and may be re-appointed at the discretion of the Director of ORR.

4. CEU Documentation and Notification

a) Application

To apply for CEU credits for a training, complete the *MDCH ORR Continuing Education Course Summary (Attachment A)* form and send by email, mail or FAX, at least 30 days prior to the date of the event, to:

MDCH ORR Training Division  
18471 Haggerty Road  
Northville, MI 48168  
FAX: 248-348-9963  
Email: MDCH-ORR-Training@michigan.gov

b) Verification of attendance.

Attendance can be verified through provision of a Certificate of Attendance, copies of a training record, copy of an attendance/sign in sheet, a copy of the training agenda or outline with a self-attestation statement that the applicant did attend the training. Verification of attendance shall be kept on file with the applicant and be readily available for review by MDCH ORR if requested.

- c) Applicants will receive notification of approval determination for CEU credits no later than 30 calendar days following receipt of the necessary documents. Approved courses, credit and category information will be posted on the ORR website.

**Attachment A: APPLICATION FOR RECIPIENT RIGHTS CEU CREDIT**



**OFFICE OF RECIPIENT RIGHTS**  
APPLICATION FOR  
RECIPIENT RIGHTS CEU CREDIT

OFFICE USE ONLY
-----------------

<b>APPLICANT</b> (ORGANIZATION OR INDIVIDUAL)			
<b>APPLICANT'S CONTACT INFORMATION</b>	EMAIL:  PHONE:  ADDRESS:  CITY/ZIP:		
<b>COURSE DATE</b>  <b>COURSE TITLE</b>  <b>LOCATION</b>			
<b>COURSE PRESENTER</b>			
<b>COURSE DESCRIPTION</b>			
<b>COURSE OBJECTIVES</b>	<b>Description of Learning Objectives</b>		<b>Class Time</b>
	1		
	2		
	3		
	4		
	5		



APPLICATION FOR RECIPIENT RIGHTS CEU CREDIT  
Page 2

<b>Requested Category</b>	<input type="checkbox"/>	<b>Category I Operations</b>	<input type="checkbox"/>	<b>Category II Legal Foundations</b>	<input type="checkbox"/>	<b>Category III Leadership</b>	<input type="checkbox"/>	<b>Category IV Augmented</b>
<b>Describe how the content relates to Rights?</b>								
<b>List or attach a detailed agenda</b>								

**PIHP REPORTING REQUIREMENTS FOR MEDICAID SPECIALTY SUPPORTS AND  
SERVICES BENEFICIARIES**

**Effective 10/1/12**

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**FY 2012 MDCH/PIHP MANAGED SPECIALTY SUPPORTS AND SERVICES  
CONTRACT  
MENTAL HEALTH REPORTING REQUIREMENTS**

*Introduction*

The Michigan Department of Community Health reporting requirements for the FY2013 Master contract with pre-paid inpatient health plans (PIHPs) are contained in this attachment. The requirements include the data definitions and dates for submission of reports on Medicaid beneficiaries for whom the PIHP is responsible: persons with mental illness and persons with developmental disabilities served by mental health programs; and persons with substance use disorders served by the mental health programs or Substance Abuse Coordinating Agencies (CAs). These requirements do not cover Medicaid beneficiaries who receive their mental health benefit through the Medicaid Health Plans, and with whom the CMHSPs and PIHPs may contract (or subcontract with an entity that contracts with the Medicaid Health Plans) to provide the mental health benefit.

Companions to the requirements in this attachment are

- “Supplemental Instructions for Encounter and Quality Improvement Data Submissions” which contains clarifications, value ranges, and edit parameters for the encounter and quality improvement (demographic) data, as well as examples that will assist PIHP staff in preparing data for submission to MDCH.
- Mental Health Code list that contains the Medicaid covered services as well as services that may be paid by general fund and the CPT and HCPCs codes that MDCH and EDIT have assigned to them.
- Cost per code instructions that contain instructions on use of modifiers; the acceptable activities that may be reflected in the cost of each procedure; and whether an activity needs to be face-to-face in order to count.
- “Establishing Managed Care Administrative Costs” that provides instructions on what managed care functions should be included in the allocation of expenditures to managed care administration
- “Michigan’s Mission-Based Performance Indicator System, Version 6.0” is a codebook with instructions on what data to collect for, and how to calculate and report, performance indicators

These documents are posted on the MDCH web site and are periodically updated when federal or state requirements change, or when in consultation with representatives of the public mental health system it deemed necessary to make corrections or clarifications. Question and answer documents are also produced from time to time and posted on the web site.

Collection of each element contained in the master contract attachment is required. Data reporting must be received by 5 p.m. on the due dates (where applicable) in the acceptable format(s) and by the MDCH staff identified in the instructions. Failure to meet this standard will result in contract action.

The reporting of the data by PIHPs described within these requirements meets several purposes at MDCH including:

- Legislative boilerplate annual reporting and semi-annual updates

- Managed Care Contract Management
- System Performance Improvement
- Statewide Planning
- Centers for Medicare and Medicaid (CMS) reporting
- Actuarial activities

Where accuracy standards for collecting and reporting QI data are noted in the contract, it is expected that PIHPs will meet those standards.

Individual consumer level data received at MDCH is kept confidential and published reports will display only aggregate data. Only a limited number of MDCH staff have access to the database that contains social security numbers, income level, and diagnosis, for example. Individual level data will be provided back to the agency that submitted the data for encounter data validation and improvement. This sharing of individual level data is permitted under the HIPAA Privacy Rules, Health Care Operations.

**FY 2013 DATA REPORT DUE DATES**

	Nov11	Dec	Jan12	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec12	Jan13
<b>1. Consumer level**</b> a. Quality Improvement (monthly) <sup>1</sup> b. Encounter (monthly) <sup>1</sup>	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
<b>2.PIHP level</b> a. Medicaid Utilization and Net Cost Report: annually <sup>2</sup>				√											
b. Performance indicators (quarterly) <sup>2</sup>					√			√			√			√	
c. Consumer Satisfaction (annually) <sup>2</sup>										√					
d. CAFAS <sup>3</sup>													√		
e. Critical incidents (monthly) <sup>3</sup>															

**NOTES:**

1. Send data to MDCH MIS via DEG
2. Send data to MDCH, Mental Health and Substance Abuse Administration, Division of Quality Management and Planning
3. Web-based reporting. See instructions on MDCH web site at: [www.michigan.gov/mhsa](http://www.michigan.gov/mhsa) Click on “Reporting Requirements”

\*\*Consumer level data must be submitted immediately within 30 days following adjudication of claims for services provided, or in cases where claims are not part of the PIHP’s business practices within 30 days following the end of the month in which services were delivered.

PIHP level reports are due at 5 p.m. on the last day of the month checked

## QUALITY IMPROVEMENT DATA

Demographic or “quality improvement” (QI) data is required to be reported for each consumer for whom an encounter data record or fee-for-service claim (for Children’s Waiver) is being submitted. Encounter data is reported within 30 days after the claim for the service is adjudicated, or in cases where claims payment is not part of the PIHP’s business practice, within 30 days following the end of the month in which services were delivered. QI data is reported year-to-date. The first report for the fiscal year will contain records for all consumers whose claims were adjudicated the first month, the next month’s report will contain records of all consumers whose claims were adjudicated in month one and month two, etc. Corrective QI file updates are allowed from the PIHP to replace a rejected file, or a file that contained rejected records.

**Method for submission:** The QI data is to be submitted in a delimited format, with the columns identified by the delimiter, rather than by column “from” and “to” indicators.

**Due dates:** The first QI data should be submitted during the same month the first encounter data is submitted. Encounter and QI data are due 30 days after a claim is adjudicated or services were rendered (see above note). Reporting adjudicated claims will enable the PIHP to accurately report on the amount paid for the service and on third party reimbursements.

**Who to report:** Report on each consumer who received a service from the PIHP, and from each CMHSP in the case of an affiliation, regardless of funding stream. The exception is when a PIHP or CMHSP contracts with another PIHP or CMHSP; when a Medicaid Health Plan contracts with a PIHP or CMHSP to provide its mental health outpatient benefit; or when a PIHP or CMHSP, through a sub-contract arrangement, provides the Medicaid Health Plan mental health outpatient benefit. In those cases, the PIHP or CMHSP that delivers the service **does not** report the encounter. Reporting QI data for all other consumers who are seen for a one-time-only assessment, crisis intervention, or prevention service, or received face-to-face non-specialty mental health services in such settings as Federally Qualified Health Centers, county health plans, homeless shelters, primary care offices, or schools, requires only those data elements with a \*\*. The encounter and QI file will be rejected if those data elements are not present.

**Who submits consumer-level data:** The PIHP must report the encounter and QI data for all mental health and developmental disabilities (MH/DD) Medicaid beneficiaries in its entire service area for all services provided under MDCH benefit plans. The PIHP must report the encounter data for all substance abuse Medicaid beneficiaries in its service area. QI data for Medicaid beneficiaries receiving services from the Substance Abuse Coordinating Agencies (CAs) are not required to be reported by the PIHP. Some PIHPs may choose, however, to collect QI data from the CAs and forward it to MDCH.

### Notes:

1. Demographic Information must be updated at least annually, such as at the time of annual planning. A consumer demographic record must be submitted for each month the consumer receives services, and for which an encounter record or fee-for-service claim (Children’s Waiver) is being submitted. Failure to meet this standard may result in

**rejection of a file and contract action.**

2. Numbers missing from the sequence of options represent items deleted from previous reporting requirements.
3. Items with an \* require that 95% of records contain a value in that field and that the values be within acceptable ranges (see each item for the ranges). Items with \*\* require that 100% of the records contain a value in the field, and the values are in the proper format and within acceptable ranges. Failure to meet the 100% standard will result in rejection of the file or record.
4. A “Supplemental Instructions for Encounter and Quality Improvement Data Submissions” issued by MDCH should be used for file layouts.
5. Some demographic items are reported on both the 837 Health Care Claim transaction and the QI data report for ease of calculating population numbers during the year.

*The following is a description of the individual consumer demographic elements for which data is required of Community Mental Health Services Programs.*

---

**\*\*1. Reporting Period (REPORTPD)**

The last day of the month during which consumers received services covered by this report.  
Report year, month, day: ccyymmdd.

---

**\*\*2.a. PIHP Payer Identification Number (PIHPID)**

The MDCH-assigned 7-digit payer identification number must be used to identify the PIHP with all data transmissions.

**2.b. CMHSP Payer Identification Number (CMHID)**

The MDCH-assigned 7-digit payer identification number must be used to identify the CMHSP with all data transmissions.

---

**\*\*3. Consumer Unique ID (CONID)**

A numeric or alphanumeric code, of 11 characters that enables the consumer and related services to be identified and data to be reliably associated with the consumer across all of the PIHP’s services. The identifier should be established at the PIHP or CMHSP level so agency level or sub-program level services can be aggregated across all program services for the individual. The consumer’s unique ID must not be changed once established since it is used to track individuals, and to link to their encounter data over time. A single shared unique identifier must match the identifier used in 837 encounter for each consumer. **If the consumer identification number does not have 11 characters, it will cause rejection of a file.**

---

**4. Social Security Number (SSNO)**

The nine-digit integer must be recorded, if available.  
Blank = Unreported [Leave nine blanks]

---

**\*5.a Medicaid ID Number (MCIDNO)**

Enter the ten-digit integer for consumers with a Medicaid number, or ABW number.  
Blank = Unreported [Leave ten blanks]

5.b MICHild Number (CIN)

Blank = Unreported [Leave ten blanks]

---

6. Leave blank beginning with FY'06 service reporting

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7. ***Corrections Related Status (CORSTAT)***

For persons under the jurisdiction of a corrections or law enforcement program during treatment, indicate the location/jurisdiction involved at the time of annual update

- 1 = In prison
  - 2 = In jail
  - 3 = Paroled from prison
  - 4 = Probation from jail
  - 5 = Juvenile detention center
  - 6 = Court supervision
  - 7 = Not under the jurisdiction of a corrections or law enforcement program
  - 8 = Awaiting trial
  - 9 = Awaiting sentencing
  - 10= Consumer refused to provide information
  - 11= Minor (under age 18) who was referred by the court
  - 12= Arrested and booked
  - 13= Diverted from arrest or booking
- Blank = Unknown

---

\*8. ***Residential Living Arrangement (RESID)***

Indicate the consumer's residential situation or arrangement at the time of intake if it occurred during the reporting period, or at the time of annual update of consumer information during the period. Reporting categories are as follows:

- 1 = Homeless on the street or in a shelter for the homeless
- 2 = Living in a private residence with natural or adoptive family member(s). "Family member" means parent, stepparent, sibling, child, or grandparent of the primary consumer; or an individual upon whom the primary consumer is dependent for at least 50% of his or her financial support.
- 3 = Living in a private residence not owned by the PIHP, CMHSP or the contracted provider, alone or with spouse or non-relative(s).
- 5 = Foster family home (Include all foster family arrangements regardless of number of beds)
- 6= Specialized residential home - Includes any adult foster care facility certified to provide a specialized program per DMH Administrative Rules, 3/9/96, R 330.1801 (Include all specialized residential, regardless of number of beds); or a licensed Children's Therapeutic Group Home
- 8 = General residential home (Include all general residential regardless of number of beds)  
"General residential home" means a licensed foster care facility not certified to provide specialized program (per the DMH Administrative Rules)
- 10 = Prison/jail/juvenile detention center



- 11 = Deleted (AIS/MR)
  - 12= Nursing Care Facility
  - 13= Institutional setting (congregate care facility, boarding schools, Child Caring Institutions, state facilities)
  - 16 = Living in a private residence that is owned by the PIHP, CMHSP or the contracted provider, alone or with spouse or non-relative.
- Blank = Unreported

---

**\*9. Total Annual Income (TOTINC)**

Indicate the total amount of gross income of the individual consumer if he/she is single; or that of the consumer and his/her spouse if married; or that of the parent(s) of a minor consumer at the time of service initiation or most recent plan review. "Income" is defined as income that is identified as taxable personal income in section 30 of Act No. 281 of the Public Acts of 1967, as amended, being 206.30 of the Michigan Compiled Laws, and non-taxable income, which can be expected to be available to the individual and spouse not more than 2 years subsequent to the determination of liability.

- 1= Income is below \$10,000
  - 2= Income is \$10,001 to \$20,000
  - 3= Income is \$20,001 to \$30,000
  - 4= Income is \$30,001 to \$40,000
  - 5= Income is \$40,001 to \$60,000
  - 6= Income is more than \$60,000
- Blank = Income was not reported

---

**\*10. Number of Dependents (NUMDEP)**

Enter the number of dependents claimed in determining ability-to-pay. "Dependents" means those individuals who are allowed as exemptions pursuant to section 30 of Act No. 281 of the Public Acts of 1967, as amended, being 206.30 of the Michigan Compiled Laws. Single individuals living in an AFC or independently are considered one exemption, therefore enter "1" for number of dependents.

# of dependents = \_ \_      Blank = Unreported

---

**\*11. Employment Status (EMPLOY)**

Indicate current employment status as it relates to principal employment for consumers age 18 and over. Reporting categories are as follows:

- 1= Employed full time (30 hours or more per week) competitively.
- 2= Employed part time (less than 30 hours per week) competitively.
- 3= Unemployed – looking for work, and/or layoff from job.
- 4= Deleted.
- 5= Deleted.
- 6= Deleted.
- 7= Participates in sheltered workshop or facility-based work.
- 8= Deleted.

- 9= Deleted.
- 10= Deleted.
- 11= In unpaid work (e.g., volunteering, internship, community service).
- 12= Self-employed (e.g., micro-enterprise).
- 13= In enclaves/mobile crews, agency-owned transitional employment.
- 14= Participates in facility-based activity program where an array of specialty supports and services are provided to assist an individual in achieving his/her non-work related goals.
- 15= Not in the competitive labor force-includes homemaker, child, student age 18 and over, retire from work, resident of an institution (including nursing home), or incarcerated.

Note: "Competitive Employment" is work for which anyone may apply, that occurs in an integrated setting, with or without supports, for which the individual is paid at or above minimum wage, but not less than the customary wage and benefit level for all workers in that setting. This status includes persons employed as Peer Support Specialists and Peer Mentors.

---

**12. Education (EDUC)**

Indicate the level attained at the time of the most recent admission or annual update. For children attending pre-school that is not special education, use "blank=unreported."

Reporting categories are as follows:

- 1 = Completed less than high school
- 2 = Completed special education, high school, or GED
- 3 = In school - Kindergarten through 12th grade
- 4 = In training program
- 6 = In Special Education
- 7 = Attended or is attending undergraduate college
- 8 = College graduate
- Blank = Unreported

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**Items 13 through 16 intentionally left blank**

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**\*17. Disability Designation**

Enter yes for all that apply, enter no for all that do not apply. To meet standard at least one field must have a "1."

17.01: Developmental disability (Individual meets the 1996 Mental Health Code Definition of Developmental Disability regardless of whether or not they receive services from the DD or MI services arrays) (**DD**)

- 1 = Yes
- 2 = No
- 3 = Not evaluated

17.02: Mental Illness or Serious Emotional Disturbance (Has DSM-IV diagnosis, exclusive of mental retardation, developmental disability, or substance abuse disorder) (**MI**)

- 1 = Yes
- 2 = No
- 3 = Not evaluated

17.03: Substance Abuse Disorder/SUD (as defined in Section 6107 of the public health code. Act 368 of the Public Health Acts of 1978, being section 333.6107 of the MCL). Indicate the appropriate substance use disorder related status at the time of intake, and subsequently at annual update. (SA).

- 2= No, individual does not have an SUD
- 3= Not evaluated for SUD (e.g., person is an infant, in crisis situation, etc.)
- 4 = Individual has one or more DSM-IV substance use disorder(s), diagnosis codes 291xx, 292xx, 303xx, 304xx, 305xx, with at least one disorder either active or in partial remission (use within past year).
- 5 = Individual has one or more DSM-IV substance use disorder(s), diagnosis codes 291xx, 292xx, 303xx, 304xx, 305xx, and all coded substance use disorders are in full remission (no use for one year). This includes cases where the disorder is in full remission and the consumer is on agonist therapy or is in a controlled environment.
- 6 = Results from a screening or assessment suggest substance use disorder. This includes indications, provisional diagnoses, or “rule-out diagnoses.

17.04: Individual received an assessment only, and was found to meet none of the disabilities listed above (NA).

- 1 = Yes
- 2 = No

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**18. Reporting element deleted in FY'03-04**

Leave blank beginning with FY'04 service reporting

***Items 19-24 should be left blank beginning October 1, 2011.***

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**25. Gender (GENDER)**

Identify consumer as male or female.

M = Male

F = Female

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**\*26. Program Eligibility (PE)**

Indicate ALL programs or plans in which the individual is enrolled and/or from which funding is received directly by the individual/family or on his/her/family's behalf.

Every item MUST have a response of “1” or “2” to meet standard.

26.1 Reporting element deleted in FY'03-04

26.2 Adoption Subsidy (PE\_ASUB)

1 = Yes

2 = No

26.3 Commercial Health Insurance or Service Contract (EAP, HMO) (**PE\_COM**)

1 = Yes

2 = No

26.4 Program or plan is not listed above (**PE\_OTH**)

1 = Yes

2 = No

26.5 Individual is not enrolled in or eligible for a program or plan (**PE\_INELG**)

1 = Yes

2 = No

26.6 Individual is enrolled in Medicare (**PE\_MCARE**)

1 = Yes

2 = No

26.7 SDA, SSI, SSDI (**PE\_SSI**)

1 = Yes

2 = No

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**27. Parental Status (PARSTAT)**

Indicate if the consumer (no matter what age) is the natural or adoptive parent of a minor child (under 18 years old)

1 = Yes

2 = No

Blank = Unreported

---

**28. Children Served by Department of Human Services**

Indicate whether minor child is enrolled in a DHS program. If the consumer is an adult or if the consumer is a child not enrolled in any of the DHS programs, enter 2=No.

**28.01 Child served by DHS for abuse and neglect (FIA\_AN)**

1 = Yes

2 = No

Blank = Unreported

**28.02 Child served by another DHS program (FIA\_OT)**

1 = Yes

2 = No

Blank = Unreported

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**29. Children Enrolled in Early On (CHILDEOP)**

Indicate whether minor child is enrolled in the Early On program. If the consumer is an adult or if the consumer is a child not enrolled in the Early On program, enter 2=No.

1 = Yes

2 = No

Blank = Unreported

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**\*30. *Date of birth (DOB)***

Date of Birth - Year, month, and day of birth must be recorded in that order. Report in a string of eight characters, no punctuation: YYYYMMDD using leading zeros for days and months when the number is less than 10. For example, January 1, 1945 would be reported as 19450101. Use blank = Unknown

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**31. *Intentionally Left Blank***

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**\*32. *Hispanic (HIS)***

Indicate whether the person is Hispanic or Latino or not, or their ethnicity is unknown. Must use one these codes:

1. Hispanic or Latino
2. Not Hispanic or Latino
3. Unknown

---

**\*33. *Race 1, Race 2, Race3 (RACE1, RACE2, RACE3)***

There are three separate fields for race, each one character long. RACE1 is required for individuals with service dates after 9/30/2005. RACE2 and RACE3 are for individuals who report more than one race. Report one race in each field. RACE2 and RACE3 are optional, but please use a blank to hold the place if there is no value for either.

Use these codes:

- a. White - A person having origins in any of the original peoples of Europe
- b. Black or African American - A person having origins in any of the Black racial groups of Africa.
- c. American Indian or Alaskan Native - American Indian, Eskimo, and Aleut, having origins in any of the native peoples of North America
- d. Asian - A person having origins in any of the original peoples of the far East, Southeast Asia, or the Indian subcontinent.
- e. Native Hawaiian or other Pacific Islander
- f. Some other race
- g. Unknown Race
- h. Consumer refused to provide

---

**\*34. *Minimum Wage (MINW)***

Indicate if the consumer is currently earning minimum wage or more.

- 1 = Yes  
2 = No  
3 = Not Applicable (e.g., person is not working)  
Blank = Unreported

**35. Foster Care Facility License Number**

The Foster Care Facility License Number (eleven alpha-numeric characters) must be entered when the consumer resides in one of the following living arrangement reported in #8

RESID:

Foster family home (#5)

Specialized residential home (#6)

General residential home (#8)

Blank = Not Applicable (the individual does not live in a licensed foster care facility)

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**PIHP REPORTING REQUIREMENTS**

**HEALTH AND OTHER CONDITIONS FOR ALL POPULATIONS**

*The following three elements should be collected for all populations. These are conditions that affect all people served by the public mental health system and impact the success of the specialty services and supports they receive. The information is obtained from the individual's record and/or observation. Complete when an individual begins receiving public mental health services for the first time and update at least annually. Information can be gathered as part of the person-centered planning process. PIHPs and CMHSPs should be aware of these conditions and assure that care for them is being provided. MDCH is collecting this data in order to have more complete information about people served by the public mental health system who are more vulnerable.*

**39. Hearing 95% accuracy and completeness required**

39.1: Ability to hear (with hearing appliance normally used) (**HEARING**)

- 1 = Adequate—No difficulty in normal conversation, social interaction, listening to TV
- 2 = Minimal difficulty—Difficulty in some environments (e.g., when person speaks softly or is more than 6 feet away)
- 3 = Moderate difficulty—Problem hearing normal conversation, requires quiet setting to hear well
- 4 = Severe difficulty—Difficulty in all situations (e.g., speaker has to talk loudly or speak very slowly; or person reports that all speech is mumbled)
- 5 = No hearing
- Blank = Missing

39.2: Hearing aid used (**HEAR Aid**)

- 1 = Yes
- 2 = No
- Blank = Missing

**40. Vision 95% accuracy and completeness required**

40.1: Ability to see in adequate light (with glasses or with other visual appliance normally used) (**VISION**)

- 1 = Adequate—Sees fine detail, including regular print in newspapers/books or small items in pictures
- 2 = Minimal difficulty—Sees large print, but not regular print in newspapers/books or cannot identify large objects in pictures
- 3 = Moderate difficulty—Limited vision; not able to see newspaper headlines or small items in pictures, but can identify objects in his/her environment
- 4 = Severe difficulty—Object identification in question, but the person's eyes appear to follow objects, or the person sees only light, colors, shapes
- 5 = No vision—eyes do not appear to follow objects; absence of sight
- Blank = Missing

40. 2: Visual appliance used (**VISAPP**)

- 1= Yes

**PIHP REPORTING REQUIREMENTS**

2 = No

Blank = Missing

**41. Health Conditions 95% accuracy and completeness required**

Indicate whether or not the individual had the presence of each of the following health conditions, as reported by the individual, a health care professional or family member, in the past 12 months.

- 41.1: Pneumonia (2 or more times within past 12 months) – including Aspiration Pneumonia (**PNEUM**)  
1 = Never present  
2 = History of condition, but not treated for the condition within the past 12 months  
3 = Treated for the condition within the past 12 months  
4 = Information unavailable  
Blank = Missing
- 41.2: Asthma (**ASTHMA**)  
1 = Never present  
2 = History of condition, but not treated for the condition within the past 12 months  
3 = Treated for the condition within the past 12 months  
4 = Information unavailable  
Blank = Missing
- 41.3: Upper Respiratory Infections (3 or more times within past 12 months) (**RESP**)  
1 = Never present  
2 = History of condition, but not treated for the condition within the past 12 months  
3 = Treated for the condition within the past 12 months  
4 = Information unavailable  
Blank = Missing
- 41.4: Gastroesophageal Reflux, or GERD (**GERD**)  
1 = Never present  
2 = History of condition, but not treated for the condition within the past 12 months  
3 = Treated for the condition within the past 12 months  
4 = Information unavailable  
Blank = Missing
- 41.5: Chronic Bowel Impactions (**BOWEL**)  
1 = Never present  
2 = History of condition, but not treated for the condition within the past 12 months  
3 = Treated for the condition within the past 12 months  
4 = Information unavailable  
Blank = Missing
- 41.6: Seizure disorder or Epilepsy (**SEIZURE**)



**PIHP REPORTING REQUIREMENTS**

1 = Never present

2 = History of condition, but not treated for the condition within the past 12 months

3 = Treated for the condition within the past 12 months and seizure free

4 = Treated for the condition within the past 12 months, but still experience occasional seizures (less than one per month)

5 = Treated for the condition within the past 12 months, but still experience frequent seizures

6 = Information unavailable

Blank = Missing

41.7: Progressive neurological disease, e.g., Alzheimer's (**NEURO**)

1 = Not present

2 = Treated for the condition within the past 12 months

3 = Information unavailable

Blank = Missing

41.8: Diabetes (**DIABETES**)

1 = Never present

2 = History of condition, but not treated for the condition within the past 12 months

3 = Treated for the condition within the past 12 months

4 = Information unavailable

Blank = Missing

41.9: Hypertension (**HYPERTEN**)

1 = Never present

2 = History of condition, but not treated for the condition within the past 12 months

3 = Treated for condition within the past 12 months and blood pressure is stable

4 = Treated for condition within the past 12 months, but blood pressure remains high or unstable

5 = Information is unavailable

Blank = Missing

41.10: Obesity (**OBESITY**)

1 = Not present

2 = Medical diagnosis of obesity present or Body Mass Index (BMI) > 30

Blank = Missing

**PIHP REPORTING REQUIREMENTS**

**PROXY MEASURES FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES**

*The following 11 elements are proxy measures for people with developmental disabilities. The information is obtained from the individual's record and/or observation. Complete when an individual begins receiving public mental health services for the first time and update at least annually. Information can be gathered as part of the person-centered planning process.*

*For purposes of these data elements, when the term "support" is used, it means support from a paid or un-paid person or technological support needed to enable the individual to achieve his/her desired future. The kinds of support a person might need are:*

- *"Limited" means the person can complete approximately 75% or more of the activity without support and the caregiver provides support for approximately 25% or less of the activity.*
- *"Moderate" means the person can complete approximately 50% of the activity and the caregiver supports the other 50%.*
- *"Extensive" means the person can complete approximately 25% of the activity and relies on the caregiver to support 75% of the activity.*
- *"Total" means the person is unable to complete the activity and the caregiver is providing 100% support.*

**42. Predominant Communication Style (People with developmental disabilities only)**

**(COMTYPE) 95% completeness and accuracy required**

Indicate from the list below how the individual communicates **most of the time**:

- 1 = English language spoken by the individual
  - 2 = Assistive technology used (includes computer, other electronic devices) or symbols such as Bliss board, or other "low tech" communication devices.
  - 3 = Interpreter used - this includes a foreign language or American Sign Language (ASL) interpreter, or someone who knows the individual well enough to interpret speech or behavior.
  - 4 = Alternative language used - this includes a foreign language, or sign language without an interpreter.
  - 5 = Non-language forms of communication used – gestures, vocalizations or behavior.
  - 6 = No ability to communicate
- Blank = Missing

**43. Ability to Make Self Understood (People with developmental disabilities only) (EXPRESS)  
95% completeness and accuracy required.**

Ability to communicate needs, both verbal and non-verbal, to family, friends, or staff

- 1 = Always Understood – Expresses self without difficulty
- 2 = Usually Understood – Difficulty communicating BUT if given time and/or familiarity can be understood, little or no prompting required
- 3 = Often Understood – Difficulty communicating AND prompting usually required
- 4 = Sometimes Understood - Ability is limited to making concrete requests or understood only by a very limited number of people
- 5 = Rarely or Never Understood – Understanding is limited to interpretation of very person-specific sounds or body language

**PIHP REPORTING REQUIREMENTS**

Blank = Missing

**44. Support with Mobility (People with developmental disabilities only) (MOBILITY) 95% completeness and accuracy required**

- 1 = Independent - Able to walk (with or without an assistive device) or propel wheelchair and move about
- 2 = Guidance/Limited Support - Able to walk (with or without an assistive device) or propel wheelchair and move about with guidance, prompting, reminders, stand by support, or with limited physical support.
- 3 = Moderate Support - May walk very short distances with support but uses wheelchair as primary method of mobility, needs moderate physical support to transfer, move the chair, and/or shift positions in chair or bed
- 4 = Extensive Support - Uses wheelchair exclusively, needs extensive support to transfer, move the wheelchair, and/or shift positions in chair or bed
- 5 = Total Support - Uses wheelchair with total support to transfer, move the wheelchair, and/or shift positions or may be unable to sit in a wheelchair; needs total support to shift positions throughout the day

Blank = Missing

**45. Mode of Nutritional Intake (People with developmental disabilities only) (INTAKE) 95% completeness and accuracy required**

- 1 = Normal – Swallows all types of foods
- 2 = Modified independent – e.g., liquid is sipped, takes limited solid food, need for modification may be unknown
- 3 = Requires diet modification to swallow solid food – e.g., mechanical diet (e.g., purée, minced) or only able to ingest specific foods
- 4 = Requires modification to swallow liquids – e.g., thickened liquids
- 5 = Can swallow only puréed solids AND thickened liquids
- 6 = Combined oral and parenteral or tube feeding
- 7 = Enteral feeding into stomach – e.g., G-tube or PEG tube
- 8 = Enteral feeding into jejunum – e.g., J-tube or PEG-J tube
- 9 = Parenteral feeding only—Includes all types of parenteral feedings, such as total parenteral nutrition (TPN)

Blank = Missing

**46. Support with Personal Care (People with developmental disabilities only) (PERSONAL) 95% completeness and accuracy required.**

Ability to complete personal care, including bathing, toileting, hygiene, dressing and grooming tasks, including the amount of help required by another person to assist. This measure is an overall estimation of the person's ability in the category of personal care. If the person requires guidance only for all tasks but bathing, where he or she needs extensive support, score a "2" to reflect the overall average ability. The person may or may not use assistive devices like shower or commode chairs, long-handled brushes, etc. Note: assistance with medication should NOT be included.

- 1 = Independent - Able to complete all personal care tasks without physical support

**PIHP REPORTING REQUIREMENTS**

- 2 = Guidance/Limited Support - Able to perform personal care tasks with guidance, prompting, reminding or with limited physical support for less than 25% of the activity
- 3 = Moderate Physical Support - Able to perform personal care tasks with moderate support of another person
- 4 = Extensive Support - Able to perform personal care tasks with extensive support of another person
- 5 = Total Support – Requires full support of another person to complete personal care tasks (unable to participate in tasks)
- Blank = Missing

**47. Relationships (People with developmental disabilities only) (RELATION) 95% completeness and accuracy required**

Indicate whether or not the individual has “natural supports” defined as persons outside of the mental health system involved in his/her life who provide emotional support or companionship.

- 1 = Extensive involvement, such as daily emotional support/companionship
- 2 = Moderate involvement, such as several times a month up to several times a week
- 3 = Limited involvement, such as intermittent or up to once a month
- 4 = Involved in planning or decision-making, but does not provide emotional support/companionship
- 5 = No involvement
- Blank = Missing

**48. Status of Family/Friend Support System (People with developmental disabilities only) (SUPPSYS) 95% completeness and accuracy required**

Indicate whether current (unpaid) family/friend caregiver status is at risk in the next 12 months; including instances of caregiver disability/illness, aging, and/or re-location. “At risk” means caregiver will likely be unable to continue providing the current level of help, or will cease providing help altogether but no plan for replacing the caregiver’s help is in place.

- 1 = Care giver status is not at risk
- 2 = Care giver is likely to reduce current level of help provided
- 3 = Care giver is likely to cease providing help altogether
- 4 = Family/friends do not currently provide care
- 5 = Information unavailable
- Blank = Missing

**49. Support for Accommodating Challenging Behaviors (People with developmental disabilities only) (BEHAV) 95% completeness and accuracy required**

Indicate the level of support the individual needs, if any, to accommodate challenging behaviors. “Challenging behaviors” include those that are self-injurious, or place others at risk of harm. (Support includes direct line of sight supervision)

- 1 = No challenging behaviors, or no support needed
- 2 = Limited Support, such as support up to once a month
- 3 = Moderate Support, such as support once a week

**PIHP REPORTING REQUIREMENTS**

4 = Extensive Support, such as support several times a week

5 = Total Support – Intermittent, such as support once or twice a day

6 = Total Support – Continuous, such as full-time support

Blank = Missing

**50. Presence of a Behavior Plan (People with developmental disabilities only) (PLAN) 95% accuracy and completeness required**

Indicate the presence of a behavior plan during the past 12 months.

1 = No Behavior Plan

2 = Positive Behavior Support Plan or Behavior Treatment Plan without restrictive and/or intrusive techniques requiring review by the Behavior Treatment Plan Review Committee

3 = Behavior Treatment Plan with restrictive and/or intrusive techniques requiring review by the Behavior Treatment Plan Review Committee

Blank = Missing

**51. Use of Psychotropic Medications (People with developmental disabilities only) 95% accuracy and completeness required**

Fill in the number of anti-psychotic and other psychotropic medications the individual is prescribed. See the codebook for further definition of “anti-psychotic” and “other psychotropic” and a list of the most common medications.

51.1: Number of Anti-Psychotic Medications (**AP**) \_\_\_\_

Blank = Missing

51.2: Number of Other Psychotropic Medications (**OTHPSYCH**) \_\_\_\_

Blank = Missing

**52. Major Mental Illness (MMI) Diagnosis (People with developmental disabilities only) 95% accuracy and completeness required**

This measure identifies major mental illnesses characterized by psychotic symptoms or severe affective symptoms. Indicate whether or not the individual has one or more of the following major mental illness diagnoses: Schizophrenia, Schizophreniform Disorder, or Schizoaffective Disorder (ICD code 295.xx); Delusional Disorder (ICD code 297.1); Psychotic Disorder NOS (ICD code 298.9); Psychotic Disorder due to a general medical condition (ICD codes 293.81 or 293.82); Dementia with delusions (ICD code 294.42); Bipolar I Disorder (ICD codes 296.0x, 296.4x, 296.5x, 296.6x, or 296.7); or Major Depressive Disorder (ICD codes 296.2x and 296.3x). The ICD code must match the codes provided above. Note: Any digit or no digit at all, may be substituted for each “x” in the codes.

1 = One or more MMI diagnosis present

2 = No MMI diagnosis present

Blank = Missing

***PIHP REPORTING REQUIREMENTS***

**ENCOUNTERS PER MENTAL HEALTH, DEVELOPMENTAL DISABILITY, AND  
SUBSTANCE ABUSE BENEFICIARY  
*DATA REPORT***

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**Due dates: Encounter data are due within 30 days following adjudication of the claim for the service provided, or in the case of a PIHP whose business practices do not include claims payment, within 30 days following the end of the month in which services were delivered. It is expected that encounter data reported will reflect services for which providers were paid (paid claims), third party reimbursed, and/or any services provided directly by the PIHP. Submit the encounter data for an individual on any claims adjudicated, regardless of whether there are still other claims outstanding for the individual for the month in which service was provided. In order that the department can use the encounter data for its federal and state reporting, it must have the count of units of service provided to each consumer during the fiscal year. Therefore, the encounter data for the fiscal year must be reconciled within 90 days of the end of the fiscal year. Claims for the fiscal year that are not yet adjudicated by the end of that period, should be reported as encounters with a monetary amount of "0." Once claims have been adjudicated, a replacement encounter must be submitted.**

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**Encounters per Beneficiary**

Encounter data is collected and reported for every beneficiary for which a claim was adjudicated or service rendered during the month by the PIHP (directly or via contract) regardless of payment source or funding stream. Every MH/DD encounter record reported must have a corresponding quality improvement (QI) or demographic record reported at the same time. Failure to report both an encounter record and a QI record for a consumer receiving services will result in contract action. SA encounter records do not require a corresponding quality improvement (QI) or demographic record to be reported by the PIHP. \* PIHP's and CMHSPs that contract with another PIHP or CMHSP to provide mental health services should include that consumer in the encounter and QI data sets. In those cases the PIHP or CMHSP that provides the service via a contract should not report the consumer in this data set. Likewise, PIHPs or CMHSPs that contract directly with a Medicaid Health Plan, or sub-contract via another entity that contracts with a Medicaid Health Plan to provide the Medicaid mental health outpatient benefit, should not report the consumer in this data set.

The Health Insurance Portability and Accountability Act (HIPAA) mandates that all consumer level data reported after October 16, 2002 must be compliant with the transaction standards. Beginning January 1, 2012, all health care providers, billing agents and clearinghouses currently submitting version 4010A1 electronic transactions will need to convert to the version 5010, including the approved errata version. Version 4010A1 will be used for production transactions submitted through ~~12/31/2011~~ 3/31/2012 and Version 5010 must be used for all transactions submitted ~~4/1/2012~~ and after.

***PIHP REPORTING REQUIREMENTS***

A summary of the relevant requirements is:

- Encounter data (service use) is to be submitted electronically on a Health Care Claim 4010A1 or 5010 as appropriate.
- The encounter requires a small set of specific demographic data: gender, diagnosis, Medicaid number, race, and social security number, and name of the consumer.
- Information about the encounter such as provider name and identification number, place of service, and amount paid for the service is required.
- The 837/4010A includes a “header” and “trailer” that allows it to be uploaded to the CHAMPS system.
- The remaining demographic data, in HIPAA parlance called “Quality Improvement” data, shall be submitted in a separate file to CHAMPS and must be accompanied by required headers and trailers.

The information on HIPAA contained in this contract relates only to the data that MDCH is requiring for its own monitoring and/or reporting purposes, and does not address all aspects of the HIPAA transaction standards with which PIHPs must comply for other business partners (e.g., providers submitting claims, or third party payers). Further information is available at [www.michigan.gov/mdch](http://www.michigan.gov/mdch).

Data that is uploaded to CHAMPS must follow the HIPAA-prescribed formats for the 837/4010A1 and 5010 (institutional and professional) and MDCH-prescribed formats for QI data. The 837/4010A1 and 5010 includes header and trailer information that identifies the sender and receiver and the type of information being submitted. If data does not follow the formats, entire files could be rejected by the electronic system.

HIPAA also requires that procedure codes, revenue codes and modifiers approved by the CMS be used for reporting encounters. Those codes are found in the Current Procedural Terminology (CPT) Manual, Fifth Edition, published by the American Medical Associations, the Health Care Financing Administration Common Procedure Coding System (HCPCS), the National Drug Codes (NDC), the Code on Dental Procedures and Nomenclature (CDPN), the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM), and the Michigan Uniform Billing Manual. The procedure codes in these coding systems require standard units that must be used in reporting on the 837/4010A1 and 5010.

MDCH has produced a code list of covered Medicaid specialty and Habilitation Supports waiver supports and services names (as found in the Medicaid Provider Manual) and the CPT or HCPCS codes/service definition/units as soon as the majority of mental health services have been assigned CPT or HCPCS codes. This code list is available on the MDCH web site.

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The following elements reported on the 837/4010A1 and 5010 encounter format will be used by MDCH Quality Management and Planning Division for its federal and state reporting, the Contracts Management Section and the state’s actuary. The items with an \*\* are required by HIPAA, and when they are absent will result in rejection of a file. Items with an \*\* must have 100% of values recorded

**PIHP REPORTING REQUIREMENTS**

within the acceptable range of values. Failure to meet accuracy standards on these items will result in contract action.

Refer to HIPAA 837 transaction implementation guides for exact location of the elements. Please consult the HIPAA implementation guides, and clarification documents (on MDCH's web site) for additional elements required of all 837/4010A1 and 5010 encounter formats. The Supplemental Instructions contain field formats and specific instructions on how to submit encounter level data.

**\*\*1.a. PIHP Plan Identification Number (PIHPID)**

The MDCH-assigned 7-digit payer identification number must be used to identify the PIHP with all data transactions.

**1.b. CMHSP Plan Identification Number (CMHID)**

The MDCH-assigned 7-digit payer identification number must be used to identify the CMHSP with all mental health and/or developmental disabilities transactions.

**1.c. CA Plan Identification Number (CAID)**

The MDCH-assigned 7-digit payer identification number must be used to identify the Substance Abuse Coordinating Agency with all Substance Abuse data transactions

**\*\*2. Identification Code/Subscriber Primary Identifier (please see the details in the submitter's manual)**

Ten-digit Medicaid number must be entered for a **Medicaid, ABW or MIChild** beneficiary. If the consumer is not a beneficiary, enter the nine-digit **Social Security** number. If consumer has neither a Medicaid number nor a Social Security number, enter the unique identification number assigned by the CMHSP or **CONID**.

**\*\*3. Identification Code/Other Subscriber Primary Identifier (please see the details in the submitter's manual)**

Enter the consumer's unique identification number (**CONID**) assigned by the CMHSP **regardless** of whether it has been used above.

**\*\*4. Date of birth**

Enter the date of birth of the beneficiary/consumer.

**\*\*5. Diagnosis**

Enter the ICD-9 primary diagnosis of the consumer.

**\*\*6. EPSDT**

Enter the specified code indicating the child was referred for specialty services by the EPSDT screening.

**\*\*7. Encounter Data Identifier**

Enter specified code indicating this file is an encounter file.

**\*\*8. Line Counter Assigned Number**

A number that uniquely identifies each of up to 50 service lines per claim.



***PIHP REPORTING REQUIREMENTS***

**\*\*9. *Procedure Code***

Enter procedure code from code list for service/support provided. The code list is located on the MDCH web site. Do not use procedure codes that are not on the code list.

**\*10. *Procedure Modifier Code***

Enter modifier as required for Habilitation Supports Waiver services provided to enrollees; for Community Living Supports and Personal Care levels of need; for Nursing Home Monitoring; and for evidence-based practices. See Costing per Code List.

**\*11. *Monetary Amount (effective 10/1/12):***

Enter the charge amount, paid amount, adjustment amount (if applicable), and adjustment code in claim information and service lines

**\*\*12. *Quantity of Service***

Enter the number of units of service provided according to the unit code type. **Only whole numbers should be reported.**

**13. *Place of Service Code***

Enter the specified code for where the service was provided, such as an office, inpatient hospital, etc.

**14. *Diagnosis Code Pointer***

Points to the diagnosis code at the claim level that is relevant to the service.

**\*\*15. *Date Time Period***

Enter date of service provided (how this is reported depends on whether the Professional, or the Institutional format is used).

## **FY'13 PIHP MEDICAID UTILIZATION AND AGGREGATE NET COST REPORT**

This report provides the aggregate Medicaid service data necessary for MDCH management of PIHP contracts and rate-setting by the actuary. In the case of an affiliation, the PIHP must report this data as an aggregation of all Medicaid services provided in the service area by its affiliates. Medicaid Substance Abuse services provided by Substance Abuse Coordinating Agencies are now included in this report, effective 10/1/06. The data set reflects and describes the support activity provided to or on behalf of Medicaid beneficiaries, **except** Children's Waiver beneficiaries. Refer to the Mental Health/Substance Abuse Chapter of the Medicaid Provider Manual for the complete and specific requirements for coverage for the State Plan, Additional services provided under the authority of Section 1915(b)(3) of the Social Security Act, and the Habilitation Supports Waiver. All of the aforementioned Medicaid services and supports provided in the PIHP service area (affiliation, if applicable) must be reported on this utilization and cost report. Instructions and current templates for completing and submitting the MUNC report may be found on the MDCH web site at [www.michigan.gov/mdch](http://www.michigan.gov/mdch). Click on Mental Health and Substance Abuse, then Reporting Requirements.

**MICHIGAN MISSION-BASED PERFORMANCE INDICATOR SYSTEM  
VERSION 6.0  
FOR PIHPS**

The Michigan Mission Based Performance Indicator System (version 1.0) was first implemented in FY'97. That original set of indicators reflected nine months of work by more than 90 consumers, advocates, CMHSP staff, MDCH staff and others. The original purposes for the development of the system remain. Those purposes include:

- To clearly delineate the dimensions of quality that must be addressed by the Public Mental Health System as reflected in the Mission statements from Delivering the Promise and the needs and concerns expressed by consumers and the citizens of Michigan. Those domains are: ACCESS, EFFICIENCY, and OUTCOME.
- To develop a state-wide aggregate status report to address issues of public accountability for the public mental health system (including appropriation boilerplate requirements of the legislature, legal commitments under the Michigan Mental Health Code, etc.)
- To provide a data-based mechanism to assist MDCH in the management of PIHP contracts that would impact the quality of the service delivery system statewide.
- To the extent possible, facilitate the development and implementation of local quality improvement systems; and
- To link with existing health care planning efforts and to establish a foundation for future quality improvement monitoring within a managed health care system for the consumers of public mental health services in the state of Michigan.

All of the indicators here are measures of PIHP performance. Therefore, performance indicators should be reported by the PIHP for all the Medicaid beneficiaries for whom it is responsible. Medicaid beneficiaries who are not receiving specialty services and supports (1915(b)(c) waivers) but are provided outpatient services through contracts with Medicaid Health Plans, or sub-contracts with entities that contract with Medicaid Health Plans are not covered by the performance indicator requirements. Due dates for indicators vary and can be found on the table following the list of indicators. Instructions and reporting tables are located in the "Michigan's Mission-Based Performance Indicator System, Codebook. Electronic templates for reporting will be issued by MDCH six weeks prior to the due date and also available on the MDCH website: [www.michigan.gov/mdch](http://www.michigan.gov/mdch). Click on Mental Health and Substance Abuse, then Reporting Requirements.

**PIHP REPORTING REQUIREMENTS**

**MICHIGAN MISSION-BASED PERFORMANCE INDICATOR SYSTEM, VERSION 6.0  
FOR PIHPS**

**ACCESS**

1. The percent of all Medicaid adult and children beneficiaries receiving a pre-admission screening for psychiatric inpatient care for whom the disposition was completed within three hours. **Standard = 95% in three hours**
2. The percent of new Medicaid beneficiaries receiving a face-to-face meeting with a professional within 14 calendar days of a non-emergency request for service (MI adults, MI children, DD adults, DD children, and Medicaid SA). **Standard = 95% in 14 days.**
3. The percent of new persons starting any needed on-going service within 14 days of a non-emergent assessment with a professional. (MI adults, MI children, DD adults, DD children, and Medicaid SA) **Standard = 95% in 14 days**
4. The percent of discharges from a psychiatric inpatient unit who are seen for follow-up care within seven days. (All children and all adults (MI, DD) and all Medicaid SA (sub-acute de-tox discharges)
5. The percent of Medicaid recipients having received PIHP managed services. (MI adults, MI children, DD adults, DD children, and SA)

**ADEQUACY/APPROPRIATENESS**

6. The percent of Habilitation Supports Waiver (HSW) enrollees during the quarter with encounters in data warehouse who are receiving at least one HSW service per month that is not supports coordination.

**EFFICIENCY**

7. The percent of total expenditures spent on managed care administrative functions for PIHPs.

**OUTCOMES**

8. The percent of adult Medicaid beneficiaries with mental illness and the percent of adult Medicaid beneficiaries with developmental disabilities served by PIHPs who are in competitive employment.
9. The percent of adult Medicaid beneficiaries with mental illness and the percent of adult Medicaid beneficiaries with developmental disabilities served by PIHPs who earn state minimum wage or more from employment activities (competitive, self employment, or

***PIHP REPORTING REQUIREMENTS***

sheltered workshop).

10. The percent of MI and DD children and adults readmitted to an inpatient psychiatric unit within 30 days of discharge. Standard = 15% or less within 30 days
11. The annual number of substantiated recipient rights complaints per thousand Medicaid beneficiaries with MI and with DD served, in the categories of Abuse I and II, and Neglect I and II.
12. The percent of adults with developmental disabilities served, who live in a private residence alone, or with spouse or non-relative.
13. The percent of adults with serious mental illness served, who live in a private residence alone, or with spouse or non-relative.
14. The percent of children with developmental disabilities (not including children in the Children's Waiver Program) in the quarter who receive at least one service each month other than case management and respite.

Note: Indicators #2, 3, 4, and 5 include Medicaid beneficiaries who receive substance abuse services managed by the Substance Abuse Coordinating Agencies.

**PIHP REPORTING REQUIREMENTS**

**PIHP PERFORMANCE INDICATOR REPORTING DUE DATES**

Indicator Title	Period	Due	Period	Due	Period	Due	Period	Due	From
1. Pre-admission screen	10/01 to 12/31	3/31	1/01 to 3/31	6/30	4/01 to 6/30	9/30	7/01 to 9/30	12/31	PIHPs
2. 1 <sup>st</sup> request	10/01 to 12/31	3/31	1/01 to 3/31	6/30	4/01 to 6/30	9/30	7/01 to 9/30	12/31	PIHPs
3. 1 <sup>st</sup> service	10/01 to 12/31	3/31	1/01 to 3/31	6/30	4/01 to 6/30	9/30	7/01 to 9/30	12/31	PIHPs
4. Follow-up	10/01 to 12/31	3/31	1/01 to 3/31	6/30	4/01 to 6/30	9/30	7/01 to 9/30	12/31	PIHPs
5. Medicaid penetration*	10/01 to 12/31	N/A	1/01 to 3/31	N/A	4/01 to 6/30	N/A	7/01 to 9/30	N/A	MDCH
6. HSWS services*	10/01 to 12/31	N/A	1/01 to 3/31	N/A	4/01 to 6/30	N/A	7/01 to 9/30	N/A	MDCH
7. Admin. Costs*	10/01 to 9/30	1/31							MDCH
8. Competitive employment*	10/01 to 9/30								MDCH
9. Minimum wage*	10/01 to 9/30								MDCH
10. Readmissions	10/01 to 9/30	3/31	1/01 to 3/31	6/30	4-01 to 6-30	9/30	7/01 to 9/30	12/31	PIHPs
11. RR complaints	10/01 to 9/30	12/31							PIHPs
12. & 13. Living arrangements	10/1 to 9/30	N/A							MDCH
14. Children with DD	10/01 to 12/31	N/A	1/01 to 3/31	N/A	4/01 to 6/30	N/A	7/01 to 9/30	N/A	MDCH

\*Indicators with \* mean MDCH collects data from encounters, quality improvement or cost reports and calculates performance indicators

## **STATE LEVEL DATA COLLECTION**

### **CAFAS:**

Child and Adolescent Functional Assessment Scale (CAFAS) shall be performed for each child with serious emotional disturbance at intake, quarterly thereafter, and at exit. Scale scores shall be exported using the FAS Outcomes application in xml format. In order that the scores along with de-identified data are automatically sent to the Eastern Michigan University Level of Functioning (LOF) Project, the CMHSP must assure the research box remains checked. MDCH uses aggregate reports from the LOF Project for internal planning and decision-making. In FY'11 MDCH will cover 50% of the FAS Outcomes annual licensing fee of \$400 per CMHSP, and 50% of the per usage fee of \$2.95.

Annually each CMHSP shall submit an aggregate CAFAS report to MDCH. The report is automatically generated by the FAS Outcomes program. **Methodology and instructions for submitting the reports are posted on the MDCH web site at [www.michigan.gov/mdch](http://www.michigan.gov/mdch). Click on Mental Health and Substance Abuse, then "Reporting Requirements."**

Preschool and Early Childhood Functional Assessment Scal (PECFAS) shall be performed for each child, four through six year olds, with serious emotional disturbance at intake, quarterly thereafter, and at intake.

### **Consumer Satisfaction Survey: Adults with Serious Mental Illness & Children with Serious Emotional Disturbance**

-An annual survey using MHSIP 44 items for adults with MI and substance use disorder, and MHSIP Youth and Family survey for families of children with SED will be conducted. Surveys are available on the MHSIP web site and have been translated into several languages. See [www.mhsip.org/surveylink.htm](http://www.mhsip.org/surveylink.htm)

-The PIHPs will conduct the survey in the month of May for all people (regardless of medical assistance eligibility) currently receiving services in specific programs.

-Programs to be selected annually by QIC based on volume of units, expenditures, complaints and site review information.

-The raw data is due August 31st to MDCH each year on an Excel template to be provided by MDCH.

### **Critical Incident Reporting**

PIHPs will report the following events, except Suicide, within 60 days after the end of the month in which the event occurred for individuals actively receiving services, with individual level data on consumer ID, event date, and event type:

- **Suicide** for any individual actively receiving services at the time of death, and any who have received emergency services within 30 days prior to death. Once it has been determined whether or not a death was suicide, the suicide must be reported within 30 days after the end of the month in which the death was determined. If 90 calendar days

***PIHP REPORTING REQUIREMENTS***

have elapsed without a determination of cause of death, the PIHP must submit a “best judgment” determination of whether the death was a suicide. In this event the time frame described in “a” above shall be followed, with the submission due within 30 days after the end of the month in which this “best judgment” determination occurred.

- **Non-suicide death** for individuals who were actively receiving services and were living in a Specialized Residential facility (per Administrative Rule R330.1801-09) or in a Child-Caring institution; or were receiving community living supports, supports coordination, targeted case management, ACT, Home-based, Wraparound, Habilitation Supports Waiver, SED waiver or Children’s Waiver services. If reporting is delayed because the PIHP is determining whether the death was due to suicide, the submission is due within 30 days after the end of the month in which the PIHP determined the death was not due to suicide.
- **Emergency Medical treatment due to Injury or Medication Error** for people who at the time of the event were actively receiving services and were living in a Specialized Residential facility (per Administrative Rule R330.1801-09) or in a Child-Caring institution; or were receiving either Habilitation Supports Waiver services, SED Waiver services or Children’s Waiver services.
- **Hospitalization due to Injury or Medication Error** for individuals who living in a Specialized Residential facility (per Administrative Rule R330.1801-09) or in a Child-Caring institution; or receiving Habilitation Supports Waiver services, SED Waiver services, or Children’s Waiver services.
- **Arrest of Consumer** for individuals who living in a Specialized Residential facility (per Administrative Rule R330.1801-09) or in a Child-Caring institution; or receiving Habilitation Supports Waiver services, SED Waiver services, or Children’s Waiver services.

**Methodology and instructions for reporting are posted on the MDCH web site at [www.michigan.gov/mdch](http://www.michigan.gov/mdch). Click on Mental Health and Substance Abuse, then “Reporting Requirements”**



## **QUALITY IMPROVEMENT PROGRAMS FOR CMHSPs TECHNICAL REQUIREMENT**

The State will implement the standards for internal quality assurance mechanisms as specified below. They are based upon the Guidelines for Internal Quality Assurance Programs as distributed by the Health Care Financing Administration's (HCFA) Medicaid Bureau in its guide to states in July of 1993 and HCFA's draft Standards and Guidelines for Review of Medicare and Medicaid Managed Care Organizations (December 22, 1997). These documents have been modified to reflect: concepts and standards more appropriate to the population of persons served under the current waiver request; Michigan state law; and existing requirements, processes and procedures implemented in Michigan.

### **Michigan Standards**

**STANDARD I: Quality Improvement Program** - The organization shall have a Quality Improvement Program (QIP) that achieves, through ongoing measurement and intervention, improvement in aspects of clinical care and non-clinical services that can be expected to affect consumer health status, quality of life, and satisfaction.

- A. The organization has a written description of its QIP. The written description contains a detailed description of the structure of the QI system and a set of QI objectives that are developed annually and include a timetable for implementation and accomplishment. The plan must evaluate the QI program at least annually.
- B. Scope - The written QIP plan includes a description for how the organization shall assure that all demographic groups, care settings, and types of services are included in the scope of the QIP.
- C. The written plan must reflect the specific activities of the QIP, including:
  - 1. The process for the identification and selection of aspects of clinical care and non-clinical services to be monitored and considered for process improvement projects;
  - 2. The methods used to gather, analyze, report, and utilize customer satisfaction;
  - 3. The mechanisms that will be used to evaluate and annually revise the QIP written plan.
  - 4. The responsibilities of the governing body, executive director, medical director, managers, direct staff and subcontracting agencies in the QI process.
  - 5. The structure responsible for performing QI functions and assuring that program improvements are occurring within the CMHSP. This committee or other structure must:

- a. Demonstrate that it meets or occurs with a frequency that is sufficient to demonstrate that the structure/committee is following-up on all findings and required actions.
  - b. Established parameters for the role, structure and function of the structure/committee.
  - c. Maintain records documenting the structure's/committee's activities, findings, recommendations and actions.
- D. Continuous Activity - The written description provides for continuous performance of the activities, including tracking of issues over time.
- E. Follow Through - The plan must delineate the mechanisms or procedures to be used for adopting and communicating process and outcome improvements.
- F. Focus on Health Outcomes - The plan must address the role for mental health outcomes, of value to purchasers and individuals, to the extent possible within existing technology.

**STANDARD II: SYSTEMATIC PROCESS OF QUALITY ASSESSMENT AND IMPROVEMENT** - The QIP objectively and systematically monitors and evaluates the quality and appropriateness of care and service to members, through quality assessment and performance improvement projects, and related activities, and pursues opportunities for improvement on an ongoing basis.

The QIP has written guidelines for its quality-related activities, which include:

- A. Specification of clinical or health services delivery areas to be monitored
  1. The monitoring and evaluation of care reflects the population served by the CMHSP in terms of age groups, disease categories, and special risk status.
  2. At its discretion and/or as required by the State Medicaid agency, the organization's QIP also monitors and evaluates other important aspects of care and service.
- B. Use of quality indicators
  1. The organization identifies and uses quality indicators that are objective, measurable, and based on current knowledge and clinical experience.
  2. Indicators shall include, but not be limited to, those selected by the state agency.

3. Methods and frequency of data collection are appropriate and sufficient to detect need for program change.

C. Use of clinical care standards/practice guidelines

1. When there are nationally accepted or mutually agreed upon clinical standards/practice guidelines, QI activities monitor quality of care against those standards/guidelines.
2. When guidelines exist, a mechanism is in place for continually updating the standards/guidelines.

D. Implementation of remedial action plans

1. The QIP requires that appropriate remedial action be taken whenever inappropriate or substandard services are furnished as determined by substantiated recipient rights complaints, clinical indicators, or clinical care standards or practice guidelines where they exist.
2. Follow-up remedial actions are documented.

E. Assessment of effectiveness of corrective actions

1. As actions are taken to improve care, there is monitoring and evaluation of corrective actions to assure that appropriate changes have been made. In addition, changes in practice patterns are tracked.
2. The CMHSP assures follow-up on identified issues to ensure that actions for improvement have been effective.

F. The Quality Improvement Program describes the process of the review and follow-up of sentinel events for persons enrolled in the Children's Waiver (CW), the Children with Serious Emotional Disturbance Waiver (SEDW), the MICHild program, and the Adult Benefit Waiver, and who receive services funded by these programs from CMHSPs. CMHSPs that are affiliates of PIHPs, should reach agreement on how sentinel events will be handled for individuals receiving 1915(b) services or Habilitation Supports Waiver services managed by the PIHP.

1. At a minimum, sentinel events as defined in the department's contract must be reviewed and acted upon as appropriate, with root cause analyses to commence within two business days of the sentinel event.
2. Staff involved in reviewing and analyzing the sentinel events must have the appropriate credentials to review the scope of care. For example, sentinel events that involved death or serious medical conditions, must involve a physician or nurse.

3. All unexpected\* deaths of Children's Waiver, SED Waiver, MICHild and ABW beneficiaries, who at the time of their deaths were receiving specialty supports and services from CMHSPs, must be reviewed and must include:
  - a. Screens of individual deaths with standard information (e.g. coroner's report, death certificate).
  - b. Involvement of medical personnel in the mortality reviews.
  - c. Documentation of the mortality review process, findings, and recommendations.
  - d. Use of mortality information to address quality of care.
  - e. Aggregation of mortality data over time to identify possible trends.

\*"Unexpected deaths" include those that resulted from suicide, homicide, an undiagnosed condition, were accidental, or were suspicious for possible abuse or neglect.

**STANDARD III: ACCOUNTABILITY TO THE GOVERNING BODY** - Responsibilities of the Governing body for monitoring, evaluating, and making improvements to care include:

- A. Oversight of QIP - There is documentation that the Governing Body has approved the overall QIP and an annual QI plan.
- B. QIP progress reports - The Governing Body routinely receives written reports from the QIP describing actions taken, progress in meeting QI objectives, and improvements made.
- C. Annual QIP review - The Governing Body formally reviews on a periodic basis (but no less frequently than annually) a written report on the QIP that includes: studies undertaken, results, subsequent actions, and aggregate data on utilization and quality of services rendered to assess the QIP's continuity, effectiveness and current acceptability.
- D. Program modification - Upon receipt of regular written reports from the QIP delineating actions taken and improvements made, the Governing Body assures that the Executive Director takes action when appropriate and directs that the operational QIP be modified on an ongoing basis to accommodate review findings and issues of concern within the Community Mental Health Service Program (CMHSP).

**STANDARD IV: QIP SUPERVISION** - There is a designated senior executive who is responsible for the QI program implementation. The organization's Medical Director has an identifiable role in the QIP.

**STANDARD V: Provider Qualification and Selection** - The QIP contains written procedures to determine whether physicians and other health care professionals, who are

licensed by the State and who are employees of the CMHSP or under contract to the CMHSP, are qualified to perform their services. The QIP also has written procedures to ensure that non-licensed providers of care or support are qualified to perform their jobs.

The CMHSP must have written policies and procedures for the credentialing process that includes the organization's initial credentialing of practitioners, as well as its subsequent re-credentialing, recertifying and/or reappointment of practitioners. These procedures must describe how findings of the QIP are incorporated into this re-credentialing process.

The CMHSP must also insure:

1. Staff shall possess the appropriate qualifications as outlined in their job descriptions, including the qualifications for all the following:
  - a. Educational background;
  - b. Relevant work experience;
  - c. Cultural competence;
  - d. Certification, registration, and licensure as required by law.
2. A program shall train new personnel with regard to their responsibilities, program policy, and operating procedures.
3. A program shall identify staff training needs and provide in-service training, continuing education, and staff development activities.

**STANDARD VI: ENROLLEE RIGHTS AND RESPONSIBILITIES** - The organization demonstrates a commitment to treating members in a manner that acknowledges their rights and responsibilities.

- A. The CMHSP monitors and assures that each individual has all of the rights established in Federal and State law.
- B. The CMHSP shall have a local recipient rights office found to be in substantial compliance with the requirements of Chapter 7 of the Michigan Mental Health Code, as evidenced by a site review conducted by the state agency.
- C. The CMHSP shall submit an annual report of the CMHSP's Office of Recipient Rights to the state office as required by Chapter 7 of the Michigan Mental Health Code.
- D. The organization conducts periodic quantitative (e.g., surveys) and qualitative (e.g., focus groups) assessments of member experiences with its services. These assessments must be representative of the persons served and the services and supports offered.
  1. The assessments must address the issues of the quality, availability, and accessibility of care.

2. As a result of the assessments, the organization:
  - a. Takes specific action on individual cases as appropriate;
  - b. Identifies and investigates sources of dissatisfaction;
  - c. Outlines systemic action steps to follow-up on the findings; and
  - d. Informs practitioners, providers, recipients of service, and the governing body of assessment results.
3. The organization evaluates the effects of the above activities.
4. The organization insures the incorporation of consumers receiving long-term supports or services (e.g., persons receiving case management or supports coordination) into the review and analysis of the information obtained from quantitative and qualitative methods.

**STANDARD VIII: UTILIZATION MANAGEMENT**

- A. Written Program Description - The organization has a written utilization management program description that includes, at a minimum, procedures to evaluate medical necessity, criteria used, information sources, and the process used to review and approve the provision of medical services.
- B. Scope - The program has mechanisms to identify and correct under-utilization and overutilization.
- C. Procedures - Prospective (preauthorization), concurrent and retrospective procedures are established and include:
  1. Review decisions are supervised by qualified medical professionals.
  2. Efforts are made to obtain all necessary information, including pertinent clinical information, and consult with the treating physician as appropriate.
  3. The reasons for decisions are clearly documented and available to the member.
  4. There are well-publicized and readily available appeals mechanisms for both providers and patients. Notification of, a denial includes a description of how to file an appeal.
  5. Decisions and appeals are made in a timely manner as required by the exigencies of the situation.
  6. There are mechanisms to evaluate the effects of the program using data on member satisfaction, provider satisfaction or other appropriate measures.
  7. If the organization delegates responsibility for utilization management, it has mechanisms to ensure that these standards are met by the delegate.

**MICHIGAN DEPARTMENT OF COMMUNITY HEALTH (MDCH)  
MENTAL HEALTH AND SUBSTANCE ABUSE ADMINISTRATION  
Technical Requirement  
For Behavior Treatment Plan Review Committees  
Revision FY'12**

**Application:**

Prepaid Inpatient Health Plans (PIHPs)  
Community Mental Health Services Programs (CMHSPs)  
Public mental health service providers

Exception: State operated or licensed psychiatric hospitals or units when the individual's challenging behavior is due to an active substantiated Axis I diagnosis listed in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition or successor edition published by the American Psychiatric Association.

**Preamble:**

It is the expectation of the Michigan Department of Community Health (MDCH) that all public mental health agencies shall have policies and procedures for intervening with an individual receiving public mental health services who exhibits seriously aggressive, self-injurious or other behaviors that place the individual or others at risk of harm. These policies and procedures shall include protocols for using the least intrusive and restrictive interventions for unprecedented and unpredicted crisis or emergency occurrences of such behaviors. For all other non-emergent or continuing occurrences of these behaviors, the public mental health service agency will first conduct appropriate assessments and evaluations to rule out physical, medical, and environmental (e.g., trauma, interpersonal relationships) conditions that might be the cause of the behaviors.

MDCH will not tolerate violence perpetrated on the individuals served by the public mental health system in the name of intervening when individuals exhibit certain potentially harmful behaviors. If and when interventions are to be used for the purpose of treating, managing, controlling or extinguishing predictable or continuing behaviors that are seriously aggressive, self-injurious, or that place the individual or others at risk of harm, the public mental health agency shall develop an individual behavior treatment plan to ameliorate or eliminate the need for the restrictive or intrusive interventions in the future (R. 330.7199[2][g]) and that:

- Adheres to any legal psychiatric advance directive that is present for an adult with serious mental illness;
- Employs positive behavior supports and interventions, including specific interventions designed to develop functional abilities in major life activities, as the first and preferred approaches;
- Considers other kinds of behavior treatment or interventions that are supported by peer-reviewed literature or practice guidelines in conjunction with behavior supports and interventions, if positive behavior supports and interventions are documented to be unsuccessful; or

- As a last resort, when there is documentation that neither positive behavior supports nor other kinds of less restrictive interventions were successful, proposes restrictive or intrusive techniques, described herein, that shall be reviewed and approved by the Behavior Treatment Plan Review Committee.

MDCH requires that any individual receiving public mental health services has the right to be free from any form of restraint or seclusion used as a means of coercion discipline, convenience or retaliation, as required by the 1997 federal Balanced Budget Act at 42 CFR 438.100 and Sections 740 and 742 of the Michigan Mental Health Code.

## I. POLICY

It is the policy of MDCH that all publicly-supported mental health agencies shall use a specially-constituted committee, often referred to as a “behavior treatment plan review committee” called for the purposes of this policy the “Committee.” The purpose of the Committee is to review and approve or disapprove any plans that propose to use restrictive or intrusive interventions, as defined here, with individuals served by the public mental health system who exhibit seriously aggressive, self-injurious or other challenging behaviors that place the individual or others at imminent risk of physical harm. The Committee shall substantially incorporate the standards herein, including those for its appointment, duties, and functions.

## II. DEFINITIONS

Aversive Techniques: Those techniques that require the deliberate infliction of unpleasant stimulation (stimuli which would be unpleasant to the average person or stimuli that would have a specific unpleasant effect on a particular person) to achieve the management, control or extinction of seriously aggressive, self-injurious or other behaviors that place the individual or others at risk of physical harm. Examples of such techniques include use of mouthwash, water mist or other noxious substance to consequate behavior or to accomplish a negative association with target behavior, and use of nausea-generating medication to establish a negative association with a target behavior or for directly consequating target behavior. Clinical techniques and practices established in the peer reviewed literature that are prescribed in the behavior treatment plan and that are voluntary and self-administered (e.g., exposure therapy for anxiety, masturbatory satiation for paraphilias) are not considered aversive for purposes of this technical requirement. Otherwise, use of aversive techniques is **prohibited**.

Consent: a written agreement signed by the individual, the parent of a minor, or an individual’s legal representative with authority to execute consent, or a verbal agreement of an individual that is witnessed and documented by someone other than the service provider.

Functional Behavioral Assessment (FBA): an approach that incorporates a variety of techniques and strategies to determine the pattern and purpose, or “function” of a



particular behavior and guide the development of an effective and efficient behavior plan. The focus of an FBA is to identify social, affective, environmental, and trauma-based factors or events that initiate, sustain, or end a behavior. A physical examination must be done by a MD or DO to identify biological or medical factors related to the behavior. The FBA should integrate medical conclusions and recommendations. This assessment provides insight into the function of a behavior, rather than just focusing on the behavior itself so that a new behavior or skill will be substituted to provide the same function or meet the identified need. Functional assessments should also identify situations and events that precede positive behavior to provide more information for a positive behavior support plan.

Emergency Interventions: There are only two emergency interventions approved by MDCH for implementation in crisis situations when all other supports and interventions fail to reduce the imminent risk of harm: physical management and the request for law enforcement intervention. Each agency shall have protocols specifying what physical management techniques are approved for use.

Imminent Risk: an event/action that is about to occur that will likely result in the potential harm to self or others.

Intrusive Techniques: Those techniques that encroach upon the bodily integrity or the personal space of the individual for the purpose of achieving management or control, of a seriously aggressive, self-injurious or other behavior that places the individual or others at risk of physical harm. Examples of such techniques include the use of a medication or drug when it is used to manage, control or extinguish an individual's behavior or restrict the individual's freedom of movement and is not a standard treatment or dosage for the individual's condition. Use of intrusive techniques as defined here requires the review and approval by the Committee.

Physical Management: A technique used by staff as an emergency intervention to restrict the movement of an individual by continued direct physical contact in spite of the individual's resistance in order to prevent him or her from physically harming himself, herself, or others. Physical management shall only be used on an emergency basis when the situation places the individual or others at imminent risk of serious physical harm. To ensure the safety of each consumer and staff each agency shall designate emergency physical management techniques to be utilized during emergency situations. The term "physical management" does not include briefly holding an individual in order to comfort him or her or to demonstrate affection, or holding his/her hand. The following are examples to further clarify the definition of physical management:

- Manually guiding down the hand/fists of an individual who is striking his or her own face repeatedly causing risk of harm IS considered physical management if he or she resists the physical contact and continues to try and strike him or herself. However, it IS NOT physical management if the individual stops the behavior without resistance.

- When a caregiver places his hands on an individual's biceps to prevent him or her from running out the door and the individual resists and continues to try and get out the door, it IS considered physical management. However, if the individual no longer attempts to run out the door, it is NOT considered physical management.

Physical management involving prone immobilization of an individual, as well as any physical management that restricts a person's respiratory process, for behavioral control purposes is **prohibited under any circumstances**. Prone immobilization is extended physical management of an individual in a prone (face down) position, usually on the floor, where force is applied to his or her body in a manner that prevents him or her from moving out of the prone position.

Positive Behavior Support: A set of research-based strategies used to increase opportunities for an enhanced *quality of life* and decrease seriously aggressive, self-injurious or other behaviors that place the individual or others at risk of physical harm by conducting a functional assessment, and teaching new skills and making changes in a person's environment. Positive behavior support combines valued outcomes, behavioral, and biomedical science, validated procedures; and systems change to enhance quality of life and reduce behaviors such as self-injury, aggression, property destruction, and pica. Positive Behavior Supports are most effective when they are implemented across all environments, such as home, school, work, and in the community.

Practice or Treatment Guidelines: Guidelines published by professional organizations such as the American Psychiatric Association (APA), or the federal government.

Proactive Strategies in a Culture of Gentleness: strategies within a Positive Behavior Support Plan used to prevent seriously aggressive, self-injurious or other behaviors that place the individual or others at risk of physical harm from occurring, or for reducing their frequency, intensity, or duration. Supporting individuals in a culture of gentleness is an ongoing process that requires patience and consistency. As such, no precise strategy can be applied to all situations. Some examples of proactive strategies include: unconditional valuing, precursor behaviors, redirection, stimulus control, and validating feelings. See the [prevention guide] for a full list of proactive strategies and definitions.

Reactive Strategies in a Culture of Gentleness: strategies within a Positive Behavior Support Plan used to respond when individuals begin feeling unsafe, insecure, anxious or frustrated. Some examples of reactive strategies include: reducing demanding interactions, increasing warm interactions, redirection, giving space, and blocking. See the [prevention guide] for a full list of reactive strategies and definitions.

Request for Law Enforcement Intervention: calling 911 and requesting law enforcement assistance as a result of an individual exhibiting a seriously aggressive, self-injurious or other behavior that places the individual or others at risk of physical harm. Law enforcement should be called for assistance **only when**: caregivers are unable to remove other individuals from the hazardous situation to assure their safety and protection, safe implementation of physical management is impractical, and/or approved physical management techniques have been attempted but have been unsuccessful in reducing or eliminating the imminent risk of harm to the individual or others.

Restraint: the use of a physical or mechanical device to restrict an individual's movement at the order of a physician. The use of physical or mechanical devices used as restraint is **prohibited** except in a state-operated facility or a licensed hospital. This definition excludes:

- Anatomical or physical supports that are ordered by a physician, physical therapist or occupational therapist for the purpose of maintaining or improving an individual's physical functioning
- Protective devices which are defined as devices or physical barriers to prevent the individual from causing serious self-injury associated with documented and frequent incidents of the behavior and which are incorporated in the written individual plan of services through a behavior treatment plan which has been reviewed and approved by the Committee and received special consent from the individual or his/her legal representative.
- Medical restraint, i.e. the use of mechanical restraint or drug-induced restraint ordered by a physician or dentist to render the individual quiescent for medical or dental procedures. Medical restraint shall only be used as specified in the individual written plan of service for medical or dental procedures.
- Safety devices required by law, such as car seat belts or child car seats used while riding in vehicles.

Restrictive Techniques: Those techniques which, when implemented, will result in the limitation of the individual's rights as specified in the Michigan Mental Health Code and the federal Balanced Budget Act. Examples of such techniques used for the purposes of management, control or extinction of seriously aggressive, self-injurious or other behaviors that place the individual or others at risk of physical harm, include: limiting or prohibiting communication with others when that communication would be harmful to the individual; prohibiting unlimited access to food when that access would be harmful to the individual (excluding dietary restrictions for weight control or medical purposes); using the Craig (or veiled) bed, or any other limitation of the freedom of movement of an individual. Use of restrictive techniques requires the review and approval of the Committee.

Seclusion: The placement of an individual in a room alone where egress is prevented by any means. Seclusion is **prohibited** except in a hospital or center operated by the department, a hospital licensed by the department, or a licensed child caring institution licensed under 1973 PA 116, MCL 722.111 to 722.128.

Special Consent: Obtaining the written consent of the individual, the legal guardian, the parent with legal custody of a minor child, or a designated patient advocate prior to the implementation of any behavior treatment intervention that includes the use of intrusive or restrictive interventions or those which would otherwise entail violating the individual's rights. The general consent to the individualized plan of services and/or supports is not sufficient to authorize implementation of such a behavior treatment intervention. Implementation of a behavior treatment intervention without the special consent of the individual, guardian or parent of a minor may only occur when the individual has been adjudicated pursuant to the provisions of section 469a, 472a, 473, 515, 518, or 519 of the Mental Health Code.

### III. COMMITTEE STANDARDS

- A. Each CMHSP shall have a Committee to review and approve or disapprove any plans that propose to use restrictive or intrusive interventions. A psychiatric hospital, psychiatric unit or psychiatric partial hospitalization program licensed under 1974 PA 258, MCL 330.1137, that receives public funds under contract with the CMHSP and does not have its own Committee must also have access to and use of the services of the CMHSP Committee regarding a behavior treatment plan for an individual receiving services from that CMHSP. If the CMHSP delegates the functions of the Committee to a contracted mental health service provider, the CMHSP must monitor that Committee to assure compliance with this Technical Requirement.
- B. The Committee shall be comprised of at least three individuals, one of whom shall be a licensed psychologist as defined in Section 2.4, Staff Provider Qualifications, in the Medicaid Provider Manual, Mental Health and Substance Abuse Chapter, with the specified training; and at least one member shall be a licensed physician/psychiatrist as defined in the Mental Health Code at MCL 330.1100c(10). A representative of the Office of Recipient Rights shall participate on the Committee as an ex-officio, non-voting member in order to provide consultation and technical assistance to the Committee. Other non-voting members may be added at the Committee's discretion and with the consent of the individual whose behavior treatment plan is being reviewed, such as an advocate or Certified Peer Support Specialist.
- C. The Committee, and Committee chair, shall be appointed by the agency for a term of not more than two years. Members may be re-appointed to consecutive terms.
- D. The Committee shall meet as often as needed.

E. Expedited Review of Proposed Behavior Treatment Plans:

Each Committee must establish a mechanism for the expedited review of proposed behavior treatment plans in emergent situations. "Expedited" means the plan is reviewed and approved in a short time frame such as 24 or 48 hours.

The most frequently-occurring example of the need for expedited review of a proposed plan in emergent situations occurs as a result of the following AFC Licensing Rule:

Adult Foster Care Licensing R 400.14309 Crisis intervention

(1) Crisis intervention procedures may be utilized only when a person has not previously exhibited the behavior creating the crisis or there has been insufficient time to develop a specialized intervention plan to reduce the behavior causing the crisis. If the [individual] requires the repeated or prolonged use of crisis intervention procedures, the licensee must contact the [individual's] designated representative and the responsible agency ... to initiate a review process to evaluate positive alternatives or the need for a specialized intervention plan. (Emphasis added)

Expedited plan reviews may be requested when, based on data presented by the professional staff (Psychologist, RN, Supports Coordinator, Case Manager), the plan requires immediate implementation. The Committee Chair may receive, review and approve such plans on behalf of the Committee. The Recipient Rights Office must be informed of the proposed plan to assure that any potential rights issues are addressed prior to implementation of the plan. Upon approval, the plan may be implemented. All plans approved in this manner must be subject to full review at the next regular meeting of the Committee.

- F. The Committee shall keep all its meeting minutes, and clearly delineate the actions of the Committee.
- G. A Committee member who has prepared a behavior treatment plan to be reviewed by the Committee shall recuse themselves from the final decision-making.
- H. The functions of the Committee shall be to:
1. Disapprove any behavior treatment plan that proposes to use aversive techniques, physical management, or seclusion or restraint in a setting where it is prohibited by law or regulations.
  2. Expeditiously review, in light of current peer reviewed literature or practice guidelines, all behavior treatment plans proposing to utilize intrusive or restrictive techniques [see definitions].
  3. Determine whether causal analysis of the behavior has been performed; whether positive behavioral supports and interventions have been adequately

- pursued; and, where these have not occurred, disapprove any proposed plan for utilizing intrusive or restrictive techniques.
4. For each approved plan, set and document a date to re-examine the continuing need for the approved procedures. This review shall occur at a frequency that is clinically indicated for the individual's condition, or when the individual requests the review as determined through the person-centered planning process. Plans with intrusive or restrictive techniques require minimally a quarterly review. The committee may require behavior treatment plans that utilize more frequent implementation of intrusive or restrictive interventions to be reviewed more often than the minimal quarterly review if deemed necessary.
  5. Assure that inquiry has been made about any known medical, psychological or other factors that the individual has, which might put him/her at high risk of death, injury or trauma if subjected to intrusive or restrictive techniques.
  6. As part of the PIHP's Quality Assessment and Performance Improvement Program (QAPIP), or the CMHSP's Quality Improvement Program (QIP), arrange for an evaluation of the committee's effectiveness by stakeholders, including individuals who had approved plans, as well as family members and advocates. De-identified data shall be used to protect the privacy of the individuals served.

Once a decision to approve a behavior treatment plan has been made by the Committee and written special consent to the plan (see limitations in definition of special consent) has been obtained from the individual, the legal guardian, the parent with legal custody of a minor or a designated patient advocate, it becomes part of the person's written IPOS. The individual, legal guardian, parent with legal custody of a minor child, or designated patient advocate has the right to request a review of the written IPOS, including the right to request that person-centered planning be re-convened, in order to revisit the behavior treatment plan. (MCL 330.1712 [2])

- I. On a quarterly basis track and analyze the use of all physical management and involvement of law enforcement for emergencies, and the use of intrusive and restrictive techniques by each individual receiving the intervention, as well as:
  1. Dates and numbers of interventions used.
  2. The settings (e.g., individual's home or work) where behaviors and interventions occurred
  3. Observations about any events, settings, or factors that may have triggered the behavior.
  4. Behaviors that initiated the techniques.
  5. Documentation of the analysis performed to determine the cause of the behaviors that precipitated the intervention.
  6. Description of positive behavioral supports used.

7. Behaviors that resulted in termination of the interventions.
8. Length of time of each intervention.
9. Staff development and training and supervisory guidance to reduce the use of these interventions.
10. Review and modification or development, if needed, of the individual's behavior plan.

The data on the use of intrusive and restrictive techniques must be evaluated by the PIHP's QAPIP or the CMHSP's QIP, and be available for MDCH review. Physical management and/or involvement of law enforcement, permitted for intervention in emergencies only, are considered critical incidents that must be managed and reported according to the QAPIP standards. Any injury or death that occurs from the use of any behavior intervention is considered a sentinel event.

- J. In addition, the Committee may:
1. Advise and recommend to the agency the need for specific staff or home-specific training in a culture of gentleness, positive behavioral supports, and other individual-specific non-violent interventions.
  2. Advise and recommend to the agency acceptable interventions to be used in emergency or crisis situations when a behavior treatment plan does not exist for an individual who has never displayed or been predicted to display seriously aggressive, self-injurious or other behaviors that place the individual or others at risk or harm.
  3. At its discretion, review other formally developed behavior treatment plans, including positive behavioral supports and interventions, if such reviews are consistent with the agency's needs and approved in advance by the agency.
  4. Advise the agency regarding administrative and other policies affecting behavior treatment and modification practices.
  5. Provide specific case consultation as requested by professional staff of the agency.
  6. Assist in assuring that other related standards are met, e.g., positive behavioral supports.
  7. Serve another service entity (e.g., subcontractor) if agreeable between the involved parties.

#### IV. BEHAVIOR TREATMENT PLAN STANDARDS

- A. The person-centered planning process used in the development of an individualized written plan of services will identify when a behavior treatment plan needs to be developed and where there is documentation that functional behavioral assessments have been conducted to rule out physical, medical or environmental causes of the behavior; and that there have been unsuccessful attempts, using positive behavioral supports and interventions, to prevent or address the behavior.

- B. Behavior treatment plans must be developed through the person-centered planning process and written special consent must be given by the individual, or his/her guardian on his/her behalf if one has been appointed, or the parent with legal custody of a minor prior to the implementation of the behavior treatment plan that includes intrusive or restrictive interventions.
- C. Behavior treatment plans that propose to use physical management and/or involvement of law enforcement in a non-emergent situation; aversive techniques; or seclusion or restraint in a setting where it is prohibited by law shall be disapproved by the Committee.

Utilization of physical management or requesting law enforcement may be evidence of treatment/supports failure. Should use occur more than 3 times within a 30 day period the individual's written individual plan of service must be revisited through the person-centered planning process and modified accordingly, if needed. MDCH and DHS Administrative Rules prohibit emergency interventions from inclusion as a component or step in any behavior plan. The plan may note, however, that should interventions outlined in the plan fail to reduce the imminent risk of serious or non-serious physical harm to the individual or others, approved emergency interventions may be implemented.

- D. Behavior treatment plans that propose to use restrictive or intrusive techniques as defined by this policy shall be reviewed and approved (or disapproved) by the Committee.
- E. Plans that are forwarded to the Committee for review shall be accompanied by:
  - 1. Results of assessments performed to rule out relevant physical, medical and environmental causes of the challenging behavior.
  - 2. A functional behavioral assessment.
  - 3. Results of inquiries about any medical, psychological or other factors that might put the individual subjected to intrusive or restrictive techniques at high risk of death, injury or trauma.
  - 4. Evidence of the kinds of positive behavioral supports or interventions, including their amount, scope and duration that have been used to ameliorate the behavior and have proved to be unsuccessful.
  - 5. Evidence of continued efforts to find other options.
  - 6. Peer reviewed literature or practice guidelines that support the proposed restrictive or intrusive intervention.
  - 7. References to the literature should be included on new procedures, and where the intervention has limited or no support in the literature, why the plan is the best option available. Citing of common procedures that are well researched and utilized within most behavior treatment plans is not required.
  - 8. The plan for monitoring and staff training to assure consistent implementation and documentation of the intervention(s).



**Legal References**

1997 federal Balanced Budget Act at 42 CFR 438.100

MCL 330.1712, Michigan Mental Health Code

MCL 330.1740, Michigan Mental Health Code

MCL 330.1742, Michigan Mental Health Code

MDCH Administrative Rule 7001(l)

MDCH Administrative Rule 7001(r)

Department of Community Health Administrative Rule 330.7199(2)(g)

**DEPARTMENT OF COMMUNITY HEALTH  
PROTOCOL FOR COMMUNITY MENTAL HEALTH SERVICES PROGRAMS  
STATE MANAGED SERVICES AND FINANCIAL LIABILITY  
FOR  
PERSONS ACQUITTED OF A CRIMINAL CHARGE BY REASON OF  
INSANITY**

**Purpose of Protocol**

Section 6.9.1 of the MDCH/CMHSP Managed Mental Health Supports and Services Contract requires Community Mental Health Services Programs (CMHSPs) to authorize medically necessary inpatient care in advance for all admissions in those instances where there is no community inpatient alternative. It further requires CMHSPs to review treatment at intervals (at least annually) and authorize medically necessary continued stay. Section 6.9.1 also notes that the application of these provisions to forensic situations requires additional considerations and references this attachment. Regardless of where the person is served, if they have been acquitted of the criminal charges and subsequently, civilly committed under a probate court order, their inpatient care must be authorized by the responsible CMHSP. Section 302 of the Mental Health Code states that "...a county is financially liable for 10% of the net cost of any service that is provided by the department, directly or by contract, to a resident of that county." This Section does not apply to (1) an individual under a criminal sentence to a state prison; (2) a criminal defendant determined incompetent to stand trial under Section 1031 of the Mental Health Code; or (3) an individual acquitted of a criminal charge by reason of insanity, *during the initial 60-day period of evaluation* [italics added] provided for in Section 1050 of the Mental Health Code. However, CMHSPs are financially liable for 10% of the net cost of any service that is provided by the department, directly or by contract to a resident of that county who the criminal courts have acquitted or found not guilty by reason of insanity (NGRI), and committed under a civil (probate) court order to the custody of the Center for Forensic Psychiatry (hereinafter referred to as the Forensic Center) *after the initial 60-day period of evaluation* [italics added].<sup>1</sup> The purpose of this revised protocol is to provide clarification and additional guidance in applying the *State Managed Services* provisions described in Section 6.9.1 of the Contract for persons on NGRI status during and after the initial 60-day criminally ordered period of evaluation at the Forensic Center, and to establish a procedure for waiving financial liability in those instances when a court order or decision of the NGRI committee, the hospital or department limits the legal or contractual authority of CMHSPs.

<sup>1</sup> This refers to criminal acquittees or those who committed crimes but were found not guilty by reason of insanity (NGRI). Included are those who a criminal court has ordered under Section 1050 to be examined for up to 60 days at the Center for Forensic Psychiatry to determine whether they meet criteria as persons requiring mental health treatment under Section 401 or 515 of the Mental Health Code.

By being provided with advanced notice for planning during the criminal evaluation period, CMHSPs will be afforded more time to review patient evaluations, prepare for probate court testimony and complete an initial plan of service.

## **PROTOCOL**

### **CMHSP Authorization for Medically Necessary Inpatient State Managed Services For Persons Acquitted of a Criminal Charge by Reason of Insanity (NGRI)**

#### **Initial Commitment or Judicial Admission Orders from a Probate Court**

In instances where a defendant is acquitted of a criminal charge because they were found to be not guilty by reason of insanity (NGRI), the court will take steps to involuntarily commit the acquittee under a criminal order to the Forensic Center for a diagnostic period of 60-days. Upon receipt of the order but no later than 30 days before it expires, the Forensic Center shall:

E-mail or fax a copy of the order to the responsible CMHSP of a court ordered admission. The order will provide the CMHSP basic legal information such as person's name, date the order was issued, and identifying court information. It is expected that the CMHSP will be able to use this advanced information for planning and scheduling purposes.

Examine the acquittee's mental condition in order to form an opinion as to whether the acquittee meets the civil involuntary treatment criteria set forth in Section 401 or 515 of the Mental Health Code.

Complete their examination and submit a report with the court, and a copy to the CMHSP, setting forth its opinion as to whether the acquittee meets the criteria of a person requiring treatment or judicial admission as defined by Section 401 or 515 of the Mental Health Code. If in their opinion, the acquittee meets criteria, it shall make recommendation to the court for admission of the person to the Forensic Center or other state-operated hospital or center. A number of factors will be considered in this order, including the security risks posed by the person.

- ❖ If the criminal court agrees with the recommendation of the Forensic Center, it may direct the prosecutor to petition the probate court for a civil commitment or judicial admission.
  
- ❖ It is at that point in the process that CMHSP should be formally notified by the probate court of its intent to hold an initial hearing to determine whether the person requires involuntary treatment at the Forensic Center or one of the other state hospitals or center.

(Note: Whether the probate court promptly notifies the responsible CMHSP or not usually depends upon the working relationship the Court has with the CMHSP)

- ❖ At the hearing, the CMHSP will have an opportunity to either concur with the recommendation to hospitalize or admit the person to the Forensic Center, state hospital or center, or present arguments that it has a comprehensive plan of services and supports which it is prepared to implement as an alternative to involuntary admission.
- ❖ If the community-based alternative presented by the CMHSP is determined to be appropriate to meet the needs of the person, the Court may issue an alternative or combined alternative treatment order. If this occurs, the court will discharge the person and he or she will no longer have a NGRI status with the state. Otherwise, the Court will proceed to commit the person to the Forensic Center or one of the other state operated hospitals or the state D.D. Center. It is at that point that the CMHSP becomes financially liable for the provision of state operated services.
- ❖ Usually it will be the Forensic Center that will be requesting an authorization from the responsible CMHSP to provide medically necessary inpatient care in accordance with provisions described in Section 6.9.1 of the MDCH/CMHSP Managed Mental Health Supports and Services Contract.<sup>2</sup> To better identify and track individuals who have been admitted in this matter, the department clerically and clinically identifies such patients or residents as recipients on NGRI status with the Department. Public Safety and minimum level of required custody are factors used in determining which state operated program is capable of complying with the terms and conditions of the court orders.
- ❖ If the person is admitted to the Forensic Center, the CMHSP shall be financially liable for only the 10% share of the net cost of services provided by the Center. If the person is later transferred from the Forensic Center and admitted to another state-operated hospital or center, the CMHSP shall be financially liable for the full net cost of state-provided services.

<sup>2</sup>

Section 6.9.1 of the MDCH/CMHSP Mental Health Supports and Services Contract states that the CMHSP shall authorize medically necessary inpatient care in advance for all admissions in those instances where there is no community inpatient alternative. The MDCH and CMHSP agree that admissions must be medically necessary; that criteria specified in the Michigan Mental Health Code must be met for adults and children with mental illness or that the criteria for judicial or administrative admissions of a person with developmental disabilities must be met; and that inpatient care in a state hospital/center must be the most appropriate level of care available. The parties further agree that continued stay will be authorized so long as the requirements for medical necessity are met and the CMHSP cannot offer an alternative at the appropriate level of care.

**Second and One Year Continuing Treatment Orders**

- ❖ At any point after issuance of the initial probate court commitment order, the CMHSP may either:
  1. Authorize hospitalization or judicial admission to the Forensic Center, or another state-operated hospital or center.
  2. Deny authorization for hospitalization or judicial admission to the Forensic Center, or another state-operated hospital or center, on the basis that it has a community alternative and is fully prepared to implement a pre-release plan for community placement and aftercare services, which addresses the person's treatment and placement needs, and security risks;
  3. Approve authorization of admission for hospitalization to the Forensic Center, but deny authorization of a subsequent transfer from the Forensic Center to another state operated hospital or center for hospitalization or judicial admission, on the basis that it has a community alternative and is fully prepared to implement a pre-release plan for community placement and aftercare services which addresses the person's treatment and placement needs, and security risks;

If the CMHSP does not authorize admission for hospitalization to the Forensic Center or transfer of a person on NGRI status from the Forensic Center to another state-operated hospital or center, the CMHSP shall submit a copy of its pre-release plan for community placement and aftercare services to the Forensic Center's NGRI Committee and MDCH Division of Mental Health Community Services for review. (See attached submission requirements)

If the NGRI Committee is in agreement that the CMHSPs comprehensive service and placement plan addresses treatment needs and security risks, and the CMHSP is prepared to make a clinically appropriate community placement, the probate court will be notified and the person on NGRI status will be discharged to the CMSHP.

Upon discharge, the CMHSP shall not incur financial liability for state-provided services.

Note: The only exception to these conditions is if the person was found not guilty by reason of insanity for the crime of murder or criminal sexual conduct. Under such circumstances, the Director of the Department of Community Health may exercise discretionary judgment to overrule the decisions of all parties and admit and maintain the person on NGRI status to a state-operated hospital or center in keeping with DCH Administrative Directive 10-C-1050AD dated March 19, 2003. If this decision is made,

the CMHSP will be held liable for only the 10% share of the net cost of any service provided by the Department.<sup>3</sup>

If the NGRI Committee makes a determination that a person on NGRI status should remain at the Forensic Center or transfer to another state-operated hospital or center, because in their opinion the CMHSP plan does not comprehensively address placement and treatment needs, and security risks, or that the CMHSP is not prepared to fully implement a pre-release plan for community placement and aftercare services, the CMHSP will be held financially liable for the state services provided. Under such circumstances, the CMHSP can appeal the hospital decision to Department's Division of Mental Health Community Services in keeping with the terms of its contract.

If the CMHSP fails to submit copies of its pre-release plan for community placement and aftercare services, or the Forensic Center's NGRI Committee and the MDCH Division of Mental Health Community Services both determine the CMHSP's plan falls short of addressing the needs of the person on NGRI status, the person shall not be discharged, and the CMHSP will continue to be held financially liable for only the 10% share of the net cost of services provided to the person at the Forensic Center following its initial 60-day evaluation period, and the full net cost of the services provided by another state-operated hospital or center. The CMHSP may appeal this determination in keeping with the terms of its contact with the department. If the CMHSP fails to submit copies of its pre-release plan for community placement and aftercare services, or the Forensic Center's NGRI Committee and the MDCH Division of Mental Health Community Services both determine the CMHSP's plan falls short of addressing the needs of the person on NGRI status, the person shall not be discharged, and the CMHSP will continue to be held financially liable for only the 10% share of the net cost of services provided to the person at the Forensic Center following its initial 60-day evaluation period, and the full net cost of the services provided by another state-operated hospital or center. The CMHSP may appeal this determination in keeping with the terms of its contact with the department. Occasionally, the Forensic Center may be unable to provide the responsible CMHSP with the full 10-day notice of transfer. When this occurs, it is usually because the Forensic Center is experiencing a bed capacity emergency that necessitates expedited patient transfers. If this occurs, the CMHSP will only be held financially responsible for the 10% county share for each day that notice was delayed up to a max of 10 days.

### **CMHSP Continued Stay Reviews, Pre-Release and Community Placement Planning**

The CMHSP may present a pre-release plan for community placement and aftercare services at any time following the admission of a person under a probate court order on NGRI status to the Forensic Center or another state-operated hospital and center. (A description of the submission requirements is attached to this protocol.) When the CMHSP determines it can

<sup>3</sup> The Department of Community Health Administrative Directive 10-C-1050-AD states that, Any person found NGRI for the crime of murder, recommended by the NGRI Committee for release must be reviewed by the Director/designee of the Department of Community Health for final authorization.

serve the person in a community setting, the CMHSP will develop and submit a pre-release plan for community placement and aftercare services to the Forensic Center or another state-operated hospital or center, and the Forensic Center's NGRI Committee for review and approval. The plan must address the person's placement and service needs, and security risks. It should also include a proposed placement date and a description of the specific placement options considered for the person.

- ❖ If the treating state-operated hospital or center, and the Forensic Center's NGRI Committee approve the CMHSP's pre-release plan for community placement and aftercare services, the person will be discharged. For purposes of determining financial liability, the CMHSP shall not be financially liable for state-provided services when the person is on authorized leave status (conditional release), or upon discharge.

Note: There may be circumstances when a person on NGRI status will be determined clinically suitable for discharge, but the probate court may order that the person not be discharged but be placed under the clinical supervision of the Forensic Center or another state-operated hospital or center. In addition to implementing an approved pre-release plan for community placement and aftercare services, the CMHSP shall comply with provisions of the court order and reporting requirements of the Forensic Center's NGRI Committee, and the treating state-operated hospital and center. Similar to the standard discharge provisions, the CMHSP shall not be financially liable for state-provided services after a person on NGRI status is released on Authorized Leave status.

- ❖ If the treating state-operated hospital or center, and the Forensic Center's NGRI Committee do not approve the CMHSP's pre-release plan for community placement and aftercare services, the reason/s for that decision will be communicated to the CMHSP in writing. Under such circumstances, the CMHSP may appeal the decision in keeping with the terms of its contact with the department.
- ❖ If the CMHSP's pre-release plan for community placement and aftercare services is not approved by the treating state-operated hospital or center, and the Forensic Center's NGRI Committee within 30 days of initial submission, the CMHSP may submit a copy of its plans to the MDCH Division of Mental Health Community Services as evidence that it has demonstrated a Good faith effort@ to implement a pre-release plan for community placement and aftercare services.
- ❖ If the MDCH Division of Mental Health Community Services does not believe that the CMHSP has demonstrated a Good faith effort@ to implement a pre-release plan for community placement and aftercare services address the person's placement and treatment needs, and

security risks, the reason/s for that decision will be communicated to the CMHSP in writing and the CMHSP shall remain financially liable for the 10% share of the net cost of state-provided services if the person is maintained at the Forensic Center, and the full net cost of state-provided services, if those services are provided at another state-operated hospital or center.

- ❖ However, if the MDCH Division of Mental Health Community Services determines that the CMHSP has demonstrated an A good faith effort<sup>4</sup> to implement a comprehensive placement and service plan, the person on NGRI status will remain in the hospital or center, but the CMHSP will be financially liable for only the 10% share of the net cost of state-provided services.
- ❖ The Director of the Department of Community Health retains final authority over all discharge decisions involving persons on NGRI status for the crime of murder or criminal sexual conduct and ~~are~~ is being considered for discharge. In those instances where the Director overrules the decision of the treating hospital and center, the Forensic Center's NGRI Committee, or the MDCH Division of Mental Health Community Services, to approve the CMHSP pre-release plan for community placement and aftercare services, the CMHSP shall be financially liable for only the 10% share of the net cost of state-provided services.
- ❖ All CMHSP community placement and service plans that have been determined by the MDCH Division of Mental Health Community Services to not meet the A good faith effort standard may be appealed in accordance with the provisions described in Section 18.0 of the MDCH/CMHSP Mental Health Managed Supports and Services Contract.
- ❖  
When the Department waives the CMHSP financial liability based on the A good faith effort principle described above, the CMH should continue to periodically monitor and update their placement plans. This means that the CMHSP needs to engage in pre-release planning for community placement and aftercare services at least every 12 months in order to keep the waiver active. An exception to this waiver period requirement involves decisions made by the Director of Community Health to maintain a person on NGRI status for the crime of murder on active inpatient status.<sup>4</sup>

<sup>4</sup> The Department of Community Health Administrative Directive 10-C-1050-AD states that, A...Any person found NGRI for the crime of murder, recommended by the NGRI Committee for release must be reviewed by the Director/designee of the Department of Community Health for final authorization.



When a waiver of financial liability is given in such a case, it is active for up to a three-year period, and waives all but the 10% share of the state hospital's or center's net cost.

**Appendix #1**

**STATUTORY REQUIREMENTS**  
**Michigan Mental Health Code (1996)**  
**Chapter 10, §330.2050**  
**Disposition of Persons Found Not Guilty by Reason of Insanity**  
**Section 1050**

The court shall immediately commit any person who is acquitted of a criminal charge by reason of insanity to the custody of the center for forensic psychiatry, for a period not to exceed 60 days. The court shall forward to the center a full report, in the form of a settled record, of the fact concerning the crime, which the patient was found to have committed, but which he was acquitted by reason of insanity. The center shall thoroughly examine and evaluate the present mental condition of the person in order to reach an opinion on whether the person meets the criteria of a person requiring treatment or for judicial admission set forth in section 401 or 515.

Within the 60-day period, the center shall file a report with the court, prosecuting attorney, and defense counsel. The report shall contain a summary of the crime, which the patient committed but of which he was acquitted by reason of insanity and an opinion as to whether the person meets the criteria of a person requiring treatment or for judicial admission as defined by Section 401 or 515, and the facts upon which the opinion is based. If the opinion stated is that the person is a person requiring treatment, the report shall be accompanied by certificates from two physicians, at least one of whom shall be a psychiatrist, which conform to the requirements of section 400(j).


After receipt of the report, the court may direct the prosecuting attorney to file a petition pursuant to Section 434 or 516 for an order of hospitalization or an order of admission to a facility with the probate court of the person's county of residence or of the county in which the criminal trial was held. Any certificates that accompanied the report of the center may be filed with the petition, and shall be sufficient to cause a hearing to be held pursuant to section 451 even if they were not executed within 72 hours of the filing of the petition. The report from the court containing the facts concerning the crime for which he was acquitted by reason of insanity shall be admissible in the hearings.

If the report states the opinion that the person meets the criteria of a person requiring treatment or for judicial admission, and if a petition is to be filed pursuant to subsection (3), the center may retain the person pending a hearing on the petition. If a petition is not to be filed, the prosecutor shall notify the center in writing. The center, upon receipt of the notification, shall cause the person to be discharged.

The release provisions of sections 476 to 479 of this act shall apply to a person found to have committed a crime by a court or jury, but who is acquitted by reason of insanity, except that a person shall not be discharged or placed on leave without first being evaluated and recommended for discharge or leave by the department's program for

forensic psychiatry, and authorized leave or absence from the hospital may be extended for a period of 5 years.

**Appendix #2**

<p>XXXXXXXXXX GOVERNOR Jennifer M. Granholm Governor</p>	 <p>STATE OF MICHIGAN DEPARTMENT OF COMMUNITY HEALTH LANSING</p>	<div style="border: 1px solid black; padding: 5px; text-align: center;"><p>DIRECTOR'S OFFICE</p><p>MAR 27 2003</p><p>FORENSIC CENTER</p></div> <p>JAMES C. HAYWOOD, JR. DIRECTOR Janet Olszewski Director</p>		
<table border="0" style="width: 100%;"><tr><td style="width: 50%; vertical-align: top;"><p><b>Administrative Directive</b> <b>10-C-1050/AD</b></p><p>March 19, 2003</p><p><b>TO:</b> Hospital and Center Directors</p><p><b>FROM:</b> Janet Olszewski <i>JO</i></p><p><b>SUBJECT:</b> <b>PATIENTS COMMITTED UNDER THE LEGAL STATUS OF NOT GUILTY BY REASON OF INSANITY</b></p></td><td style="width: 50%; vertical-align: top;"><p><b>IMMEDIATE EFFECT</b></p><p><b>Replaces <u>Patients Committed Under The Legal Status of Not Guilty By Reason of Insanity, 10-C-1050/AD</u>; rescinded March 24, 2003</b></p></td></tr></table>			<p><b>Administrative Directive</b> <b>10-C-1050/AD</b></p> <p>March 19, 2003</p> <p><b>TO:</b> Hospital and Center Directors</p> <p><b>FROM:</b> Janet Olszewski <i>JO</i></p> <p><b>SUBJECT:</b> <b>PATIENTS COMMITTED UNDER THE LEGAL STATUS OF NOT GUILTY BY REASON OF INSANITY</b></p>	<p><b>IMMEDIATE EFFECT</b></p> <p><b>Replaces <u>Patients Committed Under The Legal Status of Not Guilty By Reason of Insanity, 10-C-1050/AD</u>; rescinded March 24, 2003</b></p>
<p><b>Administrative Directive</b> <b>10-C-1050/AD</b></p> <p>March 19, 2003</p> <p><b>TO:</b> Hospital and Center Directors</p> <p><b>FROM:</b> Janet Olszewski <i>JO</i></p> <p><b>SUBJECT:</b> <b>PATIENTS COMMITTED UNDER THE LEGAL STATUS OF NOT GUILTY BY REASON OF INSANITY</b></p>	<p><b>IMMEDIATE EFFECT</b></p> <p><b>Replaces <u>Patients Committed Under The Legal Status of Not Guilty By Reason of Insanity, 10-C-1050/AD</u>; rescinded March 24, 2003</b></p>			
<p>It is the policy of the Department of Community Health that all patients/residents under the legal status of "not guilty by reason of insanity" who have improved to the point, that release from hospitalization or transfer between facilities is being considered, shall have their treatment plan and recommendations reviewed by the "NGRI" Committee at the Center for Forensic Psychiatry.</p> <p>All recommendations to the court for release from hospitalization, transfer between facilities, or alternative treatment shall be reviewed by the NGRI Committee prior to filing and/or appearance. The written recommendations of the NGRI Committee shall be entered into the patient record and disclosed during testimony, if requested. Referrals to the NGRI Committee for review shall be made by the hospital/center director/designee. Any delay in referring or filing necessary papers in a timely manner that would result in not renewing the order, will be considered a violation of this policy.</p> <p>Any person found NGRI for the crime of murder or for a crime that involves sexual conduct, recommended by the NGRI Committee for release, must be reviewed by the Director/designee of the Department of Community Health for final authorization.</p>				
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Appendix #3

XXXXXXXXXX  
JENNIFER M. GRANHOLM  
GOVERNOR  
Jennifer M. Granholm  
Governor



DIRECTOR'S OFFICE  
MAR 27 2003  
FORENSIC CENTER  
JAMES C. HAYES, M.D., DIRECTOR  
Janet Olszewski  
Director

Administrative Directive  
10-C-1050/AD

IMMEDIATE EFFECT

Replaces Patients Committed Under The Legal Status of Not Guilty By Reason of Insanity, 10-C-1050/AD; rescinded  
March 24, 2003

March 19, 2003

TO: Hospital and Center Directors  
FROM: Janet Olszewski *JO*

**SUBJECT:**  
**PATIENTS COMMITTED UNDER THE LEGAL STATUS OF NOT GUILTY BY REASON OF INSANITY**

It is the policy of the Department of Community Health that all patients/residents under the legal status of "not guilty by reason of insanity" who have improved to the point, that release from hospitalization or transfer between facilities is being considered, shall have their treatment plan and recommendations reviewed by the "NGRI" Committee at the Center for Forensic Psychiatry.

All recommendations to the court for release from hospitalization, transfer between facilities, or alternative treatment shall be reviewed by the NGRI Committee prior to filing and/or appearance. The written recommendations of the NGRI Committee shall be entered into the patient record and disclosed during testimony, if requested. Referrals to the NGRI Committee for review shall be made by the hospital/center director/designee. Any delay in referring or filing necessary papers in a timely manner that would result in not renewing the order, will be considered a violation of this policy.

Any person found NGRI for the crime of murder or for a crime that involves sexual conduct, recommended by the NGRI Committee for release, must be reviewed by the Director/designee of the Department of Community Health for final authorization.

**CMHSP REQUIREMENTS  
FOR A  
“GOOD FAITH EFFORT” SUBMISSION**

The submission shall include:

- ❖ The individual’s name and basic identifying information.
- ❖ A description of both the individual’s strengths and his or her placement, and service needs in major life domains (health, legal and safety, finances, housing, daily activities, work/school, social relationships, family relationships, etc.)
- ❖ A description of the security risks posed by the individual if placed in the community.
- ❖ A summary of the CMHSP response and reasons for disagreement with the decision of the Center for Forensic Center NGRI committee regarding placement.
- ❖ A copy of the CMHSP’s pre-release plan for the individual that includes a detailed description of:
  - ❖ The specific placement option that has been arranged for the individual and the scheduled date for placement,
  - ❖ The specific services and supports that CMHSP has arranged to address the individual’s treatment needs, and
  - ❖ The measures that the CMHSP has taken to address the particular security risks the individual can be expected to pose to himself and the community upon release.

**DEPARTMENT OF COMMUNITY HEALTH  
STATE FACILITY ATTACHMENT  
October 1, 2012**

**Purpose of Attachment**

Section 6.9.1 of the MDCH/CMHSP Managed Mental Health Supports and Services Contract requires Community Mental Health Services Programs (CMHSPs) to authorize medically necessary inpatient care in advance for all admissions in those instances where there is no community inpatient alternative. It further requires CMHSPs to participate in treatment planning, treatment monitoring and other related activities at agreed upon intervals and authorize medically necessary continued stay. This attachment outlines the responsibilities of the Department of Community Health and the Community Mental Health Services Program with respect to State Facility use.

**I. Responsibility of the State Facility**

- A. The Department's State Facilities shall provide appropriate services to Consumers served by the State Facility in all its inpatient service settings.
- B. The Department's State Facilities shall inform the individual designated by the CMHSP Executive Director of any significant change in the mental or physical condition or mental health service requirements of a Consumer at the State Facility, including any unusual incidents, i.e. elopement, serious self-harm, injury and death, according to the procedures specified in this attachment.
- C. The Department's State Facilities shall provide access to all essential information, including clinical and service records and billing records and billing source data, to authorized representatives of the CMHSP for the purpose of participating in treatment planning, monitoring and reviewing the provision of services by the State Facility to Consumers, under the terms of this attachment.

**II. Responsibilities of the CMHSP**

- A. The CMHSP shall serve as the single point of entry to and exit from the State Facility for all of consumers of the CMHSP.
- B. The CMHSP shall advise all Consumers applying for admission to the State Facility that joint treatment planning will occur between the State Facility and the CMHSP staff.
- C. The CMHSP shall evaluate and screen all requests for admittance of its consumers to the State Facility and provide the State Facility with said evaluations and recommendations on behalf of the CMHSP regarding clinical suitability for admission to the State Facility in accordance with the Michigan Mental Health Code.

- D. The CMHSP shall participate in the development of the Individual Plan of Service (IPOS) for consumers by the State Facility under this attachment, utilizing the Person-Centered Planning (PCP) process.
- D. The CMHSP shall lead in planning for and arranging appropriate community placement services and facilitating the discharge planning of its consumers from the State Facility.
- E. The CMHSP shall be responsible for making determinations on its authorizations, in advance, for consumers as to all admissions of and continued stay at the State Facility, according to the procedures specified in this attachment. The CMHSP shall be responsible for the preparation of an alternative treatment plan and report(s) pertaining to consumers.
- F. The CMHSP may enter into subcontracts and have a contract provider carry out the CMHSP duties designated in this Agreement. However, the duties remain the responsibility of the CMHSP, and the CMHSP is responsible for providing and keeping the State Facility updated with a list of authorized subcontractors.

**III. Liaisons**

The CMHSP Executive Director and the Department's State Facilities Directors shall designate specific members of their staff who shall serve as liaisons between the parties. The primary objective of these staff shall be to facilitate the ongoing working relationship between the parties hereto and their staff, and the implementation and monitoring of the terms and conditions of this attachment. The CMHSP Executive Director and the State Facility Directors shall provide each other with an updated list of staff members having liaison responsibilities, a written description of their liaison responsibilities, duties and functions, the programs for which they work, and the phone numbers and office hours for the staff and programs.

**IV. Services and Coordination**

Under this attachment is the intent of the CMHSP and the State Facility to promote cooperation, collaboration and coordination among their respective representatives for the benefit of the mutual mental health provisions for consumers and residents.

**A. PRE-ADMISSION SCREENING**

The CMHSP shall evaluate and screen consumers who present themselves or are presented in the community or at the State Facility for potential admission to the State Facility. Any determination to hospitalize a CMHSP consumer at the State Facility shall be based on evaluation and screening conducted in accordance with Chapter 4 ("Civil Admission and Discharge Procedures: Mental Illness"), Chapter 4A ("Civil Admission and Discharge Procedures for Emotionally Disturbed Minors"), or Chapter 5 ("Civil Admission and Discharge Procedures: Developmentally Disabilities") of the Michigan Mental Health Code.



**B. SERVICE UTILIZATION**

1. The CMHSP authorization of admission and continued stay at the State Facility constitutes the basis on which the CMHSP shall reimburse the MDCH for the fixed net state cost of inpatient services provided at the State Facility. The CMHSP authorizations shall be conveyed in written form to the State Facility, and shall accompany the consumer upon admission to the State Facility.

Any CMHSP authorization of continued stay of a CMHSP consumer at the State Facility shall be based upon the continued need of the individual for inpatient services at the State Facility and established after reviewing the clinical status of the individual and consultation with the State Facility staff. The CMHSP and the State Facility agree that continued stay will be authorized so long as the requirements for medical necessity are met and the CMHSP cannot implement an alternative that provides the Consumer with the appropriate level of care.

If a Consumer is involuntarily court-ordered for admission to the State Facility, the CMHSP shall be considered as having authorized the admission for purposes of billing. If the admission is not accompanied by a CMHSP authorization, the Facility will notify the CMHSP of the admission, within three (3) business days of the admission, with a request for an authorization of continued treatment or plan for discharge. The facility may bill the CMHSP for the period from admission through the first business day of service without specific authorization and for the services provided from the date of notification until discharge as specified in the CMHSP plan.

2. The MDCH shall bill the CMHSP only for daily units of services actually rendered by the State Facility for the CMHSP consumers. The CMHSP and the State Facility agree that the actual total number of days of service provided by the State Facility, pursuant to the MDCH/CMHSP Contract and this attachment, are subject to verification from billings and statistical data from the MDCH and from State Facility service documentation accessible for review by the CMHSP staff.

The State Facility shall provide information to the MDCH Accounting Division that specifies the type, amount, and the days of each contractual service provided, to enable the MDCH to bill the CMHSP for billable services provided by the State Facility to consumers and to enable the CMHSP to continuously monitor State Facility utilization and to continuously track services and all incurred costs of the services. All such information shall be provided to the CMHSP by the State Facility within ten (10) business days following the completion of each service month that this attachment remains in effect.

**C. COORDINATION OF TREATMENT PLANNING AND SERVICES**

The CMHSP and the State Facility shall exchange clinical information and cooperate mutually in treatment planning and services, including as follows:

1. The CMHSP shall provide the State Facility with relevant mental, physical, education, social histories, and testing data, etc. for consumers who have had treatment in CMHSP programs and services. As soon as possible, but not later than five (5) business days after the admission of a CMHSP consumer to the State Facility, the State Facility shall be provided with the CMHSP's determination of the presenting problem and/or behavior that led to hospitalization, projected length of stay, objectives to be accomplished during hospitalization, possible community placements, and community treatment alternatives upon discharge from the State Facility.
2. The CMHSP shall be provided access to the State Facility treatment staff for consultation about the status of CMHSP consumers who are patients or residents of the State Facility, and shall be provided access to the CMHSP consumers at the State Facility, upon reasonable notice.
3. The CMHSP is responsible for all guardianship matters concerning its consumers, including hearings. The State Facility will support the CMHSP as necessary with regard to documents and issues.
4. If an individual is admitted to the State Facility on an Incompetent to Stand Trial (IST) order, the State Facility shall actively pursue a release of information at the time of admission to ensure early involvement of the CMHSP.
5. The State Facility shall involve the CMHSP in ongoing joint treatment team meetings for consumers who are CMHSP consumers. The State Facility will also provide reasonable notice of treatment team meetings for all CMHSP consumers, including new consumers.
6. The CMHSP, in concert with the State Facility, shall assess the discharge potential of each CMHSP consumer currently hospitalized at the State Facility at each treatment team meeting. For consumers on Not Guilty by Reason of Insanity (NGRI) status, the State Facility agrees to abide by the terms and conditions of the NGRI Agreement, which is Attachment C.6.9.1.1 of the MDCH/CMHSP contract.
7. If a CMHSP consumer's planned discharge is delayed, the State Facility staff designated to coordinate the discharge shall inform the CMHSP as to the cause and anticipated duration of the delay, so that placement can still be facilitated by the CMHSP.

D. DISCHARGE PLANNING AND COMMUNITY PLACEMENT

The State Facility hereby assures the CMHSP that all requests for consumer discharge will be processed and coordinated through its responsible treatment teams and, if applicable, the designated placement review committee, with the involvement of CMHSP staff, as applicable, for all CMHSP consumers who no longer meet the criteria for admission as established in Chapter 4, Chapter 4A, or Chapter 5, respectively, of the Michigan Mental Health Code. It shall be the responsibility of the CMHSP to plan and implement community placement for each of its consumers discharged from the State Facility.

1. The process involving all requests for discharge and placement of CMHSP consumers shall include the following:
  - To facilitate an orderly transition from the State Facility to community settings, the appropriate representatives of the CMHSP and the State Facility shall participate in the consumer's discharge planning process.
  - The CMHSP shall coordinate discharge planning with the State Facility.
  - The CMHSP shall submit a discharge plan that will address specific services appropriate to the needs of the Consumer upon discharge from the State Facility.
  - The State Facility will include all discharge planning information contained in the Person-Centered Planning (PCP) process documents.
  - It is expected that if the State Facility agrees with the CMHSP discharge plans, it will support the CMHSP in coordinating the discharge.
2. In those instances when the CMHSP has determined a consumer is ready for discharge from the State Facility, but the State Facility disagrees, the consumer shall be discharged AMA (against medical advice).
3. In the case of a disagreement on the suitability for discharge from the State Facility of a CMHSP consumer who is judicially admitted, the CMHSP may seek relief through a re-determination by the Probate Court.
4. The State Facility shall consult with the CMHSP prior to any decision to place a CMHSP consumer on convalescent status with the State Facility.
5. The State Facility shall provide the CMHSP with discharge information for a CMHSP consumer and with discharge summaries, including medical information, immediately upon discharge.
6. When medically appropriate, the State Facility will provide a one-week (7 days) supply of medication and, in addition, a prescription for a two-week (14 days) supply of medication. The CMHSP may request a prescription for an additional two (2) weeks. If medication will not be provided, the

CMHSP will be informed prior to discharge. The CMHSP psychiatrist is responsible to write prescriptions within the first two (2) weeks following discharge. The CMHSP may request the assistance of a prescription from the State Facility.

7. When a CMHSP consumer, under the age of twenty-six (26), is being discharged from the State Facility, the State Facility shall notify the respective Intermediate School District (ISD) of the consumer's discharge from the State Facility. Upon discharge of the consumer from the State Facility, the CMHSP shall assume responsibility for the coordination of services between the local ISD and the CMHSP.

E. TRANSFER OF CMHSP CONSUMERS FROM A STATE FACILITY TO ANOTHER STATE FACILITY

1. In the case of a court-ordered transfer of a CMHSP consumer from the State Facility to another State Facility for inpatient care, the State Facility will provide the CMHSP with an informational notice of any court-ordered transfers. This notice will be provided within five (5) business days following issuance of the court's transfer order.
2. If a CMHSP consumer makes an election of placement permitted by the Mental Health Code or Administrative Rules, the State Facility will provide notice to the CMHSP of the request for a transfer.
3. A CMHSP consumer may be discharged from the State Facility for subsequent transfer to an inpatient or residential care unit of a non-state hospital/center upon written request and approval of the CMHSP.

## **HOUSING PRACTICE GUIDELINE**

NOTE: Replicated from the MDCH Housing Guideline as included in the Public Mental Health Manual, Volume III, Section 1708, Subject GL-05, Chapter 07-C, Dated 2/14/95.

### **I. SUMMARY**

This guideline establishes policy and procedure for ensuring that the provision of mental health services and supports are not affected by where consumers choose to live: their own home, the home of another or in a licensed setting. In those instances when public money helps subsidize a consumer's living arrangement, the housing unit selected by the consumer shall comply with applicable occupancy standards.

### **II. APPLICATION**

- A. Psychiatric hospitals operated by the Michigan Department of Community Health (MDCH).
- B. Regional centers for developmental disabilities operated by MDCH.
- C. Special facilities operated by MDCH.
- D. Residential placement agencies operated by MDCH.
- E. Community Mental Health Services Programs (CMHSPs) as specified in their master contract with MDCH.

### **III. POLICY**

The Michigan Department of Community Health recognizes housing to be a basic need and affirms the right of all consumers of public mental health services to pursue housing options of their choice. Just as consumers living in licensed dependent settings may require many different types of services and supports, persons living in their own homes or sharing their household with another may have similar service needs. RMHA's shall foster the provision of services and supports independent of where the consumer resides.

When requested, RMHAs shall educate consumers about the housing options and supports available, and assist consumers in locating habitable, safe, and affordable housing. The process of locating suitable housing shall be directed by the consumer's interests, involvement and informed choice. Independent housing arrangements in which the cost of housing is subsidized by the RMHA are to be secured with a lease or deed in the consumer's name.

This policy is not intended to subvert or prohibit occupancy in or participation with community based treatment settings such as an adult foster care home when needed by an individual recipient.

#### IV. DEFINITIONS

**Affordable:** is a condition that exists when an individual's means or the combined household income of several individuals is sufficient to pay for food, basic clothing, health care, and personal needs and still have enough left to cover all housing related costs including rent/mortgage, utilities, maintenance, repairs, insurance and property taxes. In situations where there are insufficient resources to cover both housing costs and basic living costs, individual housing subsidies may be used to bridge the gap when they are available.

**Habitable and safe:** means those housing standards established in each community that define and require basic conditions for tenant/resident health, security, and safety.

**Housing:** refers to dwellings that are typical of those sought out and occupied by members of a community. The choices a consumer of mental health services makes in meeting his or her housing needs are not to be linked in any way to any specific program or support service needs he or she may have.

**Responsible Mental Health Agency (RMHA):** means the MDCH hospital, center or CMHSP responsible for providing and contracting for mental health services and/or arranging and coordinating the provision of other services to meet the consumers needs.

#### V. STANDARDS

RMHAs shall develop policies and create mechanisms that give predominant consideration to consumers' choice in selecting where and with whom they live. These policies and mechanisms shall also:

- A. Ensure that RMHA-supported housing blends into the community. Supported housing units are to be scattered throughout a building, a complex, or the community in order to achieve community integration when possible. Use of self-contained campuses or otherwise segregated buildings as service sites is not the preferred mode.
- B. Promote and support home ownership, individual choice, and autonomy. The number of people who live together in RMHA-supported housing shall not exceed the community's norms for comparable living settings.
- C. Assure that any housing arranged or subsidized by the RMHA is accessible to the consumer and in compliance with applicable state and local standards for occupancy, health, and safety.
- D. Be sensitive to the consumer's cultural and ethnic preferences and give consideration to them.
- E. Encourage and support the consumer's self-sufficiency.

- F. Provide for ongoing assessment of the consumer's housing needs.
- G. Provide assistance to consumers in coordinating available resources to meet their basic housing needs. RMHAs may give consideration to the use of housing subsidies when consumers have a need for housing that cannot be met by the other resources which are available to them.

**VI. REFERENCES AND LEGAL AUTHORITY**

MCL 330.1116(j).

**VII. EXHIBITS**

Federal Housing Subsidy Quality Standards based on 24 CFR § 882.10

**FEDERAL HOUSING SUBSIDY  
QUALITY STANDARDS**

Housing occupied by a consumer of the Supported Community Living Program must meet the following minimum environmental standards as interpreted by MDCH based on 24 CFR § 882.10 [Housing Quality Standards]. Such housing standards shall serve as an example of standards that should be considered when seeking federally subsidized housing.

Every unit must have at least a living room, kitchen and bath. A one-room efficiency with a kitchen may be utilized provided there is a private bath.

The ceilings, walls and floors of each room should be in good condition; cracks, bulges, holes, and floor coverings that might cause someone to trip are unacceptable as is lead paint.

Each room must have at least one window that opens to the outside except for the bath where a working exhaust fan may substitute for a window. All windows designed to be operable and should open easily. All operable windows and doors that can be reached from the outside, a common public hallway, a fire escape, porch or other outside place that can be reached from the ground, must have a working lock.

The living room should have at least two wall mounted electrical outlets, or one outlet and one permanent overhead light fixture. The kitchen should have at least one electrical outlet and one permanent light fixture; the bath at least one permanent overhead or wall light fixture. Both the kitchen and bath electrical outlets must have ground fault interrupters. Table, floor and ceiling lamps plugged into sockets and extension cords do not count; they are not permanent. Broken or frayed wiring, fixtures hanging from wires with no other firm support (such as a chain), missing cover plates on switches or outlets and badly cracked outlets are not acceptable.

Both the kitchen and bath must have hot and cold running water. A bathroom sink may not be used in place of a kitchen sink and vice versa. The bathroom should have a tub or shower with hot and cold running water and a toilet that works.

Single units must have at least two unobstructed means of egress. Units in apartment complexes should have an entrance from the outside or from a public hall so that it is not necessary to go through anyone else's living space to get into the unit.

There shall be an operating smoke detector adjacent to each sleeping area with appropriate maintenance procedures in place to keep each detector continuously operational.

If the unit is in an apartment building with elevators or stairwells, the former should be safe and work properly and the latter well lit and have railings. Any length of stairs (e.g., generally more than four steps), and porches, balconies or decks more than 30 inches above ground should have secure handrails attached.



The building foundation should have no serious leaks and the plumbing and sewage systems must be served by an approved public or private water supply system. The roof should not leak and the gutters and downspouts, if present, should be securely attached to the building. Roof leaks can usually be detected by checking for stains on the ceiling inside the building. The chimney should not lean or have big cracks or missing bricks, the water pipes should be in good condition with no leaks and no serious rust that causes the water to be discolored, the water heater should be equipped and installed in a safe manner, and the heating equipment should be adequate to provide sufficient heat to keep the unit warm during cold months. Space heaters (or room heaters) that burn oil or gas and are not vented to a chimney are not acceptable. Space heaters that are vented are acceptable if they provide sufficient heat.

If the service site is a mobile home, it must be placed on the site in a stable manner so as to be free from hazards such as sliding or wind damage, and there must be at least one operating smoke detector in the home with appropriate maintenance procedures in place to keep it continuously operational.

## **INCLUSION PRACTICE GUIDELINE**

NOTE: Replicated from the MDCH Inclusion Guideline as included in the Public Mental Health Manual, Volume II, Section 1116(j), Subject GL-01, Chapter 01-C, Dated 2/13/95.

### **I. SUMMARY**

This guideline establishes policy and standards to be incorporated into the design and delivery of all public mental health services. Its purpose is to foster the inclusion and community integration of recipients of mental health service.

### **II. APPLICATION**

- A. Psychiatric hospitals operated by the Michigan Department of Community Health (MDCH).
- B. Regional centers for developmental disabilities and community placement agencies operated by MDCH.
- C. Children's psychiatric hospitals operated by MDCH.
- D. Special facilities operated by MDCH.
- E. Community Mental Health Services Programs (CMHSPs) as specified in their master contract with MDCH.

### **III. POLICY**

It is the policy of the department to support inclusion of all recipients of public mental health services.

No matter where people live or what they do, all community members are entitled to fully exercise and enjoy the human, constitutional and civil rights which collectively are held in common. These rights are not conditional or situational; they are constant throughout our lives. Ideally they are also unaffected if a member receives services or supports from the public mental health system for a day, or over a lifetime. In addition, by virtue of an individual's membership in his or her community, he or she is entitled to fully share in all of the privileges and resources that the community has to offer.

#### IV. DEFINITIONS

**Community:** refers to both society in general, and the distinct cities, villages, townships and neighborhoods where people, under a local government structure, come together and establish a common identity, develop shared interests and share resources.

**Inclusion:** means recognizing and accepting people with mental health needs as valued members of their community.

**Integration:** means enabling mental health service recipients to become, or continue to be, participants and integral members of their community.

**Normalization:** means rendering services in an environment and under conditions that are culturally normative. This approach not only maximizes an individual's opportunities to learn, grow and function within generally accepted patterns of human behavior but it also serves to mitigate social stigma and foster inclusion.

**Self-determination:** means the right of a recipient to exercise his or her own free will in deciding to accept or reject, in whole or in part, the services which are being offered. Individuals can not develop a sense of dignity unless they are afforded the freedom and respect that comes from exercising opportunities for self-determination.

**Self-representation:** means encouraging recipients, including those who have guardians or employ the services of advocates, to express their own point of view and have input regarding the services that are being planned or provided by the RMHA.

#### V. STANDARDS

A. Responsible Mental Health Agencies (RMHAs) shall design their programs and services to be congruent with the norms of their community.

This includes giving first consideration to using a community's established conventional resources before attempting to develop new ones that exclusively or predominantly serve only mental health recipients.

Some of the resources which can be used to foster inclusion, integration and acceptance include the use of the community's public transportation services, leisure and recreation facilities, general health care services, employment opportunities (real work for real pay), and traditional housing resources.

B. RMHA's shall organizationally promote inclusion by establishing internal mechanisms that:

1. assure all recipients of mental health services will be treated with dignity and respect.

2. assure all recipients, including those who have advocates or guardians, have genuine opportunities for consumer choice and self-representation.
  3. provide for a review of recipient outcomes.
  4. provide opportunities for representation and membership on planning committees, work groups, and agency service evaluation committees.
  5. invite and encourage recipient participation in sponsored events and activities of their choice.
- C. RMHAs shall establish policies and procedures that support the principle of normalization through delivery of clinical services and supports that:
1. address the social, chronological, cultural, and ethnic aspects of services and outcomes of treatment.
  2. help recipients gain social integration skills and become more self reliant.
  3. encourage and assist adult recipients to obtain and maintain integrated, remunerative employment in the labor market(s) of their communities, irrespective of their disabilities. Such assistance may include but is not limited to helping them develop relationships with co-workers both at work and in non-work situations. It also includes making use of assistive technology to obtain or maintain employment.
  4. assist adult recipients to obtain/ maintain permanent, individual housing integrated in residential neighborhoods.
  5. help families develop and utilize both informal interpersonal and community based networks of supports and resources.
  6. provide children with treatment services which preserve, support and, in some instances, create by means of adoption, a permanent, stable family.
- D. RMHAs shall establish procedures and mechanisms to provide recipients with the information and counsel they need to make informed treatment choices. This includes helping recipients examine and weigh their treatment and support options, financial resources, housing options, education and employment options.

In some instances, this may also include helping recipients:

1. learn how to make their own decisions and take responsibility for them.

2. understand his or her social obligations.

**VI. REFERENCES AND LEGAL AUTHORITY**

MCL330.116, et.seq.  
MCL330.1704, et.seq.

**VII. EXHIBITS**

None

## **CONSUMERISM PRACTICE GUIDELINE**

6/27/96

### **I. SUMMARY**

This guideline sets policy and standards for consumer inclusion in the service delivery design and delivery process for all public mental health services. This guideline ensures the goals of a consumer-driven system which gives consumers choices and decision-making roles. It is based on the active participation by primary consumers, family members and advocates in gathering consumer responses to meet these goals.

This participation by consumers, family members and advocates is the basis of a provider's evaluation. Evaluation also includes how this information guides improvements.

### **II. APPLICATION**

- A. Psychiatric hospitals operated by the Michigan Department of Community Health (MDCH).
- B. Centers for persons with developmental disabilities and community placement agencies operated by the MDCH.
- C. Children's psychiatric hospitals operated by the MDCH.
- D. Special facilities operated by the MDCH.
- E. Community Mental Health Services Programs (CMHSPs) under contract with MDCH.
- F. All providers of mental health services who receive public funds, either directly or by contract, grant, third party payers, including managed care organizations or other reimbursements.

### **III. POLICY**

This policy supports services that advocate for and promote the needs, interests, and well-being of primary consumers. It is essential that consumers become partners in creating and evaluating these programs and services. Involvement in treatment planning is also essential.

Services need to be consumer-driven and may also be consumer-run. This policy supports the broadest range of options and choices for consumers in services. It also supports consumer-run programs which empower consumers in decision-making of their own services.

All consumers need opportunities and choices to reach their fullest potential and live independently. They also have the rights to be included and involved in all aspects of society.

Accommodations shall be made available and tailored to the needs of consumers as specified by consumers for their full and active participation as required by this guideline.

#### IV. DEFINITIONS

**Informed Choice:** means that an individual receives information and understands his or her options.

**Primary Consumer:** means an individual who receives services from the Michigan Department of Community Health or a Community Mental Health Services Program. It also means a person who has received the equivalent mental health services from the private sector.

**Consumerism:** means active promotion of the interests, service needs, and rights of mental health consumers.

**Consumer-Driven:** means any program or service focused and directed by participation from consumers.

**Consumer-Run:** refers to any program or service operated and controlled exclusively by consumers.

**Family Member:** means a parent, stepparent, spouse, sibling, child, or grandparent of a primary consumer. It is also any individual upon whom a primary consumer depends for 50 percent or more of his or her financial support.

**Minor:** means an individual under the age of 18 years.

**Family Centered Services:** means services for families with minors which emphasize family needs and desires with goals and outcomes defined. Services are based on families' strengths and competencies with active participation in decision-making roles.

**Person-Centered Planning:** means the process for planning and supporting the individual receiving services. It builds upon the individual's capacity to engage in activities that promote community life. It honors the individual's preferences, choices, and abilities.

**Person-First Language:** refers to a person first before any description of disability.

**Recovery:** means the process of personal change in developing a life of purpose, hope, and contribution. The emphasis is on abilities and potentials. Recovery includes positive expectations for all consumers. Learning self-responsibility is a major element to recovery.

## V. STANDARDS

- A. All services shall be designed to include ways to accomplish each of these standards.
  - 1. “Person-First Language” shall be utilized in all publications, formal communications, and daily discussions.
  - 2. Provide informed choice through information about available options.
  - 3. Respond to an individual’s ethnic and cultural diversities. This includes the availability of staff and services that reflect the ethnic and cultural makeup of the service area. Interpreters needed in communicating with non-English and limited-English-speaking persons shall be provided.
  - 4. Promote the efforts and achievements of consumers through special recognition of consumers.
  - 5. Through customer satisfaction surveys and other appropriate consumer related methods, gather ideas and responses from consumers concerning their experiences with services.
  - 6. Involve consumers and family members in evaluating the quality and effectiveness of service. Administrative mechanisms used to establish service must also be evaluated. The evaluation is based upon what is important to consumers, as reported in customer satisfaction surveys.
  - 7. Advance the employment of consumers within the mental health system and in the community at all levels of positions, including mental health service provision roles.
- B. Services, programs, and contracts concerning persons with mental illness and related disorders shall actively strive to accomplish these goals.
  - 1. Provide information to reduce the stigma of mental illness that exists within communities, service agencies, and among consumers.
  - 2. Create environments for all consumers in which the process of “recovery” can occur. This is shown by an expressed awareness of recovery by consumers and staff.
  - 3. Provide basic information about mental illness, recovery, and wellness to consumers and the public.
- C. Services, programs, and contracts concerning persons with developmental disabilities shall be based upon these elements.



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1. Provide personal preferences and meaningful choices with consumers in control over the choice of services and supports.
  2. Through educational strategies: promote inclusion, both personal and in the community; strive to relieve disabling circumstances; actively work to prevent occurrence of increased disability; and promote individuals in exercising their abilities to their highest potentials.
  3. Provide roles for consumers to make decisions in policies, programs, and services that affect their lives including person-centered planning processes.
- D. Services, programs, and contracts concerning minors and their families shall be based upon these elements:
1. Services shall be delivered in a family-centered approach, implementing comprehensive services that address the needs of the minor and his/her family.
  2. Services shall be individualized and respectful of the minor and family's choice of services and supports.
  3. Roles for families to make decisions in policies, programs and services that affect their lives and their minor's life.
- E. Consumer-run programs shall receive the same consideration as all other providers of mental health services. This includes these considerations:
1. Clear contract performance standards.
  2. Fiscal resources to meet performance expectations.
  3. A contract liaison person to address the concerns of either party.
  4. Inclusion in provider coordination meetings and planning processes.
  5. Access to information and supports to ensure sound business decisions.
- F. Current and former consumers, family members, and advocates must be invited to participate in implementing this guideline. Provider organizations must develop collaborative approaches for ensuring continued participation.

Organizations' compliance with this guideline shall be locally evaluated. Foremost, this must involve consumers, family members, and advocates. Providers, professionals, and administrators must be also included. The CMHSP shall provide technical assistance. Evaluation methods shall provide constructive feedback about improving the use of this

guideline. This guideline requires that it be part of the organizations' Continuous Quality Improvement.

**VI. REFERENCES AND LEGAL AUTHORITY**

Act 258, Section 116(e), Public Acts of 1974 as amended, being MCL 330.1116, 1704, 1708.

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February 2005**

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## **Adult Jail Diversion Policy Practice Guideline**

### **I. Statement of Purpose**

There is a general consensus with the principle that the needs of the community and society at large are better served if persons with serious mental illness, serious emotional disturbance or developmental disability who commit crimes are provided effective and humane treatment in the mental health system rather than be incarcerated by the criminal justice system. It is recognized that many people with serious mental illness have a co-occurring substance disorder.

This practice guideline reflects a commitment to this principle and conveys Michigan Department of Community Health (MDCH) jail diversion policy and resources for Community Mental Health Services Programs (CMHSPs). The guideline is provided as required under the authority of the Michigan Mental Health Code, PA 258 of 1974, Sec. 330.1207 - Diversion from jail incarceration (Add. 1995, Act 290, Effective March 28, 1996).

Section 207 of the Code states:

“Each community mental health service program shall provide services designed to divert persons with serious mental illness, serious emotional disturbance, or developmental disability from possible jail incarceration when appropriate. These services shall be consistent with policy established by the department.”

The guideline outlines CMHSP responsibilities for providing jail diversion programs to prevent incarceration of individuals with serious mental illness or developmental disability who come into contact with the criminal justice system. A separate practice guideline will address Juvenile Diversion of children with serious emotional disturbance.

Jail diversion programs are intended for individuals alleged to have committed misdemeanors or certain, usually non-violent, felonies and who voluntarily agree to participate in the diversion program.

This document supersedes and replaces, for adults with serious mental illness or developmental disability, the Jail Diversion Practice Guideline found as Attachment C 6.9.5.1 to the 2003-2005 MDCH/CMHSP Managed Mental Health Supports and Services Contract, and as Attachment P.6.8.4.1. to the 2003-2005 MDCH/PIHP Medicaid Managed Specialty Supports and Services 1915(b)(c) Wavier Program Contract.

## Adult Jail Diversion Policy Practice Guideline

### II. Definitions

The following terms and definitions are utilized in this Practice Guideline:

**Arraignment:** The stage in the court process where the person is formally charged and enters a plea of guilty or not guilty.

**Booking:** The stage in the law enforcement custody process following arrest, when the individual is processed for formal admission to jail.

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

**Co-Occurring Disorder:** A dual diagnosis of a mental health disorder and a substance disorder.  
**MDCH:** Michigan Department of Community Health.

**GAINS Center:** The National GAINS Center for People with Co-Occurring Disorders in the Justice System is a national center for the collection and dissemination of information about effective mental health and substance abuse services for people with co-occurring disorders who come in contact with the justice system. The GAINS Center is operated by Policy Research Inc. (PRI), through a cooperative agreement administered by the National Institute of Corrections (NIC). (GAINS Center website at [www.gainsctr.com](http://www.gainsctr.com)).

**In-jail Services:** Programs and activities provided in the jail to address the needs of people with serious mental illness, including those with a co-occurring substance disorder, or a developmental disability. These programs or activities vary across the state and may include crisis intervention, screening, assessment, diagnosis, evaluation, case management, psychiatric consultation, treatment, medication monitoring, therapy, education and training. Services delivered are based on formal or informal agreements with the justice system.

**Jail Diversion Training:** Cross training of law enforcement, court, substance abuse and mental health personnel on the diversion system and how to recognize and treat individuals exhibiting behavior warranting jail diversion intervention.

**Jail Diversion Program:** A program that diverts individuals with serious mental illness (and often co-occurring substance disorder) or developmental disability in contact with the justice system from custody and/or jail and provide linkages to community-based treatment and support services. The individual thus avoids or spends a significantly reduced time period in jail and/or lockups on the current charge. Depending on the point of contact with the justice system at which diversion occurs, the program may be either a **pre-booking or post-booking** diversion program. Jail diversion programs are intended for individuals alleged to have committed

misdemeanors or certain, usually non-violent, felonies and who voluntarily agree to participate in the diversion program.

**Post-booking Diversion program:** Diversion occurs after the individual has been booked and is in jail, out on bond, or in court for arraignment. Often located in local jails or arraignment courts, post-booking jail diversion programs staff work with stakeholders such as prosecutors, attorneys, community corrections, parole and probation officers, community-based mental health and substance abuse providers and the courts to develop and implement a plan that will produce a disposition outside the jail. The individual is then linked to an appropriate array of community-based mental health and substance abuse treatment services.

**Pre-booking Diversion Program:** Diversion occurs at the point of the individual's contact with law enforcement officers before formal charges are brought and relies heavily on effective interactions between law enforcement officers and community mental health and substance abuse services. Most pre-booking programs are characterized by specialized training for law enforcement officers. Some model programs include a 24-hour crisis drop-off center with a no refusal policy that is available to receive persons brought in by the law enforcement officers. The individual is then linked to an appropriate array of community-based mental health and substance abuse treatment services.

**Screening:** Evaluating a person involved with the criminal justice system to determine whether the person has a serious mental illness, co-occurring substance disorder, or a developmental disability, and would benefit from mental health services and supports in accordance with established standards and local jail diversion agreements.

**TAPA Center for Jail Diversion:** The Technical Assistance and Policy Analysis Center is a branch of the National GAINS Center focusing on the needs of communities in developing programs to divert people with mental illness from jail into community-based treatment and supports. (TAPA website at [www.tapacenter.org](http://www.tapacenter.org) ).

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### **III. Background Summary**

During the 1990s, CMHSPs and MDCH focused resources on development of in-jail and in detention services. In-jail services provided by most community mental health services program (CMHSPs) included services ranging from crisis intervention, assessment, counseling, consultation, and other mental health services. Some CMHSPs provided similar services in detention centers. An effective prototype for adults using the Assertive Community Treatment (ACT) model for persons exiting state prison, county jail or an alternative treatment program was also developed. These programs are important for assuring that individuals with mental health needs receive services while incarcerated and are linked to appropriate services and supports upon release. While in-jail services are an important part of the comprehensive service array provided by CMHSPs, they **are not** considered to constitute a jail diversion program, **unless** they have been specifically designed as part of a “fast track” release to community treatment within a post-booking diversion program.

Some individuals with serious mental illness or developmental disability must be held in jail because of the seriousness of the offense and should receive mental health treatment within the jail. However, other individuals who have been arrested may be more appropriately diverted to community-based mental health programs. In response to views of consumers, advocates and policy makers, the requirement for a jail diversion program in each CMHSP was included in the 1996 amendments to the Michigan Mental Health Code, P.A. 258 of 1974.

The first MDCH Jail Diversion Best Practice Guideline was promulgated as an administrative directive in 1998. The directive defined the department’s jail diversion procedures and set forth conditions for establishing and implementing an integrated and coordinated program as required by the 1996 Code amendments. New information has been used to update the guideline and to incorporate suggestions for improving current practice.

Effective programs support cross-system collaboration and recognize that all sectors of the criminal justice system need to have access to training. Training should be available to police officers, sheriffs, jail personnel, parole and probation officers, judges, prosecutors, and the defense bar.

The availability of a comprehensive, community-based service array is essential for jail diversion programs to be effective, and may allow many individuals to avoid criminal justice contact altogether. People who receive appropriate mental health treatment in the community usually have a better long-term prognosis and less chance of returning to jail for a similar offense.

The National GAINS Center for People with Co-Occurring Disorders in the Justice System is a national locus for the collection and dissemination of information about effective mental health and substance abuse services for people with co-occurring disorders who come in contact with the justice system. The Center gathers information designed to influence the range and scope of mental health and substance abuse services provided in the justice system, tailors these materials

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. to the specific needs of localities, and provides technical assistance to help them plan, implement, and operate appropriate, cost-effective programs. The GAINS Center is a federal partnership between two centers of the Substance Abuse and Mental Health Services Administration-the Center for Substance Abuse Treatment and the Center for Mental Health Services-and the National Institute of Corrections (NIC). More recently, this federal partnership has expanded to include the Office of Justice Programs and the Office of Juvenile Justice and Delinquency Prevention. The Center is operated by Policy Research, Inc. of Delmar, New York in collaboration with the Louis de la Parte Florida Mental Health Institute.

Based on the results of field research and program evaluations, the National GAINS Center asserts that the “best diversion programs see detainees as citizens of the community who require a broad array of services, including mental health care, substance abuse treatment, housing and social services. They recognize that some individuals come into contact with the criminal justice system as a result of fragmented services, the nature of their illnesses and lack of social supports and other resources. They know that people should not be detained in jail simply because they are mentally ill. Only through diversion programs that fix this fragmentation by integrating an array of mental health and other support services, including case management and housing, can the unproductive cycle of decompensation, disturbance and arrest be broken.”

Strategies for creating effective diversion programs are also highlighted in the report from the “New Freedom Commission on Criminal Justice” published in June 2004. This report was published as part of the President’s New Freedom Commission on Mental Health.

Several key factors are recognized as being important components of an effective jail diversion program. An effective program should:

- Recognize the complex and different needs of the population; be designed to meet the different needs of various groups within the population (such as individuals with a co-occurring substance disorder); **and** be culturally sensitive.
- Integrate all the services individuals need at the community level, including corrections, the courts, mental health care, substance abuse treatment, and social services (such as housing and entitlements), with a high level of cooperation among all parties.
- Incorporate regular meetings among the key players to encourage coordination services and sharing of information. Meetings should begin in the early stages of planning and implementing the diversion program, and should continue regularly.
- Utilize liaisons to bridge the barriers between the mental health and criminal justice systems and to manage the interactions between corrections, mental health, and judicial staff. These individuals need to have the trust and recognition of key players from each of the systems to be able to effectively coordinate the diversion effort



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- Have a strong leader with good communication skills and an understanding of the systems involved and the informal networks needed to put the necessary pieces in place.
- Provide for early identification of individuals with mental health treatment needs who meet the diversion program's criteria. This is done through the initial screening and evaluation that usually takes place in the arraignment court, at the jail, or in the community for individuals out on bond. It is important to have a process in place that assures that people with mental illness are screened in the first 24 to 48 hours of detention.
- Utilize case managers who have experience in both the mental health and justice systems and who are culturally and racially similar to the clients they serve. An effective case management program is one of the most important components of successful diversion. Such a program features a high level of contact between clients and case managers, in places where clients live and work, to insure that clients will not get lost along the way.

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### **IV. Essential Elements for Michigan CMHSPs**

A. CMHSPs shall provide a pre-booking and a post-booking jail diversion program intended for individuals:

1. alleged to have committed misdemeanors or certain, usually non-violent, felonies, and,
2. who voluntarily agree to participate in the diversion program.

B. Offenses considered appropriate for diversion shall be negotiated at the local level.

C. Pre-booking jail diversion programs shall:

1. Restrict eligibility to individuals who have or are suspected of having a serious mental illness, including those with a co-occurring substance disorder, or a developmental disability who have committed a minor or serious offense that would likely lead to arrest, or have been removed from a situation that could potentially lead to arrest.
2. Have a diversion mechanism or process that clearly describes the means by which an individual is identified at some point in the arrest process and diverted into mental health services. Specific pathways of the pre-booking diversion programs are defined and described in an interagency agreement for diversion.
3. Assign specific staff to the pre-booking program to serve as liaisons to bridge the gap between the mental health, substance abuse, and criminal justice systems, and to manage interactions between these systems. It is important to have a strong leader with good communication skills and understanding of the systems involved and the informal networks needed to put the necessary pieces in place.
4. Provide cross training for, and actively promote attendance of, law enforcement and mental health personnel on the pre-booking jail diversion program, including but not limited to: target group for diversion; specific pathways for diversion; key players and their responsibilities; data collection requirements; and other information necessary to facilitate an effective diversion program.
5. Maintain a management information system that is HIPAA compliant and that can identify individuals brought or referred to the mental health agency as a

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result of a pre-booking diversion. Include the unique consumer ID as assigned by the CMHSP and the date of diversion, the type of crime, and the diagnosis. The unique ID can be used to link to the encounter data to obtain information regarding services. The CMHSP must be prepared to share its jail diversion data with the department upon request.

6. Outline the program and processes in a written inter-agency agreement, or document efforts to establish an inter-agency agreement, with every law enforcement entity in the service area. Inter-agency agreements shall include but not be limited to the following information: identification of the target population for pre-booking jail diversion; identification of staff and their responsibilities; plan for continuous cross-training of mental health and criminal justice staff; specific pathways for the diversion process; description of specific responsibilities/services of the participating agencies at each point in the pathway; data collection and reporting requirements; and process for regular communications including regularly scheduled meetings.

#### D. Post-booking jail diversion programs shall:

1. Restrict eligibility to individuals who have or are suspected of having a serious mental illness, including those with a co-occurring substance disorder, or a developmental disability who have been arrested for the commission of a crime.
2. Have a clearly described mechanism or process for screening jail detainees for the presence of a serious mental illness, co-occurring substance disorder, or developmental disability within the first 24 to 48 hours of detention. The process shall include:
  - Evaluating eligibility for the program;
  - Obtaining necessary approval to divert;
  - Linking eligible jail detainees to the array of community-based mental health and substance abuse services.
3. Assign specific staff to program including liaisons to bridge the barriers between the mental health, substance abuse and criminal justice systems, and to manage interactions between these systems. It is important to have a strong leader with good communication skills and understanding of the systems involved and the informal networks needed to put the necessary pieces in place.
4. Establish regular meetings among the key players, including police/sheriffs, court personnel, prosecuting attorneys, judges, and CMHSP representatives to

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encourage coordination of services and the sharing of information.

5. Include case managers and other clinical staff who have experience in both the mental health and criminal justice systems whenever possible. If this is not possible, documentation of recruitment efforts must be documented, and an intensive training program with specific criminal justice focus must be in place for case managers. Case managers and other clinical staff must provide care in a culturally competent manner.
6. Provide cross training for, and actively promote attendance of, law enforcement and mental health personnel on the post-booking jail diversion program, including but not limited to: target group for diversion; specific pathways for diversion; key players and their responsibilities; data collection requirements; and other information necessary to facilitate an effective diversion program.
7. Maintain a management information system that is HIPAA compliant and that can identify individuals brought or referred to the mental health agency as a result of a post-booking diversion. Include the unique consumer ID as assigned by the CMHSP and the date of diversion, the type of crime, and the diagnosis. The unique ID can be used to link to the encounter data to obtain information regarding services. The CMHSP must be prepared to share its jail diversion data with the department upon request.
8. Outline the program and processes in a written inter-agency agreement, or document efforts to establish an inter-agency agreement, with every law enforcement entity in the service area. Inter-agency agreements shall include but not be limited to the following information: identification of the target population for post-booking jail diversion; identification of staff and their responsibilities; plan for continuous cross-training of mental health and criminal justice staff; specific pathways for the diversion process, description of specific responsibilities/services of the participating agencies at each point in the pathway; data collection and reporting requirements; and process for regular communications including regularly scheduled meetings.

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### **V. Resources**

Council of State Governments  
Criminal Justice/Mental Health Consensus Project  
Report, June 2002  
[www.consensusproject.org/infocenter](http://www.consensusproject.org/infocenter)

The National GAINS Center for People with Co-Occurring Disorders in the Justice System  
[www.gainsctr.com](http://www.gainsctr.com)

The President's New Freedom Commission on Mental Health  
Achieving the Promise: Transforming Mental Health Care in America  
Final Report, July 2003  
[www.mentalhealthcommission.gov/reports/FinalReport](http://www.mentalhealthcommission.gov/reports/FinalReport)

The Technical Assistance and Policy Analysis Center for Jail Diversion (TAPA)  
[www.tapacenter.org](http://www.tapacenter.org)

## **SPECIAL EDUCATION-TO-COMMUNITY TRANSITION PLANNING PRACTICE RECOMMENDATION GUIDELINE**

### **I. Statement of Purpose**

The purpose of this practice recommendation guideline is to provide community mental health service programs (CMHSPs) direction and guidance in planning for the transition of students with disabilities from special education programs to adult life as required by the MI Mental Health Code Section 330.1227, School-to-Community Transition Services. Section 330.1100d(11) of the MI Mental Health Code states: “Transition services means a coordinated set of activities for a special education student designed within an outcome-oriented process that promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment including supported employment, continuing and adult education, adult services, independent living, or community participation.” This practice guideline provides information about state and federal statutes relevant to school services and the CMHSPs responsibilities. In addition, information is being provided regarding key elements of school programs which appear to better prepare students with disabilities for transition from special education to adult life.

Although this guideline focuses only on special education to community transition, it is important to note CMHSP responsibilities described in Section 208 of the Mental Health Code: “(1) Services provided by a community mental health service program shall be directed to individuals who have a serious mental illness, serious emotional disturbance, or developmental disability. (3) Priority shall be given to the provision of services to persons with the most severe forms of serious mental illness, serious emotional disturbance, and developmental disability.” In addition, any Medicaid recipient requiring medically necessary services must also be served.

Children meeting the criteria described above, but not in special education, also face issues of transition to adult life. These may include sub-populations of youth such as runaway youth, children with emotional disturbance at risk of expulsion from school, and youth who “age out” of: 1) the DSM-IV diagnosis for which they are receiving mental health services; 2) Children’s Waiver; 3) Children’s Special Health Care Services plan; and 4) foster care placement, making them at risk for being homeless. The Michigan Department of Community Health (MDCH) recognizes the importance of these issues and is seeking service models to assist CMHSPs to meet the needs of this population. For example, Dr. Hewitt “Rusty” Clark of the Florida Mental Health Institute, a national expert on transition, has presented and discussed issues regarding transition to independent living for youth and young adults with emotional and behavioral disturbances with department staff and Michigan stakeholders. In addition, the MDCH funded three interagency transition services pilot programs targeted at this population in FY 99. While it is recognized that these are important issues which need attention and guidance, they are not the focus of this transition guideline document.

### **II. Summary**

The completion of school is the beginning of adult life. Entitlement to public education ends, and young people and their families are faced with many options and decisions about the future. The most common

choices for the future are pursuing vocational training or further academic education, getting a job, and living independently.

The Michigan Mental Health Code requires: “Each community mental health service program shall participate in the development of school-to-community transition services for individuals with serious mental illness, serious emotional disturbance, or developmental disability. This planning and development shall be done in conjunction with the individual's local school district or intermediate school district as appropriate and shall begin not later than the school year in which the individual student reaches 16 years of age. These services shall be individualized. This section is not intended to increase or decrease the fiscal responsibility of school districts, community mental health services programs, or any other agency or organization with respect to individuals described in this section.”

The effectiveness of primary and secondary school programming for students with disabilities directly affects services and financial planning of CMHSPs. Schools that best prepare students with disabilities to live and work in the community and to access generic community services such as transportation and recreation create fewer demands on the adult services system and foster better community participation for individuals with disabilities. It is important for CMHSPs to develop a knowledge base of the federal statutes underlying school programming in order to assess whether students with mental health-related disabilities are receiving school services that will lead to independence, employment, and community participation when their school experience ends.

CMHSPs have a responsibility to provide information about eligibility requirements, types of services, and person-centered planning in the public mental health system to students, families, caregivers, and school systems.

### **III. Development**

For the past two years, the MDCH has been involved in activities to increase the knowledge base and to become more familiar with the issues of transition. Activities have included:

1. Membership on the Transition Network Team, a statewide project comprised of representatives from state agencies, selected school systems, Social Security Administration and advocacy groups. The goal of the Transition Network Team is to resolve policy issues and barriers so that community partners can work collaboratively.
2. Review of the Transition Initiative findings with the project evaluator. The Transition Initiative was a five-year, federally-funded grant to the State of Michigan focused on transition services.
3. Attendance at a training program on the Individuals with Disabilities Education Act (IDEA) amendments of 1997, sponsored by CAUSE and provided by the Center for Law and Education of Boston, Massachusetts.
4. Attendance at annual School-To-Work conferences.

5. Attendance at the Michigan Association of Transition Services Personnel conference.

In July 1999, MDCH convened a work group consisting of department staff and representatives of seven CMHSPs with experience in planning and facilitating transition initiatives in their local communities. The work group presented and discussed current field practices and reviewed articles and research related to transition.

#### **IV. Practice**

##### **A. Current CMHSP Involvement**

There is a broad range of CMHSP involvement with schools around transition services. Generally, CMHSPs are concerned with knowing the number of students who will be completing their school program and who are projected to need services from the CMHSP, such as case management (resource coordination), housing, therapy(ies), employment (placement and/or supports), and social/recreational opportunities. To a lesser degree, CMHSPs participate in the final Individual Educational Program (IEP) prior to the student completing their school program.

Some CMHSPs actively participate with the schools and other community services providers. In a few communities, employment services are well coordinated with the student maintaining the same community job after completion of their school program. A few of these individuals keep the same vocational services provider. In addition, there may be social and recreational programs that are available to persons with disabilities who are still in school, as well as for those who are out of school. There is a need for more CMHSP involvement to promote: 1) Local school systems implementing the values of IDEA, with particular focus on integration, early vocational exploration and community-based work experiences; and 2) CMHSPs becoming more knowledgeable regarding desirable components of school programs which appear to lead to students with disabilities being more successful in their transition to adult life.

For CMHSPs to know if local school systems are providing appropriate programming, CMHSPs must have some knowledge of the applicable laws and must have knowledge of local school programming. CMHSPs also have a responsibility to provide students, caregivers and school systems information regarding eligibility for services from the public mental health system. Clearly part of that responsibility involves presenting the mental health service principles of person-centered planning, self-determination, inclusion and recovery.

##### **B. Major Federal Legislation Regarding Transition**

###### **1. Education of the Handicapped Act (EHA)**

The EHA, Public Law (P.L.) 94-142, is the primary legislation which guides school services. This Act, passed in 1975, is better known through its latest amendments, as the Individuals with



Disabilities Education Act (IDEA).

P.L. 94-142 established the concept of a free and appropriate (public) education for all children. The following points are presented to show that the public laws guiding school services for students with disabilities match up well with Michigan Mental Health Code principles:

- All children with disabilities, regardless of the severity of their disability will receive a Free (and) Appropriate Public Education (FAPE) at public expense.
  - Education of children and youth with disabilities will be based on a complete and individual evaluation and assessment of the specific, unique needs of each child.
  - An Individualized Education Program (IEP), or an Individualized Family Services Plan (IFSP), will be drawn up for every child or youth found eligible for special education or early intervention services, stating precisely what kinds of special education and related services, or the types of early intervention services, each infant, toddler, preschooler, child or youth will receive.
  - To the maximum extent appropriate, all children and youth with disabilities will be educated in the regular education environment.
  - Children and youth receiving special education have the right to receive the related services necessary to benefit from special education instruction. Related services include: Transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education that includes speech pathology and audiology, psychological services, physical and occupational therapy, recreation (including therapeutic recreation), early identification and assessment of disabilities in children, counseling services (including rehabilitation counseling), and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parent counseling and training.
2. P.L. 98-524, the Vocational Education Act of 1984 (the Carl D. Perkins Act)  
The Perkins Act has a goal to improve the access of students with disabilities to vocational education. The Act requires vocational education be provided for students with disabilities.
  3. P.L. 93-112, the Rehabilitation Act of 1973  
The Rehabilitation Act of 1973 is primarily important because of Section 504. Section 504 states no person shall be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance by means of a disability.

The full history of the related Public Laws is available through the National Information Center for Children and Youth with Disabilities (NICHCY). Their web site is a good source of past and current

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information (<http://www.aed/nichcy>).

### C. Review of the Literature

A publication by the Transition Research Institute, University of Illinois at Urbana-Champaign, authored by Paula D. Kohler, Ph.D. and Saul Chapman, Ph.D., dated March 1999 and updated in April 1999, reviewed 106 studies which have attempted to empirically validate transition practices used by school systems. The report indicates that a “rigorous screening” narrowed the field to 20 studies for further review. The report found that there were many problems with the studies reviewed, including: Not enough information about specific interventions and practices; specific practices not directly tested making it difficult to establish specific outcomes to specific practices; studies focused on higher functioning students; lack of random sampling; lack of baseline data; too many subjects lost during the studies, and lack of use of appropriate evaluation methods. A conclusion from this report states “...there is some evidence to support various practices but also that no strong body of evidence exists that unequivocally confirms any particular approach to transition, nor is there any strong evidence to support individual practices.”

The NICHCY publishes a variety of resources on transition. The resources include ideas and information on how students, families, school personnel, service providers and others can work together to help students make a smooth transition. In particular, the focus is on creative transition planning and services that use all of the resources that exist in communities, not just agencies that have traditionally been involved.

These practice guidelines incorporate certain practices and models which, while not empirically validated, are consistent with MDCH values and principles. These practices and models are being utilized across the country by many schools and these schools consider these practices to be positive. It appears that many transition practices for students with disabilities are practices being utilized as part of the School-To-Work services for all students. Simply assuring that students with disabilities are included in the broader programming at the same time as other students is a positive practice.

## V. Philosophy and Values

The MDCH deems that CMHSP transition services must be based on values that reflect person-centered planning, and services and supports that promote individuals to be:

- empowered to exercise choice and control over all aspects of their lives
- involved in meaningful relationships with family and friends
- supported to live with family while children and independently as adults
- engaged in daily activities that are meaningful, such as school, work, social, recreational, and volunteering
- fully included in community life and activities

## **VI. Essential Elements**

*MI Mental Health Code 330.1227, Sec 227 requires that “transition planning begin no later than the school year in which the individual student reaches 16 years of age.” CMHSPs, however, should be involved with schools early enough to develop a mutual relationship based on the principles of inclusion, self-determination and age appropriateness which underlie both IDEA and the MI Mental Health Code. The practice(s) that would lead to the most consistent relationships between schools and CMHSPs for students under 16 years of age, or more than two years away from graduation, are:*

### **A. Early and Active Involvement with the Schools.**

1. Current federal regulation requires that IEP (transition) planning for students with disabilities must begin at age 14. IEPs must be held once a year plus when there is a significant change in programming. Rather than attending each IEP, particularly early in an individual student’s educational career, a better strategy for CMHSPs would be to look more broadly at the type of programming each individual school system is providing to students with disabilities.
2. Key questions to consider when reviewing school programming for students with disabilities include: Are all students with disabilities being included with all students in School-To-Work (STW) activities? Are all students with disabilities being given opportunities to experience community-based work and independent living activities? Are all students with disabilities being experientially taught how to access generic community services? Are all students with disabilities learning about making choices as they move into adulthood?
3. Examples of STW activities in school systems are career days, job shadowing, student portfolios of work and educational achievements, summer work experiences, student internships, and student co-op experiences. All students with disabilities should be participating in these activities simultaneously with other students their own age.
4. All available community resources should be pursued, particularly for out-of-school and summer programming. The Michigan Department of Career Development, Rehabilitation Services (DCD-RS) is very active in many parts of the state working with students with disabilities. The DCD-RS is a particularly valuable resource for career/employment-related services for students exiting secondary schools.

### **B. Participating in IEP Meetings and Sharing Information with Schools**

While CMHSPs need not attend all IEP meetings, they do need to ensure that schools, students, families and caregivers have basic knowledge of what CMHSPs can provide to persons with disabilities and eligibility criteria for those services. It is also important that CMHSPs provide information on the MDCH requirement that all CMHSP services be based on a person-centered plan. There are a variety of mechanisms available to CMHSPs for providing information. Brochures, community information events, direct mailings, special group presentations, local media, etc. Based on CMHSP experience to date, no one or two methods will be adequate.

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CMHSPs shall provide schools with the following information through the CMHSP customer services efforts:

1. Values governing public mental health services including:
  - Recovery
  - Self-determination
  - Full community inclusion
  - Person-centered planning
2. Eligibility criteria
  - MI Mental Health Code priority populations
  - Medicaid
  - Specialty medically necessary services (including the boundary with the Qualified Health Plans)
  - Children's Model Waiver
  - Local service selection guidelines/protocols/etc.
3. Local service array for both adult and child service providers
4. The name and telephone number for a CMHSP liaison to the school for systemic service-related issues

### **C. Providing Information about CMHSP Service Populations**

CMHSPs have the responsibility to provide information to appropriate local school staff about specific conditions which would indicate the likelihood that a student would need assessment and/or service from the CMHSP upon graduation.

Students classified under the school system as Severely Multiply Impaired (SXI), Trainable Multiply Impaired (TMI), Severely Mentally Impaired (SMI) and Educable Mentally Impaired (EMI) are generally eligible for CMHSP services. Other student classifications would indicate a closer look by CMHSPs to determine eligibility for adult services from the CMHSP. The classification of Autistically Impaired (AI) covers students with a very broad range of skills and abilities often necessitating further assessment to determine eligibility for CMHSP services. Students classified as Emotionally Impaired (EI) would have to be assessed for eligibility for adult services from the CMHSP. In the mental health system, Emotional Impairment, by definition, ends at the age of 18. Students classified as EI as well as Learning Disabled (LD) and Physically or Otherwise Health Impaired (POHI) would need to be assessed for an appropriate developmental disability or mental illness diagnosis. Where the school diagnosis is not appropriate, it is the responsibility of the CMHSP to provide an assessment. CMHSPs must look at factors in addition to diagnosis. Other factors include: risk for expulsion from school, need for assistance in multiple life domains, or absence of a stable natural support network.

### **D. Using Local Councils and Committees**

CMHSPs can also use Multi-Purpose Collaborative Bodies (MPCBs) to address issues regarding the systemic implementation of transition services and to identify additional community resources for transition services. Regional Inter-Agency Coordination Committees (RICC) and Transition Councils are additional local bodies which may be used for the same purpose.

The following are the practice protocols that would lead to the most consistent relationship between CMHSPs and the schools for students 16 years of age, or two years away from completion of their school program.

*For students within two years of completing their school program, or for students where the CMHSP is already providing or arranging services, the CMHSP shall:*

**E. Request Information from Schools**

It is expected that CMHSPs will need the following from the schools to determine future needs and manage available resources including, but not limited to, information for each student age 16 or older who is expected to receive a diploma more than two years from the present:

- special education classification
- whether or not it is expected the student will need assistance in multiple life domains
- the stability of the student's natural support system
- any transition services currently being provided
- any mental health related services being provided by the school (e.g. school based Medicaid services)
- post-graduation goals, if identified

Based on this information and the CMHSP's knowledge of, and relationship with, the school district, the CMHSP may decide to initiate contact with the school for specific students.

**F. Initiate Transition Planning**

1. The CMHSP shall identify for the school, the student and his/her family a contact person at the CMHSP to act as a contact for the student's transition plan.
2. The CMHSP shall initiate CMHSP transition planning as part of each students IEP. In the event that the student/family does not want the CMHSP to have a representative present, the CMHSP shall work with the school district to assure that the CMHSP has input into the student's transition plan and to obtain the necessary information (such as that outlined in E above) so that future services can be projected. CMHSPs shall plan to participate in individual IEP meetings for students who meet the eligibility criteria in section E above, and those students who may need assessment or services from the CMHSP as they near completion of their school program. Attendance or other active participation at IEP meetings the last two years will ensure that the student and the CMHSP have sufficient time to prepare for transition.
3. The CMHSP shall provide specialty mental health services as part of a comprehensive transition plan which promotes movement from school to the community, including:

vocational training, integrated employment including supported employment, continuing and adult education, adult services, independent living or community participation. It should be noted that the CMHSP does not have sole responsibility for any of these post-school activities and it may not use its state or federal funds to supplant the responsibility of another state agency. It is highly recommended that CMHSPs look at cooperative agreements and the pooling of resources to develop the best services possible for students with disabilities.

## **VII. Definitions**

Carl D. Perkins Act, P.L. 98-524, the Vocational Education Act of 1984, also known as the Carl D. Perkins Act--The Perkins Act has a goal to improve the access of students with disabilities to vocational education. The Act requires that vocational education be made available as appropriate for students with disabilities.

CAUSE - Citizens Alliance to Uphold Special Education--A statewide parent training and information center for special education-related activities.

CMHSP - Community Mental Health Service Program

EHA - Education of the Handicapped Act, P. L. 94-142--The primary legislation which guides school services for students with disabilities. Passed in 1975, it is better known as IDEA, based on later amendments labeled as the "Individuals with Disabilities Education Act."

EI - Emotionally Impaired--An impairment determined through manifestation of behavioral problems primarily in the affective domain, over an extended period of time, which adversely affect the person's education to the extent that the person cannot profit from regular learning experiences without special education support.

EMI - Educable Mentally Impaired--An impairment which is manifested through all of the following characteristics:

- Development at a rate approximately two to three standard deviations below the mean as determined through intellectual assessment
- Lack of development primarily in the cognitive domain
- Impairment of adaptive behavior

FAPE - Free and Appropriate Public Education

IDEA - See EHA

IEP - Individualized Education Program--A program developed by an individualized educational planning committee which shall be reviewed (at least) annually.

IEPT - Individualized Educational Planning Team--A committee of persons appointed and invited by the superintendent to determine a person's eligibility for special education programs and services and, if eligible,

to develop an individualized education program

Inclusion - A MDCH value which directs funding organizations and service providers to enable persons with disabilities to participate in the community, i.e., use community transportation, work in real paid jobs, access generic community social and recreation opportunities and live in their own apartments and houses. Inclusion includes the availability of flexible professional and natural supports that reinforce the individual's own strengths, and expands their opportunities and choices.

NICHCY - National Information Center for Children and Youth with Disabilities

Multi-Purpose Collaborative Body - An inclusive planning and implementation body of stakeholders at the county or multi-county level, focused on a shared vision and mission to improve outcomes for children and families

Person-Centered Planning - A highly individualized process designed to respond to the expressed needs/desires of the individual. The Michigan Mental Health Code establishes the right for all individuals to have their Individual Plan of Service developed through a person-centered planning process regardless of age, disability or residential setting. Person-centered planning is based on the following values and principles:

- Each individual has strengths, and the ability to express preferences and to make choices.
- The individual's choices and preferences shall always be considered if not always granted. Professionally trained staff will play a role in the planning delivery of treatment and may play a role in the planning and delivery supports. Their involvement occurs if the individual has expressed or demonstrated a need that could be met by professional intervention.
- Treatment and supports identified through the process shall be provided in environments that promote maximum independence, community connections and quality of life.
- A person's cultural background shall be recognized and valued in the decision-making process.

Recovery - Recovery is the nonlinear process of living with psychiatric disability in movement toward a quality life. The Recovery model for individuals involves the movement from anguish, awakening, insight action plan and determined commitment for wellness. The external factors influencing recovery are support, collaboration, building trust, respect, and choice and control. The development of hope provided by caregivers and generated from within the individual is a base for transformation into well-being and recovery.

The concept of recovery was introduced in the lay writings of consumers beginning in the 1980s. It was inspired by consumers who had themselves recovered to the extent that they were able to write about their experiences of coping with symptoms, getting better, and gaining an identity. Recovery also was fueled by longitudinal research uncovering a more positive course for a significant number of patients with severe mental illness. Recovery is variously called a process, an outlook, a vision, a guiding principle. There is neither a single agreed-upon definition of recovery nor a single way to measure it. But the overarching message is that hope and restoration of a meaningful life are possible, despite serious mental illness. Instead of focusing primarily on symptom relief, as the medical model dictates, recovery casts a much wider spotlight on restoration of self-esteem and identity, and on attaining meaningful roles in society.

Self-Determination - Self-determination incorporates a set of concepts and values which underscore a core belief that people who require support from the public mental health system as a result of a disability should be able to define what they need in terms of the life they seek, should have access to meaningful choices, and control over their lives. Within Michigan's public mental health system, self-determination involves accomplishing major system change which can assure that services and supports for people are not only person-centered, but person-defined and person-controlled. Self-determination is based on the following four principles:

- **FREEDOM** The ability for individuals, with assistance from their allies (chosen family and/or friends), to plan a life based on acquiring necessary supports in desirable ways, rather than purchase a program.
- **AUTHORITY** The assurance for a person with a disability to control a certain sum of dollars in order to purchase these supports, with the backing of their allies, as needed.
- **SUPPORT** The arranging of resources and personnel, both formal and informal, to assist the person to live their desired life in the community, rich in community associations and contributions.
- **RESPONSIBILITY** The acceptance of a valued role by the person in their community through employment, affiliations, spiritual development, and caring for others, as well as accountability for spending public dollars in ways that are life-enhancing.

A hallmark of self-determination is assuring a person the opportunity to control a fixed sum of dollars which is derived from the person-centered planning process and called an individual budget. The person, together with their allies controls the use of the resources in their individual budget, determining themselves which services and supports they will purchase from whom, and under what circumstances.

SMI - Severely Mentally Impaired--An impairment manifested through all of the following behavioral characteristics:

- 1) Development at a rate approximately four and one-half or more standard deviations below the mean as determined through intellectual assessment
- 2) Lack of development primarily in the cognitive domain
- 3) Impairment of adaptive behavior

Supported Employment - Competitive work in integrated settings for persons with the most significant disabilities for whom competitive work has not traditionally occurred or has been interrupted as a result of a significant disability.

SXI - Severely Multiply Impaired--An impairment determined through the manifestation of either of the following:

- 1) Development at a rate of two to three standard deviations below the mean and two or more of the following conditions:
  - a hearing impairment so severe that the auditory channel is not the primary means of developing speech and language skills
  - a visual impairment so severe that the visual channel is not sufficient to guide independent mobility



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- a physical impairment so severe that activities of daily living cannot be achieved without assistance
- a health impairment so severe that the student is medically at risk

2) Development at a rate of three or more standard deviations below the mean, or students for whom evaluation instruments do not provide a valid measure of cognitive ability and one or more of the following conditions:

- a hearing impairment so severe that the auditory channel is not the primary means of developing speech and language skills
- a visual impairment so severe that the visual channel is not sufficient to guide independent mobility
- a physical impairment so severe that activities of daily living cannot be achieved without assistance
- a health impairment so severe that the student is medically at risk

TMI - Trainable Mentally Impaired--An impairment manifested through all of the following behavioral characteristics:

- 1) Development at a rate approximately three to four and one-half standard deviations below the mean as determined through intellectual assessment
- 2) Lack of development primarily in the cognitive domain
- 3) Impairment of adaptive behavior

Transition Services - A coordinated set of activities for a student which is designed within an outcome-oriented process and which promotes movement from school to post-school activities, including: Post-secondary education; vocational training; integrated employment including supported employment; continuing and adult education; adult services; independent living; or community participation. The coordinated set of activities shall be based on the individual student's needs and shall take into account the student's preferences and interests, and shall include needed activities in all of the following areas:

- 1) Instruction
- 2) Community experiences
- 3) Development of employment and other post-school adult living objectives
- 4) If appropriate, acquisition of daily living skills and functional vocational evaluation

## **VIII. Literature and Resources**

### **ARTICLES AND PAPERS**

Clark, H.B.

Transition to Independence Process (TIP): TIP System Development and Operations Manual  
Florida Mental Health Institute, University of South Florida, 1998 (Revised)

Clark, H.B. & Foster-Johnson

Serving Youth in Transition into Adulthood (pp.533-551

In B.A. Stroul (Ed.), Children's Mental Health: Creating Systems of Care in a Changing Society  
Baltimore, MD Paul H. Brookes Publishing Co., Inc. 1996

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Dague, Bryan, Van Dusen, Roy, Burns, Wendy

Transition: The 10 Year Plan

Presentation at the Association for Persons in Supported Employment Conference  
Chicago, IL July 1999

Deschenes, Nicole, Clark, Hewitt B.

Seven Best Practices in Transition Programs for Youth

Reaching Today's Youth Summer 1998

Everson, Jane M., Moon, M. Sherril

Transition Services for Young Adults with Severe Disabilities: Defining Professional and Parental Roles and Responsibilities

Virginia Commonwealth University

Reprinted in September 1987 from the Journal of the Association of Persons with Severe Handicaps (JASH)

Halpern, A.S.

Transition: Is It Time for Another Rebooting?

Paper presented at the 1999 Annual OSEP Project Director's Meeting  
Washington D.C. June 1999

Kohler, Paula D. Ph.D.

Facilitating Successful Student Transitions from School to Adult Life

An analysis of Oklahoma Policy and Systems Support Strategies March 1999

Sale, P., Metzler, H.D., Everson, J.M., Moon, M.S.

Quality Indicators of Successful Transition Programs

Journal of Vocational Rehabilitation: 1(4): 47-63

**NEWSLETTERS**

C.E.N. Newsline

Eaton Intermediate School District  
1790 East Packard Highway  
Charlotte, MI 48813

Networks

National Technical Assistance Center for State Mental Health Planning  
66 Canal Center Plaza, Suite 302  
Alexandria, VA 22314

Special Education Mediation Reporters

Michigan Special Education Mediation Program  
SCAO

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309 N. Washington Square, P.O. Box 30048  
Lansing, MI 48909

Transition

The College of Education & Human Development  
Transition Technical Assistance Project  
Institute on Community Integration  
University of Minnesota  
109 Pattee Hall, 150 Pillsbury Dr., S.E.  
Minnesota, MN 55455

Transitions

Michigan Transition Services Association  
John Murphy, Charlevoix-Emmet ISD  
08568 Mercer Blvd.  
Charlevoix, Michigan 49720

UCP Pathways

United Cerebral Palsy Association of Michigan, Inc.  
320 N. Washington Sq., Suite #60  
Lansing, MI 48933

**WEBSITES**

<http://www.ed.wuc.edu/sped/tri/institute.html>

Transition Research Institute at Illinois, NTA Headquarters  
117 Children's Research Center, 51 Gerty Drive  
Champaign, IL 61820

<http://www.ici.coled.umn.edu/schooltowork/profiles.html>

School-to-Work Outreach Project  
Institute on Community Integration (UAP), University of Minnesota  
111 Pattee Hall, 150 Pillsbury Drive SE  
Minneapolis, MN 55455

<http://www.mde.state.mi.us/off/sped/index.html>

Michigan Department of Education  
Office of Special Education and Early Intervention Services  
P.O. Box 30008, Lansing, MI 48909

<http://www.nichcy.org>

National Information Center for Children and Youth with Disabilities  
P.O. Box 1492

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Washington, D.C. 20013-1492

<http://www.vcu.edu/rrteweb/facts>

Virginia Commonwealth University, Rehabilitation Research and Training Center on Supported Employment

## **IX. Authority**

Mental Health Code, Act 258 MI, Sec. 330.1208 - Individuals to which service directed; priorities; denial of service prohibited

Mental Health Code, Act 258 MI, Sec.330.1227 - School-to-Community Transition (1974 & Supp 1996)

Mental Health Code, Act 258 MI, Sec. 330.1712 - Individualized written plan of service (1974 & Am. 1996)



STATE OF MICHIGAN

DEPARTMENT OF COMMUNITY HEALTH  
LANSING

JENNIFER M. GRANHOLM  
GOVERNOR

JANET OLSZEWSKI  
DIRECTOR

December 15, 2010

**TO:** Executive Directors of Prepaid Inpatient Health Plans (PIHPs) and  
Community Mental Health Services Programs (CMHSPs)

**FROM:** Michael J. Head, Director  
Mental Health and Substance Abuse Administration

**SUBJECT:** Family-Driven and Youth-Guided Policy and Practice Guideline

Attached is the final version of the Family-Driven and Youth-Guided Policy and Practice Guideline that was forwarded for your review and comment in June 2010. We received comments from staff of seven CMHSPs, two advocacy organizations and one court staff person. We have reviewed all of the public comments and incorporated feedback and suggestions into this final version of the policy.

The purpose of this policy guideline is to provide guidance and support to PIHPs, CMHSPs and their contract agencies regarding the delivery of family-driven and youth-guided services and supports for children and their families. This guideline outlines essential elements of family-driven and youth-guided policy and practice at the child and family level, system level and peer-delivered level.

Family-driven means that families have a primary decision-making role in the care of their own children as well as the policies and procedures governing care for all children in their community. Youth-guided means that young people have the right to be empowered, educated, and given a decision-making role in their own care as well as the policies and procedures governing the care of all youth in the community, state, and nation. A youth-guided approach views youth as experts and considers them equal partners in creating system change at the individual, state, and national level (SAMHSA).

It is the intent of the Michigan Department of Community Health (MDCH) to adopt a policy that promotes all publicly supported mental health agencies to engage in family-driven and youth-guided approaches to services with children and families. The attached policy is being issued as a technical advisory initially which MDCH encourages be used over the next year. MDCH does intend to incorporate this policy guideline/technical advisory into the Medicaid Provider Manual and into the contract negotiating process in the future. A technical companion guide will also be developed to assist in meeting the policy requirements.

If you have questions, please contact Connie Conklin at 517-241-5765 or at [conklinc@michigan.gov](mailto:conklinc@michigan.gov), or Sheri Falvay at 517-241-5762 or at [falvay@michigan.gov](mailto:falvay@michigan.gov).

Attachment

c: Irene Kazieczko  
Sheri Falvay  
Connie Conklin  
Mental Health and Substance Abuse Management Team

12/14/2010

**MICHIGAN DEPARTMENT OF COMMUNITY HEALTH (MDCH)  
MENTAL HEALTH & SUBSTANCE ABUSE ADMINISTRATION  
FAMILY-DRIVEN AND YOUTH-GUIDED POLICY AND PRACTICE GUIDELINE**

**A. Summary/Background**

The purpose of this policy guideline is to establish standards for the Prepaid Inpatient Health Plans (PIHPs), Community Mental Health Services Programs (CMHSPs) and their contract agencies regarding the delivery of family-driven and youth-guided services and supports for children and their families. This policy guideline will outline essential elements of family-driven and youth-guided policy and practice at the child and family level, system level and peer-delivered level.

Person-centered planning is the method for individuals served by the community mental health system to plan how they will work toward and achieve personally defined outcomes in their own lives. The Michigan Mental Health Code establishes the right for all individuals to develop individual plans of services through a person-centered planning process regardless of disability or residential setting.

For children and families, the Person-Centered Planning Policy Practice Guideline states: "The Michigan Department of Community Health (MDCH) has advocated and supported a family-driven and youth-guided approach to service delivery for children and their families. A family-driven and youth-guided approach recognizes that services and supports impact the entire family; not just the identified youth receiving mental health services. In the case of minors, the child and family is the focus of service planning, and family members are integral to a successful planning process. The wants and needs of the child and his/her family are considered in the development of the Individual Plan of Service." As the child matures toward transition age, services and supports should become more youth-guided.

As a result of the effort to develop family-driven and youth-guided services, the Substance Abuse and Mental Health Services Administration (SAMSHA) in partnership with the Federation of Families for Children's Mental Health, has developed a set of principles (described in section C of this policy) which serve as the basis for the delivery of family-driven and youth-guided services. These principles comprise the standards which should guide the delivery of services to children and their families and are essential to development of an effective system of care.

This policy is consistent with the "Application for Renewal and Recommitment (ARR) to Quality and Community in the Michigan Public Mental Health System," as issued by MDCH on February 1, 2009. The ARR formally introduced new and enhanced expectations of performance and revitalized MDCH's commitment to excellence in partnership with PIHPs and CMHSPs.

While agencies are expected to collaborate, they are not intended to be the primary decision-makers on behalf of a child or family. It is important for systems to actively engage families in leading all decisions about the care of their child. Similarly, as appropriate, based on their age and functioning, youth should have opportunities to make decisions about their own care. Family and youth involvement is also important on a broader level, with an expectation that they are active participants in system-level governance and planning (Wilder Foundation, Snapshot: Mental Health Systems of Care for Children, August 2009).

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**B. Policy**

It is the policy of MDCH that all publicly-supported mental health agencies and their contract agencies shall engage in family-driven and youth-guided approaches to services with children and families and will engage family members and youth at the governance, evaluation, and service delivery levels as key stakeholders.

**How this Policy will be supported:**

- MDCH staff in partnership with the family organizations will work with PIHPs, CMHSPs, and contract agencies to support successful implementation of the family-driven and youth-guided policy guideline.
- MDCH will work with other system partners at the state level to ensure PIHPs, CMHSPs and contract agencies can build an effective system of care.
- Through ARR progress reviews, updates and technical assistance. The different sections of the ARR have applicability to family-driven and youth-guided care, e.g., stakeholder involvement, developing an effective system of care, improving the quality of services and supports, assuring active engagement, etc.

**C. Family-Driven and Youth-Guided Principles**

Family-driven and youth-guided principles should be measured at several different levels: the child and family level, the system level and the peer-to-peer level. These principles incorporate all levels, and will be detailed under section D: Essential Elements.

- Families and youth, providers and administrators share decision-making and responsibility for outcomes.
- Parents, caregivers and youth are given accurate, understandable, and complete information necessary to set goals and to make informed decisions and choices about the right services and supports for individual children and their family as a whole.
- All children, youth and families (parents) have a biological, adoptive, foster, or surrogate family voice advocating on their behalf.
- Families and family-run organizations engage in peer support activities to reduce isolation, gather and disseminate accurate information, and strengthen the family voice.
- Families and family-run organizations provide direction for decisions that impact funding for services, treatments, and supports and advocate for families and youth to have choices.
- Providers take the initiative to change policy and practice from provider-driven to family-driven and youth-guided.
- Administrators allocate staff, training, support and resources to make family-driven and youth-guided practice work at the point where services and supports are delivered to children, youth, and families.

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- Community attitude change efforts focus on removing barriers and discrimination created by stigma.
- Communities and public and private agencies embrace, value, and celebrate the diverse cultures of their children, youth, and families and work to eliminate mental health disparities.
- Everyone who connects with children, youth, and families continually advances their own cultural and linguistic responsiveness as the population served changes so that the needs of diverse populations are appropriately addressed.

#### **D. Essential Elements for Family-Driven and Youth-Guided Care**

1. "Family-driven" means that families have a primary decision-making role in the care of their own children as well as the policies and procedures governing care for all children in their community. This includes:
  - Being given the necessary information to make informed decisions regarding the care of their children
  - Choosing culturally and linguistically competent supports, services, and providers
  - Setting goals
  - Designing, implementing and evaluating programs
  - Monitoring outcomes
  - Partnering in funding decisions
2. "Youth-guided" means that young people have the right to be empowered, educated, and given a decision-making role in their own care as well as the policies and procedures governing the care of all youth in the community, state, and nation. A youth-guided approach views youth as experts and considers them equal partners in creating system change at the individual, state, and national level (SAMHSA).
3. "Family-run organization" means advocacy and support organizations that are led by family members with lived experience raising children with SED and/or DD thus creating a level of expertise. These organizations provide peer-to-peer support, education, advocacy, and information/referral services to reduce isolation for family members, gather and disseminate accurate information so families can partner with providers and make informed decisions, and strengthen the family voice at the child and family level, service delivery level, and systems level.
4. Child and Family-Level Action Strategies:
  - Strength and Culture Discovery - Children, youth and family strengths will be identified and linked to treatment strategies within the plan of service.
  - Cultural Preferences - The plan of service will incorporate the cultural preferences unique to each youth and family.
  - Access - Children, youth and families are provided usable information to make informed choices regarding services and supports and have a voice in determining the services they receive. Services and supports are delivered in the home and community whenever possible.



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- Voice - Children, youth and families are active participants in the treatment process, their voice is solicited and respected, and their needs/wants are written into the plan in language that indicates their ownership.
- Ownership - The plan compliments the strengths, culture and prioritized needs of the child, youth and family.
- Outcome-based - Plans are developed to produce results that the youth and family identify. All services, supports and interventions support outcome achievement.
- Parent/Youth/Professional Partnerships - Parents and youth are recognized for having expertise, are engaged as partners in the treatment process, and share accountability for outcomes.
- Increase Confidence and Resiliency - The plan will identify specific interventions that maximize the strengths of the child, youth, and family, increase the skills of the youth to live independently and advocate for self, and equip the family with skills to successfully navigate systems and manage the needs of their child and family.
- Participation in Planning Meetings - Youth and families determine who participates in the planning meetings.
- Crisis and Safety Planning - Crisis and safety plans should be developed to decrease safety risks, increase confidence of the youth and family, and respect the needs/wants of the youth and family.

5. System-level Action Strategies:

- Agencies have policies that ensure that all providers of services to children, youth and families incorporate parent/caregivers and youth on decision-making groups, boards and committees that support family-driven and youth-guided practice.
- Agencies have policies that ensure training, support, and compensation for parents and youth who participate on decision-making groups, boards and committees and serve as co-facilitators/trainers.
- Policies are in place within the agency to support employment of youth and parents.
- Youth and parents are part of the program and service design, evaluation, and implementation of services and supports.
- Children, youth and families are provided opportunities to participate in and co-facilitate training and education opportunities.
- Services are delivered where the children, youth and family feel most comfortable and in a way that is relevant to the family culture.
- All stakeholder groups include diverse membership including youth and family members who represent the population the agency/community serves.

6. Peer-delivered Action Strategies:

- Parents/caregivers, youth who have first-hand experience with the public mental health system are recruited, trained and supported in their role as parent/peer support partners.
- Family Organizations are involved in the recruiting, supporting, and training of family members and youth peer-to-peer support partners. They may also serve as the contract employers of the parent support partners.
- Peer-to-peer support models approved by MDCH for parents and youth are available.

12/14/2010

**E. Biography**

National Technical Assistance and Evaluation Center. A Closer Look: Family Involvement in Public Child Welfare Driven Systems of Care. February 2008

<http://www.childwelfare.gov/pubs/acloserlook/familyinvolvement/familyinvolvement.pdf>

<http://www.samsha.gov>

ACMH Youth Advisory Council Focus group (January 16, 2010)

ACMH Staff Retreat (December 14, 2009)

MDCH/CMHSP Mental Health Supports and Services Contract: FY 13 – Attachment C6.9.8.1

June 7, 2011,

**TO:** Executive Directors of Prepaid Inpatient Health Plans (PIHPs) and Community Mental Health Services Programs (CMHSPs)

**FROM:** Elizabeth Knisely, Director Bureau of Community Mental Health Services

**SUBJECT:** *Employment Works! Policy*

MDCH recognizes that employment is an essential element of quality of life for most people, including individuals with a serious mental illness or a developmental disability; including persons with the most significant disability. Therefore, it is the policy of MDCH that:

Each eligible working age individual over 14 years old (to correlate with transition planning and related MDCH policy 1915(b)/(c) Waiver Program Attachment P.6.8.5.1) and ongoing to the age of their chosen retirement—generally seen as around 65 years old) will be supported to pursue his or her own unique path to work and a career. All individuals will be afforded the opportunity to pursue competitive, integrated work. DCH shall define "competitive employment" and "integrated setting" using the definitions of those terms listed in title 34, code of federal regulations, section 361".

- (11) Competitive employment means work--

(i) In the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and

(ii) For which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

- (33) Integrated setting,--

(i) With respect to the provision of services, means a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals other than non-disabled individuals who are providing services to those applicants or eligible individuals;

(ii) With respect to an employment outcome, means a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals, other than non-disabled individuals who are providing services to those applicants or eligible individuals, to the same extent that non-disabled individuals in comparable positions interact with other persons.

- Each time a pre-planning meeting is held to prepare for a person's plan of service (at least annually); a person's options for work will be encouraged as noted in C3.4.1.1, III, 7, b and will be documented during the pre-planning meeting. After exploration of competitive employment options, it is recognized that some individuals may choose other work options such as Ability One contracts, integrated community group employment, self-employment, transitional employment, volunteering, education/training, or unpaid internships as a means leading to future competitive, integrated work.

-In the case of employment for persons with mental illness, MDCH has adopted the evidence-based practice of Individual Placement and Support (IPS). The definition for the outcome of competitive employment for this specific population remains; individual jobs that anyone can apply for rather than jobs created specifically for people with disabilities. These jobs pay at least minimum wage or the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not

## MDCH/CMHSP Mental Health Supports and Services Contract: FY 13 – Attachment C6.9.8.1

disabled. Further, the jobs do not have artificial time limits imposed by the social service agency.

This proposed policy shall support persons with serious mental illness and developmental disabilities to receive services and supports to achieve and maintain competitive employment. It is imperative that this *Employment Works!* Policy be shared and reinforced as an expectation with staff responsible for employment services and outcomes and with all supports coordinators and case managers.

In order to measure employment outcomes, MDCH will compare baseline numbers for all competitive, integrated employment-both individual and group.. Additionally, MDCH will measure facility-based employment each year. It is expected that the total percentage of individuals competitively employed in integrated settings will increase-both individual, integrated employment and group, integrated employment.. It is also expected that as both of these types of employment increase, the percentage of individuals in facility-based employment will decrease. This policy supports the incentive for increased competitive, integrated employment for people with disabilities, as written into contract language.

### Expectations for MDCH:

- Establish a permanent state-level staff member who has responsibility for further development and overseeing its implementation of the *Employment Works!* Policy.
- Provide technical assistance to the field for program implementation and sustainability and to also provide opportunities for training and development.
- Review existing employment data sources, and establish a strategy for collecting and sharing accurate employment outcome data with stakeholders.
- Establish specific employment goals for the PIHP/CMHSP system data.
- Strengthen the strategy and agreements with Michigan Rehabilitation Services (MRS) and the Michigan Commission for the Blind (MCB) to improve the consistency of MRS/MCB supports for PIHP/CMHSP consumers.
- Encourage and promote the use of best employment practices, including employment practices recognized in the most current Medicaid Provider Manual under Supported Employment Services. (Examples include the evidence based supported employment, customized employment, self-employment, etc.)
- Identify CMHSPs with best employment outcomes, learn from their successes, and highlight these practices.
- Assist PIHPs/CMHSPs in developing expertise in benefits planning.
- Strengthen the role of existing employment working group(s) by establishing a standing employment leadership team.
- 

### Expectations for PIHPs/CMHSPs:

- Designate a local staff member who shall be responsible for implementation of the *Employment Works!* Policy. Designate this staff member and an alternate to participate in a standing employment leadership team.
- Provide timely and accurate employment outcome data to MDCH to review and determine employment strategies at least annually.
- Achieve established employment goals/increases.
- Establish strategies and enhance cash match agreements, partnership plus and/or other strategies with MRS and MCB to improve consistency of MRS/MCB supports for PIHP/CMHSP consumers.
- Embrace and promote the use of best employment practices, including EBP SE.
- Share local best employment practices across the PIHP/CMHSP network through

MDCH/CMHSP Mental Health Supports and Services Contract: FY 13 – Attachment  
C6.9.8.1

- conferences, webinars, conference calls, newsletters, cross-agency presentations, etc.
- Designate at least one (preferably two) staff with proven expertise in benefits planning or clear capacity to access timely and accurate information to address immediate employment interests of persons with disabilities.

**Attachment C7.0.1**

**MDCH Funding**

## **Performance Objectives**

Community Mental Health  
COMPLIANCE EXAMINATION GUIDELINES  
Michigan Department of Community Health



Fiscal Year End September 30, 2013



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## INTRODUCTION

These Community Mental Health (CMH) Compliance Examination Guidelines are issued by the Michigan Department of Community Health (MDCH) to assist independent audit personnel, Prepaid Inpatient Health Plan (PIHP) personnel, and Community Mental Health Services Program (CMHSP) personnel in preparing and performing compliance examinations as required by contracts between MDCH and PIHPs or CMHSPs, and to assure examinations are completed in a consistent and equitable manner.

These CMH Compliance Examination Guidelines require that an independent auditor examine compliance issues related to contracts between PIHPs and MDCH to manage the Concurrent 1915(b)/(c) Medicaid Program (hereinafter referred to as “Medicaid Program”), contracts between PIHPs and MDCH to manage the Michigan Medicaid Non-Pregnant Childless Adults Waiver (hereinafter referred to as “ABW Program”) Section 1115 Demonstration Program, contracts between CMHSPs and MDCH to manage and provide mental health services and supports to individuals with serious mental illness, serious emotional disturbances or developmental disabilities as described in MCL 330.1208 (hereinafter referred to as “GF Program”), and, in certain circumstances, contracts between CMHSPs and MDCH to manage the Community Mental Health Services Block Grant Program (hereinafter referred to as “CMHS Block Grant Program”). These CMH Compliance Examination Guidelines, however, DO NOT replace or remove any other audit requirements that may exist, such as a Financial Statement Audit and/or a Single Audit. An annual Financial Statement audit is required. Additionally, if a PIHP or CMHSP expends \$500,000 or more in federal awards<sup>1</sup>, the PIHP or CMHSP must obtain a Single Audit.

PIHPs are ultimately responsible for the Medicaid funds received from MDCH, and are responsible for monitoring the activities of affiliated CMHSPs as necessary to ensure expenditures of Medicaid Program funds are for authorized purposes in compliance with laws, regulations, and the provisions of contracts. Therefore, PIHPs must either require their independent auditor to examine compliance issues related to the Medicaid funds awarded to the affiliated CMHSPs, or require the affiliated CMHSP to contract with an independent auditor to examine compliance issues related to contracts between PIHPs and CMHSPs to manage the Medicaid Program. Further detail is provided in the Responsibilities – PIHP Responsibilities Section (Item #'s 8, 9, & 10).

These CMH Compliance Examination Guidelines will be effective for contract years ending on or after September 30, 2013 and replace any prior CMH Compliance Examination Guidelines or instructions, oral or written.

Failure to meet the requirements contained in these CMH Compliance Examination Guidelines may result in the withholding of current funds or the denial of future awards.

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<sup>1</sup> Medicaid payments to PIHPs and CMHSPs for providing patient care services to Medicaid eligible individuals are not considered Federal awards expended for the purposes of determining Single Audit requirements.

## RESPONSIBILITIES

### MDCH Responsibilities

MDCH must:

1. Periodically review and revise the CMH Compliance Examination Guidelines to ensure compliance with current Mental Health Code, and federal and state audit requirements; and to ensure the **COMPLIANCE REQUIREMENTS** contained in the CMH Compliance Examination Guidelines are complete and accurately represent requirements of PIHPs and CMHSPs; and distribute revised CMH Compliance Examination Guidelines to PIHPs and CMHSPs.
2. Review the examination reporting packages submitted by PIHPs and CMHSPs to ensure completeness and adequacy within six months of receipt.
3. Issue a management decision (as described in the Examination Requirements – Management Decision Section) on findings, comments, and examination adjustments contained in the PIHP or CMHSP examination reporting package within eight months after the receipt of a complete and final reporting package.
4. Monitor the activities of PIHPs and CMHSPs as necessary to ensure the Medicaid Program, ABW Program, GF Program, and CMHS Block Grant Program funds are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts. MDCH will rely primarily on the compliance examination engagements conducted on PIHPs and CMHSPs by independent auditors to ensure Medicaid Program, ABW Program, and GF Program funds are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts. MDCH will rely on PIHP or CMHSP Single Audits or the compliance examination engagements conducted on PIHPs and CMHSPs by independent auditors to ensure CMHSP Block Grant Program funds are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts. MDCH may, however, determine it is necessary to also perform a limited scope compliance examination or review of selected areas. Any additional reviews or examinations shall be planned and performed in such a way as to build upon work performed by other auditors. The following are some examples of situations that may trigger an MDCH examination or review:
  - a. Significant changes from one year to the next in reported line items on the FSR.
  - b. A PIHP entering the MDCH risk corridor.
  - c. A large percentage or amount of ABW program funding converting to local.
  - d. A large addition to an ISF per the cost settlement schedules.
  - e. A material non-compliance issue identified by the independent auditor.
  - f. The CPA that performed the compliance examination is unable to quantify the impact of a finding to determine the questioned cost amount.
  - g. The CPA issued an adverse opinion on compliance due to their inability to draw conclusions because of the condition of the agency's records.

## **PIHP Responsibilities**

PIHPs must:

1. Maintain internal control over the Medicaid Program and ABW Program that provides reasonable assurance that the PIHP is managing the programs in compliance with laws, regulations, and the provisions of contracts that could have a material effect on the programs.
2. Comply with laws, regulations, and the provisions of contracts related to the Medicaid Program and ABW Program. Examples of these would include, but not be limited to: the Medicaid Managed Specialty Supports & Services Concurrent 1915(b)(c) Waiver Program Contract (Medicaid Program Contract), the Adult Benefits Waiver Contract, the Mental Health Code (Michigan Compiled Laws 330.1001 – 330.2106), OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments located at 2 CFR Part 225), OMB Circular A-102 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Tribal Governments found at 45 CFR 92), the Medicaid Provider Manual, and Generally Accepted Accounting Principles (GAAP).
3. Prepare appropriate financial statements.
4. Ensure that the examination required by these CMH Compliance Examination Guidelines is properly performed and submitted when due.
5. Follow up and take corrective action on examination findings.
6. Prepare a corrective action plan to address each examination finding, and comment and recommendation included in the current year auditor's reports including the name(s) of the contact person(s) responsible for corrective action, the corrective action planned, and the anticipated completion date. If the PIHP does not agree with an examination finding or comment, or believes corrective action is not required, then the corrective action plan shall include an explanation and specific reasons.
7. The PIHP shall not file a revised FSR and Cost Settlement based on the CMH Compliance Examination. Rather, adjustments noted in the CMH Compliance Examination will be evaluated by MDCH and the PIHP will be notified of any required action in the management decision.
8. Monitor the activities of affiliated CMHSPs as necessary to ensure the Medicaid Program and ABW Program funds are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts. PIHPs must either (a.) require the PIHP's independent auditor (as part of the PIHP's examination engagement) to examine the records of the affiliated CMHSP for compliance with the Medicaid Program and ABW Program provisions, or (b.) require the affiliated CMHSP to contract with an independent auditor to examine compliance issues related to contracts between PIHPs and CMHSPs to manage the Medicaid Program and ABW Program. If the latter is chosen, the PIHP must incorporate the examination requirement in the PIHP/CMHSP contract and develop Compliance Examination Guidelines specific to their PIHP/CMHSP contract. Additionally, if the latter is chosen, the CMHSP examination must be

- completed in sufficient time so that the PIHP auditor may rely on the CMHSP examination when completing their examination of the PIHP if they choose to.
9. If requiring an examination of the affiliated CMHSP, review the examination reporting packages submitted by affiliated CMHSPs to ensure completeness and adequacy.
  10. If requiring an examination of the affiliated CMHSP, issue a management decision (as described in the Examination Requirements – Management Decision Section) on findings and questioned costs contained in affiliated CMHSP's examination reporting packages.

**CMHSP Responsibilities**

**(as a recipient of Medicaid and ABW funds from PIHP and a recipient of GF funds from MDCH and a recipient of CMHS Block Grant funds from MDCH)**

CMHSPs must:

1. Maintain internal control over the Medicaid, ABW, GF, and CMHS Block Grant Programs that provides reasonable assurance that the CMHSP is managing the Medicaid, ABW, GF, and CMHS Block Grant Programs in compliance with laws, regulations, and the provisions of contracts that could have a material effect on the Medicaid, ABW, GF, and CMHS Block Grant Programs.
2. Comply with laws, regulations, and the provisions of contracts related to the Medicaid, ABW, GF, and CMHS Block Grant Programs. Examples of these would include, but not be limited to: the Medicaid Managed Specialty Supports & Services Concurrent 1915(b)(c) Waiver Program Contract (Medicaid Contract), the Managed Mental Health Supports and Services Contract (General Fund Contract), the Adult Benefits Waiver Contract, the CMHS Block Grant Contract, the Mental Health Code (Michigan Compiled Laws 330.1001 – 330.2106), OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments located at 2 CFR Part 225), OMB Circular A-102 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Tribal Governments found at 45 CFR 92), the Medicaid Provider Manual, and Generally Accepted Accounting Principles (GAAP).
3. Prepare appropriate financial statements.
4. Ensure that the examination required by these CMH Compliance Examination Guidelines, and any examination required by the PIHP from which the CMHSP receives Medicaid and/or ABW funds are properly performed and submitted when due.
5. Follow up and take corrective action on examination findings.
6. Prepare a corrective action plan to address each examination finding, and comment and recommendation included in the current year auditor's reports including the name(s) of the contact person(s) responsible for corrective action, the corrective action planned, and the anticipated completion date. If the CMHSP does not agree with an examination finding or comment, or believes corrective action is not required, then the corrective action plan shall include an explanation and specific reasons.
7. The CMHSP shall not file a revised FSR and Cost Settlement based on the CMH Compliance Examination. Rather, adjustments noted in the CMH Compliance Examination will be evaluated by MDCH, and the CMHSP will be notified of any required action in the management decision.

## EXAMINATION REQUIREMENTS

PIHPs under contract with MDCH to manage the Medicaid Program and ABW Program, and CMHSPs under contract with MDCH to manage the GF Program are required to contract annually with a certified public accountant in the practice of public accounting (hereinafter referred to as a practitioner) to examine the PIHP's or CMHSP's compliance with specified requirements in accordance with the AICPA's Statements on Standards for Attestation Engagements (SSAE) 10 – Compliance Attestation – AT 601 (Codified Section of AICPA Professional Standards) (hereinafter referred to as an examination engagement). The specified requirements and specified criteria are contained in these CMH Compliance Examination Guidelines under the Section titled “Compliance Requirements.”

Additionally, CMHSPs under contract with MDCH to provide CMHS Block Grant Program services with a contract amount of greater than \$100,000 are required to ensure the above referenced examination engagement includes an examination of compliance with specified requirements related to the CMHS Block Grant Program **IF** the CMHSP does not have a Single Audit or the CMHSP's Single Audit does not include the CMHS Block Grant (CFDA 93.958) as a major Federal program. The specified requirements and specified criteria related to the CMHS Block Grant Program are contained in these CMH Compliance Examination Guidelines under the Section titled “Compliance Requirements.”

### Practitioner Selection

In procuring examination services, PIHPs and CMHSPs must engage an independent practitioner, and must follow the procurement standards prescribed by the Grants Management Common Rule (A-102 Common Rule). The codified common rule for PIHPs and CMHSPs is located at 45 CFR 92, Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Tribal Governments. Procurement standards are addressed in Section 92.36. In requesting proposals for examination services, the objectives and scope of the examination should be made clear. Factors to be considered in evaluating each proposal for examination services include the responsiveness to the request for proposal, relevant experience, availability of staff with professional qualifications and technical abilities, the results of external quality control reviews, and price. When possible, PIHPs and CMHSPs are encouraged to rotate practitioners periodically to ensure independence.

### Examination Objective

The objective of the practitioner's examination procedures applied to the PIHP's or CMHSP's compliance with specified requirements is to express an opinion on the PIHP's or CMHSP's compliance based on the specified criteria. The practitioner seeks to obtain

reasonable assurance that the PIHP or CMHSP complied, in all material respects, based on the specified criteria.

## Practitioner Requirements

The practitioner should exercise due care in planning, performing, and evaluating the results of his or her examination procedures; and the proper degree of professional skepticism to achieve reasonable assurance that material noncompliance will be detected. The specified requirements and specified criteria are contained in these CMH Compliance Examination Guidelines under the Section titled “Compliance Requirements.” In the examination of the PIHP’s or CMHSP’s compliance with specified requirements, the practitioner should:

1. Obtain an understanding of the specified compliance requirements (See AT 601.40).
2. Plan the engagement (See AT 601.41 through 601.44).
3. Consider the relevant portions of the PIHP’s or CMHSP’s internal control over compliance (See AT 601.45 through 601.47).
4. Obtain sufficient evidence including testing compliance with specified requirements (See AT 601.48 through 601.49).
5. Consider subsequent events (See AT 601.50 through 601.52).
6. Form an opinion about whether the entity complied, in all material respects with specified requirements based on the specified criteria (See AT 601.53).

## Practitioner’s Report

The practitioner’s examination report on compliance should include the information detailed in AT 601.55 and 601.56, which includes the practitioner’s opinion on whether the entity complied, in all material respects, with specified requirements based on the specified criteria. When an examination of the PIHP’s or CMHSP’s compliance with specified requirements discloses noncompliance with the applicable requirements that the practitioner believes have a material effect on the entity’s compliance, the practitioner should modify the report as detailed in AT 601.64 through AT 601.67.

In addition to the above examination report standards, the practitioner must prepare:

1. A Schedule of Findings **including the applicable finding detail<sup>2</sup> listed in OMB Circular A-133, Section 510(b)** that includes the following:

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<sup>2</sup> Finding detail must be presented in sufficient detail for the PIHP or CMHSP to prepare a corrective action plan and for MDCH to arrive at a management decision. The following specific information must be included, as applicable, in findings:

- a. **The criteria or specific requirement upon which the finding is based including statutory, regulatory, contractual, or other citation. The Compliance Examination Guidelines should NOT be used as criterion.**
- b. The condition found, including facts that support the deficiency identified in the finding.



- a. Control deficiencies that are individually or cumulatively material weaknesses in internal control over the Medicaid, ABW, GF, and/or CMHS Block Grant Program(s).
  - b. Material noncompliance with the provisions of laws, regulations, or contracts related to the Medicaid, ABW, GF, and/or CMHS Block Grant Program(s).
  - c. Known fraud affecting the Medicaid, ABW, GF, and/or CMHS Block Grant Program(s).
2. A schedule showing final reported Financial Status Report (FSR) amounts, examination adjustments [including applicable adjustments from the Schedule of Findings and the Comments and Recommendations Section (addressed below)], and examined FSR amounts. All examination adjustments must be explained and must have a corresponding finding or comment. This schedule is called the “Examined FSR Schedule.” Note that Medicaid and ABW FSRs must be provided for PIHPs. All applicable FSRs must be included in the practitioner’s report regardless of the lack of any examination adjustments.
  3. A schedule showing a revised cost settlement for the PIHP or CMHSP based on the Examined FSR Schedule. This schedule is called the “Examined Cost Settlement Schedule.” This must be included in the practitioner’s report regardless of the lack of any examination adjustments.
  4. A Comments and Recommendations Section that includes all noncompliance issues discovered that are not individually or cumulatively material weaknesses in internal control over the Medicaid, ABW, GF, and/or CMHS Block Grant program(s), and recommendations for strengthening internal controls, improving compliance, and increasing operating efficiency. The list of details required for findings (a. through j. in footnote 2.) must also be provided for the comments.

- 
- c. Identification of applicable examination adjustments and how they were computed.
  - d. Information to provide proper perspective regarding prevalence and consequences.
  - e. The possible asserted effect.
  - f. Recommendations to prevent future occurrences of the deficiency(ies) noted in the finding.
  - g. Views of responsible officials of the PIHP/CMHSP when there is a disagreement with the finding.
  - h. Planned corrective actions.
  - i. Responsible party(ies) for the corrective action.
  - j. Anticipated completion date.

## **Examination Report Submission**

The examination must be completed and the reporting package described below must be submitted to MDCH within the earlier of 30 days after receipt of the practitioner's report, or June 30<sup>th</sup> following the contract year end. The PIHP or CMHSP must submit the reporting package by e-mail to MDCH at [MDCH-AuditReports@michigan.gov](mailto:MDCH-AuditReports@michigan.gov). The required materials must be assembled as one document in PDF file compatible with Adobe Acrobat (read only). The subject line must state the agency name and fiscal year end. MDCH reserves the right to request a hard copy of the compliance examination report materials if for any reason the electronic submission process is not successful.

## **Examination Reporting Package**

The reporting package includes the following:

1. Practitioner's report as described above;
2. Corrective action plan prepared by the PIHP or CMHSP.

## **Penalty**

If the PIHP or CMHSP fails to submit the required examination reporting package by June 30<sup>th</sup> following the contract year end and an extension has not been granted by MDCH, MDCH may withhold from current funding five percent of the examination year's grant funding (not to exceed \$200,000) until the required reporting package is received. MDCH may retain the withheld amount if the reporting package is delinquent more than 120 days from the due date and MDCH has not granted an extension.

## **Incomplete or Inadequate Examinations**

If MDCH determines the examination reporting package is incomplete or inadequate, the PIHP or CMHSP, and possibly its independent auditor will be informed of the reason of inadequacy and its impact in writing. The recommendations and expected time frame for resubmitting the corrected reporting package will be indicated.

## **Management Decision**

MDCH will issue a management decision on findings, comments, and examination adjustments contained in the PIHP or CMHSP examination report within eight months after the receipt of a complete and final reporting package. The management decision will include whether or not the examination finding and/or comment is sustained; the reasons for the decision; the expected PIHP or CMHSP action to repay disallowed costs, make financial adjustments, or take other action; and a description of the appeal process available to the PIHP or CMHSP. Prior to issuing the management decision, MDCH may request additional information or documentation from the PIHP or CMHSP, including a request for practitioner verification or documentation, as a way of mitigating disallowed costs. The appeal process available to the PIHP or CMHSP is included in the applicable contract.

If there are no findings, comments, and/or questioned costs, MDCH will notify the PIHP or CMHSP when the review of the examination reporting package is complete and the results of the review.

## COMPLIANCE REQUIREMENTS

The practitioner must examine the PIHP's or CMHSP's compliance with the A-K specified requirements based on the specified criteria stated below. If the CMHSP does not have a Single Audit or the CMHSP's Single Audit does not include the CMHS Block Grant (CFDA 93.958) as a major Federal program, the practitioner must also examine the CMHSP's compliance with the L-N specified requirements based on the specified criteria stated below that specifically relate to the CMHS Block Grant, but only if the CMHSP's contract amount for the CMHS Block Grant is greater than \$100,000.

### COMPLIANCE REQUIREMENTS A-J (APPLICABLE TO ALL PIHP AND CMHSP COMPLIANCE EXAMINATIONS)

#### A. FSR Reporting

The final FSR complies with contractual provisions as follows:

- a. FSR agrees with agency financial records (general ledger) (Contract, Section 6.6.1).
- b. FSR includes only allowable costs as specified in OMB Circular A-87 (located at 2 CFR Part 225); and the Mental Health Code, Sections 240, 241, and 242 (Contract, Section 6.6.1).
- c. FSR includes revenues and expenditures in proper categories and according to reporting instructions (Contract, Sections 6.6.1 and 7.8, and Attachment 7.8.1).

Differences between the general ledger and FSR should be adequately explained and justified. Any differences not explained and justified must be shown as an adjustment on the practitioner's "Examined FSR Schedule." Any reported expenditures that do not comply with the OMB Circular A-87 cost principles, the Code, or contract provisions must be shown on the auditor's "Examined FSR Schedule."

The following items should be considered in determining allowable costs:

OMB Circular A-87 cost principles (2 CFR Part 225, Appendix A, Section C. 1.) require that for costs to be allowable they must meet the following general criteria:

- a. Be necessary and reasonable for proper and efficient performance and administration of the grant.
- b. Be allocable to the grant under the provisions of the applicable OMB Circular.
- c. Be authorized or not prohibited under State or local laws or regulations.

- d. Conform to any limitations or exclusions set forth in the applicable OMB Circular, other applicable laws and regulations, or terms and conditions of the grant and agreement.
- e. Be consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit.
- f. Be accorded consistent treatment.
- g. Be determined in accordance with generally accepted accounting principles.
- h. Not be included as a cost or used to meet cost sharing or matching requirements of any other Federal award in either the current or a prior period.
- i. Be the net of all applicable credits.
- j. Be adequately documented.

Reimbursements to **subcontractors** (including PIHP payments to CMHSPs for Medicaid services) must be supported by a valid subcontract and adequate, appropriate supporting documentation on costs and services (OMB Circular A-87, Appendix A, Section C.1.j.). Contracts should be reviewed to determine if any are to related parties. If related party subcontracts exist, they should receive careful scrutiny to ensure the reasonableness criteria of OMB Circular A-87, Appendix A, Section C.1.a., was met. If subcontractors are paid on a net cost basis, rather than a fee-for-service basis, the subcontractors' costs must be verified for existence and appropriate supporting documentation (OMB Circular A-87, Appendix A, Section C.1.j.). When the PIHP pays FQHCs and RHCs for specialty services included in the specialty services waiver the payments need to be reviewed to ensure that they are no less than amounts paid to non-FQHC and RHCs for similar services. NOTE: Rather than the practitioner performing examination procedures at the subcontractor level, agencies may require that subcontractors receive examinations by their own independent practitioner, and that examination report may be relied upon if deemed acceptable by the practitioner.

Reported rental costs for **less-than-arms-length transactions** must be limited to underlying cost (OMB Circular A-87, Appendix B, Section 37.c.). For example, the agency may rent their office building from the agency's board member/members, but rent charges cannot exceed the actual cost of ownership if the lease is determined to be a less-than-arms-length transaction. Guidance on determining less-than-arms-length transactions is provided in OMB Circular A-87.

Reported costs for **sale and leaseback arrangements** must be limited to underlying cost (OMB Circular A-87, Appendix B, Section 37.b.).

**Capital asset purchases** that cost greater than \$5,000 must be capitalized and depreciated over the useful life of the asset rather than expensing it in the year of purchase (OMB Circular A-87, Appendix B, Sections 11. and 15.). All invoices for a remodeling or renovation project must be accumulated for a total project cost when

determining capitalization requirements; individual invoices should not simply be expensed because they are less than \$5,000.

Costs must be allocated to programs in accordance with relative benefits received. Accordingly, **Medicaid costs must be charged to the Medicaid Program, Adult Benefits Waiver Costs must be charged to the Adult Benefits Waiver, and GF costs must be charged to the GF Program.** Additionally, **administrative/indirect costs** must be distributed to programs on bases that will produce an equitable result in consideration of relative benefits derived in accordance with OMB Circular A-87, Appendix A, Sections C. and F., provisions.

**Distributions of salaries and wages** for employees that work on multiple activities or cost objectives, must be supported by personnel activity reports that meet the standards listed in OMB Circular A-87, Appendix B, Section 8.h.(4.).

## **B. CRCS Reporting**

The final CRCS complies with reporting instructions contained in the contract (Contract, Section 7.8, and Attachment 7.8.1).

Reimbursements to **subcontractors** (including PIHP payments to CMHSPs for Medicaid services) must be supported by a valid subcontract and adequate, appropriate supporting documentation on costs and services (OMB Circular A-87, Appendix A, Section C.1.j.). For subcontractors paid on a net cost basis, adequate supporting documentation on costs include cost reporting by the subcontractor and documented evidence that the PIHP/CMHSP monitored the subcontractor and verified costs. Contracts should be reviewed to determine if any are to related parties. If related party subcontracts exist, they should receive careful scrutiny to ensure the reasonableness criteria of OMB Circular A-87, Appendix A, Section C.1.a., was met. When the PIHP pays Federally Qualified Health Center (FQHC) and Rural Health Clinic (RHC) for specialty services included in the specialty services waiver the payments need to be reviewed to ensure that they are no less than amounts paid to non-FQHC and RHCs for similar services.

## **C. Real Property Disposition**

The PIHP's or CMHSP's real property disposition (for property acquired with Federal funds) complied with the requirements contained in the A-102 Common Rule, or 45 CFR 92.31. Specifically, the following are required:

1. The PIHP or CMHSP must have prior consent of MDCH to dispose of or encumber the title to real property acquired with Federal funds.
2. For sales of real property, the PIHP or CMHSP must ensure sales procedures provide for competition to the extent practicable and result in the highest possible return.

3. The PIHP or CMHSP must obtain disposition instructions from MDCH.
4. The PIHP or CMHSP must comply with the disposition instructions obtained from MDCH. The disposition instructions will likely require a remittance to MDCH of the Federal portion (based on the Federal participation in the project) of the net sales proceeds. If the property is retained, but no longer needed to support the program, the PIHP or CMHSP will likely be required to compensate MDCH for the Federal portion of the current fair market value of the property. If the title to the property is transferred, the PIHP or CMHSP will likely be required to compensate MDCH for the Federal portion of the current fair market value of the property.

#### **D. Administration Cost Report**

The most recently completed PIHP's or CMHSP's Administration Cost Report complies with the applicable CMHSP/PIHP Administration Cost Reporting Instructions and the applicable standards in ESTABLISHING ADMINISTRATIVE COSTS WITHIN AND ACROSS THE CMHSP SYSTEM and contract provisions.

#### **E. Procurement**

The PIHP or CMHSP followed the procurement requirements contained in 45 CFR 92.36 (b) – (i), and ensured that organizations or individuals selected and offered contracts have not been debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs as required by 45 CFR 92.35.

#### **F. Ability to Pay**

The PIHP/CMHSP determined responsible parties' insurance coverage and ability to pay before, or as soon as practical after, the start of services as required by MCL 330.1817. Also, the PIHP/CMHSP annually determine the insurance coverage and ability to pay of individuals who continue to receive services and of any additional responsible party as required by MCL 330.1828. Also, the PIHP/CMHSP complete a new determination if informed of a significant change in a responsible party's ability to pay as required by MCL 330.1828.

It should be noted that Medicaid eligible consumers are deemed to have zero ability to pay. So there is no need to determine their ability to pay. The one exception is during the period when a Medicaid eligible consumer has a deductible. In that case an ability to pay determination does apply.

The PIHP's or CMHSP's charges for services represent the lesser of ability to pay determinations or cost of services according to MCL 330.1804. Cost of services means the total operating and capital costs incurred according to MCL 330.1800.

In the comparison of cost to ability to pay the practitioner may consider a cost based rate sheet or other documentation that is supported by cost records as evidence of costs of services.

### **G. Internal Service Fund (ISF)**

The PIHP's Internal Service Fund complies with the Internal Service Fund Technical Requirement contained in Contract Attachment P 7.7.4.1 with respect to funding and maintenance.

### **H. Medicaid Savings and General Fund Carryforward**

The PIHP's Medicaid Savings was expended in accordance with the PIHP's reinvestment strategy as required by Sections 7.7.2.2 and 7.7.2.3 of the Contract. The CMHSP's General Fund Carryforward earned in the previous year was used in the current year on allowable General Fund expenditures as required by sections 7.7.1 and 7.7.1.1 of the contract. .

### **I. Match Requirement**

The PIHP or CMHSP met the local match requirement, and all items considered as local match actually qualify as local match according to Section 7.2 of the Contract. Some examples of funds that do NOT qualify as local match are: (a.) revenues (such as workers' compensation refunds) that should be offset against related expenditures, (b.) interest earned from ISF accounts, (c.) revenues derived from programs (such as the Clubhouse program) that are financially supported by Medicaid or GF, (d.) donations of funds from subcontractors of the PIHP or CMHSP, (e.) Medicaid Health Plan (MHP) reimbursements for MHP purchased services that have been paid at less than the CMHSP's actual costs, and (f) donations of items that would not be an item generally provided by the PIHP or CMHSP in providing plan services.

If the PIHP or CMHSP does not comply with the match requirement in the Mental Health Code, Section 302, or cannot provide reasonable evidence of compliance, the auditor shall determine and report the amount of the shortfall in local match requirement.



## **J. Consumer Fund Review**

The PIHP or CMHSP has policies and procedures that address residents' property and funds as required by MCL 330.1752. The policies and procedures should address the proper handling of consumer funds by the agency, if applicable, and any applicable service provider; and require PIHP/CMHSP monitoring of resident funds and valuables for compliance with the Licensing Rules for Adult Foster Care Small Group Homes (R 400.14315). Consumer funds must be maintained separate from other agency funds, revenues and expenditures must be properly tracked, consumer's funds cannot be commingled and used for each others' expenses, and sufficient controls must exist to protect the consumers' funds. The auditor should verify that the PIHP or CMHSP performed monitoring of their employees and/or service providers for compliance with the Licensing Rules for Adult Foster Care Small Group Homes (R 400.14315).

### **COMPLIANCE REQUIREMENTS K-M**

**(APPLICABLE TO CMHSPs WITH A CMHS BLOCK GRANT OF GREATER THAN \$100,000 THAT DID NOT HAVE A SINGLE AUDIT OR THE CMHS BLOCK GRANT WAS NOT A MAJOR FEDERAL PROGRAM IN THE SINGLE AUDIT)**

## **K. Activities Allowed or Unallowed**

The CMHSP expended CMHS Block Grant (CFDA 93.958) funds only on allowable activities in accordance with the OMB Circular A-133 Compliance Supplement and the Grant Agreement between MDCH and the CMHSP. CMHS Block Grant funds were NOT expended to supplant existing mental health funding; fund Medicaid-approved services; purchase medications; purchase or lease vehicles; purchase vehicle insurance; pay for administrative or indirect expenses; provide inpatient hospital services; make cash payments to recipients of health services; purchase or improve land; purchase, construct, or permanently improve any building; purchase major medical equipment; provide matching funds for other Federal funding; or provide financial assistance to any entity other than a public or non-profit entity.

## **L. Cash Management**

The CMHSP complied with the applicable cash management compliance requirements that are contained in the OMB Circular A-133 Compliance Supplement. This includes the requirement that when entities are funded on a reimbursement basis, program costs must be paid for by CMHSP funds before reimbursement is requested from MDCH.

**M. Sub-recipient Monitoring**

If the CMHSP contracts with other sub-recipients (“sub-recipient” per the OMB Circular A-133 definition) to carry out the Federal CMHS Block Grant Program, the CMHSP complied with the following requirements of OMB Circular A-133, Section .400 (d):

1. properly identified Federal award information and compliance requirements to the subrecipient, and approved only allowable activities in the award documents;
2. monitored subrecipient activities to provide reasonable assurance that the subrecipient administered Federal awards in compliance with Federal requirements;
3. ensured required audits are performed, issued a management decision on audit findings within 6 months after receipt of the sub-recipient’s audit report, and ensured that the subrecipient took timely and appropriate corrective action on all audit findings; and
4. took appropriate action using sanctions if a subrecipient had a continued inability or unwillingness to have the required audits performed.

**RETENTION OF WORKING PAPERS AND RECORDS**

Examination working papers and records must be retained for a minimum of three years after the final examination review closure by MDCH. Also, PIHPs are required to keep affiliate CMHSP’s reports on file for three years from date of receipt. All examination working papers must be accessible and are subject to review by representatives of the Michigan Department of Community Health, the Federal Government and their representatives. There should be close coordination of examination work between the PIHP and affiliate CMHSP auditors. To the extent possible, they should share examination information and materials in order to avoid redundancy.

## EFFECTIVE DATE AND MDCH CONTACT

These CMH Compliance Examination Guidelines are effective beginning with the fiscal year 2012/2013 examinations. Any questions relating to these guidelines should be directed to:

Debra S. Hallenbeck, Manager  
Quality Assurance and Review, Office of Audit  
Michigan Department of Community Health  
Capital Commons Center  
400 S. Pine Street  
Lansing, Michigan 48933  
[hallenbeckd@michigan.gov](mailto:hallenbeckd@michigan.gov)  
Phone: (517) 241-7598 Fax: (517) 241-7122

**GLOSSARY OF ACRONYMS AND TERMS**

- AICPA.....American Institute of Certified Public Accountants.
  
- CMHS Block Grant Program.The program managed by CMHSPs under contract with MDCH to provide Community Mental Health Services Block Grant program services under CFDA 93.958.
  
- CMHSP.....Community Mental Health Services Program (CMHSP). A program operated under Chapter 2 of the Michigan Mental Health Code – Act 258 of 1974 as amended.
  
- Examination Engagement .....A PIHP or CMHSP’s engagement with a practitioner to examine the entity’s compliance with specified requirements in accordance with the AICPA’s Statements on Standards for Attestation Engagements (SSAE) 10 – Compliance Attestation – AT 601 (Codified Section of AICPA Professional Standards).
  
- GF Program.....The program managed by CMHSPs under contract with MDCH to provide mental health services and supports to individuals with serious mental illness, serious emotional disturbances or developmental disabilities as described in MCL 330.1208.
  
- MDCH.....Michigan Department of Community Health
  
- Medicaid Program.....The Concurrent 1915(b)/(c) Medicaid Program managed by PIHPs under contract with MDCH.
  
- Adult Benefits Waiver .....The Michigan Medicaid Non-Pregnant Childless Adults Waiver (Adult Benefits Waiver) Section 1115 Demonstration Program managed by PIHPs under contract with MDCH
  
- PIHP .....Prepaid Inpatient Health Plan. An organization that manages Medicaid specialty services under the state’s approved Concurrent 1915(b)/1915(c) Waiver Program, on a prepaid, shared-risk basis, and manages services under the state’s approved Michigan Medicaid Non-Pregnant Childless Adults Waiver (Adult Benefits Waiver) Section 1115 Demonstration Program.

- Practitioner.....A certified public accountant in the practice of public accounting under contract with the PIHP or CMHSP to perform an examination engagement.
- SSAE.....AICPA’s Statements on Standards for Attestation Engagements.

**APPEAL PROCESS FOR COMPLIANCE EXAMINATION MANAGEMENT DECISIONS**

The following process shall be used to appeal MDCH management decisions relating to the Compliance Examinations that are required in Section 7.6 of the Master Contract.

**STEP 1: MANAGEMENT DECISION**

MDCH Office of Audit	Within six months after the receipt of a complete and final Compliance Examination, MDCH shall issue to the PIHP/CMHSP a management decision on findings and questioned costs contained in the PIHP/CMHSP examination report. The management decision will include whether or not the examination finding is sustained; the reasons for the decision; the expected PIHP/CMHSP action to repay disallowed costs, make financial adjustments, or take other action; and a description of the appeal process available to the PIHP/CMHSP.
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**STEP 2: SETTLEMENT AND DISPUTE OF FINDINGS AND QUESTIONED COSTS**

PIHP/CMHSP	<p>1. Within 30 days of receipt of the management decision:</p> <p style="padding-left: 40px;">A. Submits payment to MDCH for amounts due other than amounts resulting from disputed items; and</p> <p style="padding-left: 40px;">B. If disputing items.</p> <p style="padding-left: 40px;">i. Requests a conference with the Director of the Operations Administration, or his or her designee, to attempt to reach resolution on the audit findings, or submits to the MDCH Administrative Tribunal &amp; Appeals Division a request for the Medicaid Provider Reviews and Hearings Process pursuant to MCL 400.1, et seq. and MAC R400.3401, et seq. as specified in ii below.</p> <p>Any resolution as a result of a conference</p>
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	<p>with the Director of the MDCH Operations Administration would not be binding upon either party unless both parties agree to the resolution reached through these discussions. If the parties agree to a resolution the terms will be reduced to a written settlement agreement and signed by both parties. If no resolution is reached then there will be no obligation on the part of MDCH to produce a report of the conference process.</p> <p>Matters that remain unresolved after these discussions, would move to the Administrative Hearing process, at the discretion of the CMHSP/PIHP.</p> <p>Administrative Hearing process</p> <p>ii. Submits to the MDCH Administrative Tribunal &amp; Appeals Division a request for the Medicaid Provider Reviews and Hearings Process pursuant to MCL 400.1, et seq. and MAC R 400.3401, et seq. This process will be used for all PIHP/CMHSP disputes involving Compliance Examinations whether they involve Medicaid funds or not. Requests must identify the specific item(s) under dispute, explain the reason(s) for the disagreement, and state the dollar amount(s) involved, if any. The request must also include any substantive documentary evidence to support the position. Requests must specifically identify whether the agency is seeking a preliminary conference, a bureau conference or an administrative hearing.</p> <p>If MDCH does not receive a request for a preliminary conference, a bureau conference or an administrative hearing within 30 days of the date of the management decision, the management decision will constitute MDCH's Final Determination Notice according to</p>
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	<p>MAC R 400.3405.</p> <p>C. Provides copies of the request for the Medicaid Provider Reviews and Hearings Process to the MDCH Office of Audit, MDCH Contract Management, and MDCH Accounting.</p>
MDCH Accounting	<p>2. If the PIHP/CMHSP has not requested a conference with the Director of Operations Administration or the Medicaid Provider Reviews and Hearings Process within the timeframe specified, implements the adjustments as outlined in the management decision. If repayment is not made, recovers funds by withholding future payments.</p>
MDCH Contract Management Unit	<p>3. Ensures audited PIHP/CMHSP resolves all funding in a satisfactory manner. Works with the audited PIHP/CMSHP on developing performance objectives, as necessary.</p>

**STEP 3. MEDICAID PROVIDER REVIEWS AND HEARINGS PROCESS**

MDCH Administrative Tribunal & Appeals Division	<p>Follows the rules contained in MAC R 400.3401, et seq., and various internal procedures regarding meetings, notifications, and decisions.</p>
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**CMHSP contract attachment 7.8.1 Financial Planning, Reporting and Settlement**

The CMHSP shall provide the financial reports to MDCH as listed below. Forms and instructions are posted to the MDCH website address at:

[http://www.michigan.gov/mdch/0,1607,7-132-2941\\_38765---,00.html](http://www.michigan.gov/mdch/0,1607,7-132-2941_38765---,00.html)

[Submit completed reports electronically \(Excel or Word\) to: MDCH-MHSA-Contracts-MGMT@michigan.gov](mailto:MDCH-MHSA-Contracts-MGMT@michigan.gov) except for reports noted in table below.

<u>Due Date</u>	<u>Report Title</u>	<u>Report Period</u>
1/31/2013	1Q Special Fund Account – Section 226a, PA of the MHC	October 1 to December 31
4/30/2013	2Q Special Fund Account – Section 226a, PA of the MHC	October 1 to March 31
5/31/2013	Mid-Year Status Report	October 1 to March 31
8/15/2013	Financial Status Report – All Non-Medicaid	October 1 to June 30
8/15/2013	State Services Utilization, Reconciliation & Cash Analysis	October 1 to June 30
8/15/2013	3Q Special Fund Account – Section 226a, PA of the MHC	October 1 to June 30
8/15/2013	Projection Financial Status Report – All Non-Medicaid,	October 1 to September 30
8/15/2013	Projection State Services Utilization, Reconciliation & Cash Analysis	October 1 to September 30
8/15/2013	Projection General Fund Contract Settlement Worksheet	October 1 to September 30
8/15/2013	Projection General Fund Reconciliation and Cash Settlement	October 1 to September 30
10/15/2013	General Fund – Year End Accrual Schedule	October 1 to September 30
11/10/2013	Interim Financial Status Report – All Non-Medicaid,	October 1 to September 30
11/10/2013	Interim State Services Utilization, Reconciliation & Cash Analysis	October 1 to September 30
11/10/2013	Interim Special Fund Account – Section 226a, PA of the MHC	October 1 to September 30
11/10/2013	Interim General Fund Contract Settlement Worksheet	October 1 to September 30
11/10/2013	Interim General Fund Reconciliation and Cash Settlement	October 1 to September 30
1/01/2014	Categorical Funding – Multi-cultural Annual Report	October 1 to September 30
1/31/2014	Annual Report on Fraud and Abuse Complaints	October 1 to September 30
2/28/2014	Final Financial Status Report – All Non-Medicaid	October 1 to September 30
2/28/2014	Final State Services Utilization, Reconciliation & Cash Analysis	October 1 to September 30

MDCH/CMHSP Managed Specialty Supports and Services Contract FY 13 – Attachment C.7.8.1

2/28/2014	Final Special Fund Account – Section 226a, PA of the MHC	October 1 to September 30
2/28/2014	Final General Fund Reconciliation and Cash Settlement	October 1 to September 30
2/28/2014	Final General Fund Contract Settlement Worksheet	October 1 to September 30
2/28/2014	Sub-Element Cost Report	See Attachment 6.5.1.1 Submit report to: <a href="mailto:QMPMeasures@michigan.gov">QMPMeasures@michigan.gov</a>
2/28/2014	Annual Submission Requirement Form – Estimated FTE Equivalents	For the fiscal year ending October 1 to September 30, 2013
2/28/2014	Annual Submission Requirement Form – Requests for Services and Disposition of Requests	For the fiscal year ending October 1 to September 30, 2013
2/28/2014	Annual Submission Requirement Form – Summary of Current Contracts for MH Services Delivery – Form 1	For the fiscal year ending October 1 to September 30, 2013
2/28/2014	Annual Submission Requirement Form – Summary of Current Contracts for MH Services Delivery – Form 2	For the fiscal year ending October 1 to September 30, 2013
2/28/2014	Annual Submission Requirement Form – Waiting List	For the fiscal year ending October 1 to September 30, 2013
2/28/2014	Annual Submission Requirement Form – Specialized Residential	For the fiscal year ending October 1 to September 30, 2013
2/28/2014	Annual Submission Requirement Form – Community Needs Assessment	For the fiscal year ending October 1 to September 30, 2013
3/31/2014	CMHSP Administrative Cost Report	For the fiscal period ending October 1 to September 30, 2013
30 days after submission	Annual Audit Report, Management Letter, and CMHSP Response to the Management Letter. Compliance exam and plan of correction	October 1 to September 30 Submit reports to: <a href="mailto:MDCHAuditReports@michigan.gov">MDCHAuditReports@michigan.gov</a>

**MDCH AUDIT REPORT & APPEAL PROCESS**

The following process shall be used to issue audit reports, and appeal audit findings and recommendations. Established time frames may be extended by mutual agreement of the parties involved.

**STEP 1. AUDIT / PRELIMINARY ANALYSIS / RESPONSE**

MDCH Office of Audit	1. Completes audit of PIHP and holds an exit conference with PIHP management. 2. Issues a preliminary analysis within 60 days of the exit conference. The preliminary analysis is a working document and is not subject to Freedom of Information Act requests.
Audited PIHP	3. Within 10 days of receipt of the preliminary analysis, requests a meeting with the MDCH Office of Audit to discuss disputed audit findings and conclusions in the preliminary analysis. Since the preliminary analysis serves as the basis for the final report, the PIHP shall take advantage of this opportunity to ensure that any factual disagreements or wording changes are considered before the final report is issued.
MDCH Office of Audit	4. <u>If a meeting is requested</u> , convenes a meeting to discuss concerns regarding the preliminary analysis.
Audited PIHP	5. Within 14 days of the meeting with the MDCH Office of Audit to discuss the preliminary analysis, submits to the MDCH Office of Audit any additional evidence to support its arguments.
MDCH Office of Audit	6. Within 30 days of either the meeting to discuss the preliminary analysis, or receipt of additional information from the PIHP, whichever is later, revises and issues the preliminary analysis as appropriate based on factual information submitted at the meeting or other supporting documentation provided subsequent to the meeting.
Audited PIHP	7. Within 30 days of receipt of the revised preliminary analysis, submits a brief written response indicating agreement or disagreement with each finding and recommendation. If there is disagreement, the response shall explain the basis or rationale for the disagreement and shall include additional documentation if appropriate. If there is agreement, the response shall briefly describe the

	<p>actions to be taken to correct the deficiency and an expected completion date. Include responses on the Corrective Action Plan Forms included in the preliminary analysis.</p> <p>8. If a meeting is not requested, within 30 days of receipt of the preliminary analysis, submits a brief written response to each finding and recommendation as described in STEP 1, #7 above.</p>
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**STEP 2. FINAL AUDIT REPORT**

MDCH Office of Audit	<p>1. Within 30 days of receipt of the PIHPs response to the preliminary analysis, prepares and issues final audit report incorporating paraphrased PIHP's responses, and Office of Audit responses where deemed necessary.</p> <p>2. Forwards final audit report to audited PIHP and other relevant parties. The letter bound with the final audit report describes the audited PIHP's appeal rights.</p>
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**STEP 3. SETTLEMENT AND DISPUTE OF FINDINGS**

Audited PIHP	<p>1. Within 30 days of receipt of the final audit report:</p> <p>A. Submits payment to MDCH for amounts due other than amounts resulting from disputed findings; and</p> <p>B. If disputing findings, submits to the MDCH Administrative Tribunal &amp; Appeals Division a request for the Medicaid Provider Reviews and Hearings Process pursuant to MCL 400.1 et seq. and MAC R 400.340 1, et seq. This process will be used for all CMHSP audits regarding the Specialty Service Contract whether they involve Medicaid funds or not. Requests must identify the specific audit adjustment(s) under dispute, explain the reason(s) for the disagreement, and state the dollar amount(s) involved, if any. The request must also include any substantive documentary evidence to support the position. Requests must specifically identify whether the agency is seeking a preliminary conference, a bureau conference or an administrative hearing.</p>
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	<p>If MDCH does not receive a request for a preliminary conference, a bureau conference or an administrative hearing within 30 days of the date of the letter transmitting the final audit report, the letter will constitute MDCH's Final Determination Notice according to MAC R 400.3405.</p> <p>C. Provides copies of the request for the Medicaid Provider Reviews and Hearings Process to the MDCH Office of Audit, MDCH Contract Management, and MDCH Accounting.</p>
MDCH Accounting	<p>2. If the PIHP has not requested the Medicaid Provider Reviews and Hearings Process within the time frame specified, implements the adjustments as outlined in the final report. If repayment is not made, recovers funds by withholding future payments.</p>
MDCH Contract Management Unit	<p>3. Ensures audited PIHP resolves all findings in a satisfactory manner. Works with the audited PIHP on developing performance objectives, as necessary.</p>

**STEP 4. MEDICAID PROVIDER REVIEWS AND HEARINGS PROCESS**

MDCH Administrative Tribunal & Appeals Division	<p>Follows the rules contained in MAC R 400.3401, et seq., and various internal procedures regarding meetings, notifications, documentation, and decisions.</p>
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