

SHIAWASSEE COUNTY COMMUNITY MENTAL HEALTH AUTHORITY

POLICY AND PROCEDURE MANUAL

Section: Clinical
Policy Number: 9
Subject: **Self Determination**

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Policy

It is the policy of Shiawassee County Community Mental Health Authority (SCCMHA) to ensure that any adult with a developmental disability or a persistent mental illness qualifying for specialty mental health services be given the opportunity to participate in self determination.

Purpose

The purpose of this policy and procedure is to establish the requirement that SCCMHA offers self determination as a process for adults with severe and persistent mental illness or developmental disability, according to locally developed and adopted Self Determination Policies and Procedures.

Application

- a. Supports Coordinators for persons with a developmental disability or mental illness, ACT staff, outpatient therapists and psychiatrists.
- b. SCCMHA financial staff

Definitions

Consumer: For the purpose of this policy, “consumer” will be the individual receiving direct services and his/her selected representative. That is, the consumer may select a representative to enter into the self determination agreement and for other agreements that may be necessary for the consumer to participate in consumer directed supports and services arrangements. Where the consumer has a guardian, the role of the guardian shall be as the consumer’s representative, if the guardian arrangement so requires. A person selected as the representative of the consumer shall not replace the role of the consumer in the process of person centered planning, in accordance with the Mental Health Code and the requirements of the contract between the Community Mental Health Services Program (CMHSP) and the Department of Community Health.

Where a consumer has been deemed to require a legal guardian, there is an obligation on the part of the CMHSP and those close to the person to assure that

it is the consumer's preferences and dreams that drive the use of self determination arrangements and that the best interests of the consumer are primary.

CMHSP: For the purposes of this policy, a Community Mental Health Services Program (CMHSP) 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 individuals eligible for mental health services.

Self Determination: This philosophy is based on a belief that individuals requiring supports 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. It is imperative that services and supports for individuals being served are not only person centered, but person defined and person controlled. Self determination is based on the following four principles:

- a. Freedom: The ability for individuals with assistance from significant others (e.g., chosen family, friends, allies, etc.) 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 wants to live, who and how to connect to one's community, the opportunity to contribute in one's own ways, and the development of a personal lifestyle.
- b. Authority: The assurance for a person with a disability to obtain certain services in order to provide the necessary supports, with the backing of their significant others, as needed. It is the authority to control the resources available for supports.
- c. Support: The arranging of resources and personnel, both formal and informal, to assist the individual living his/her desired life in the community, rich in community associations and contributions. It is the support needed to develop the life one chooses.
- d. Responsibility: The acceptance of a valued role by the individual in the community through employment, affiliations, spiritual development, and caring for others, as well as the accountability for spending public dollars in a way that is safe and life enhancing. This includes the responsibility to use public funds efficiently since an individual has the opportunity to control and direct the use of services that are identified in the personal care planning. It is also expected that the individual have the responsibility to contribute to the community through responsible citizenship.

Person-Centered Planning: 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 honor the individual's preference, choices and abilities. The process is comprised of friends, family, and any professionals who are identified or invited by the individual.

Plan: A plan means the consumer's Individual Plan of Services and/or Supports as developed using a person centered planning process.

Fiscal Intermediary: A fiscal intermediary is an independent legal entity (organization or individual) that acts as a fiscal agent of the CMHSP for the purpose of assuring fiduciary accountability for the funds comprising a consumer's individual budget. A fiscal intermediary shall perform its duties as specified in a contract with a CMHSP or its designated subcontractor. The purpose of the fiscal intermediary is to receive funds making up the person's individual budget and make payments as authorized by the person to providers and other parties to whom a person using the individual budget may be obligated. A fiscal intermediary may also provide a variety of supportive services that assist the person in selecting, employing, and directing individual and agency providers. Examples of entities that might serve in the role of fiscal intermediary include bookkeeping or accounting firms, local ARC or other advocacy organization, a subsidiary of a service provider entity if no conflict of interest exists.

Support Coordinator/Case Manager: A qualified person selected by the individual to provide assessment, assistance with support plan development, linking and coordination, reassessment and follow up, and on going monitoring of supports and services.

Support Circle/Network: The support circle or network consists of the individuals who have been identified by the consumer to participate in his/her person centered plan. This most often includes family, friends, neighbors, professionals, freely chosen allies, and other natural supports. These individuals may sometimes be referred to as a planning team.

Individual Budget: An individual budget is a fixed allocation of public mental health resources and may also include other public resources whose access involves the assistance of the CMHSP denoted in dollar terms. This allocation is driven by services identified in the person centered plan. These resources are agreed upon as necessary costs of specialty mental health services and supports needed to accomplish a person's plan of services or supports. The consumer served uses the funding authorized to acquire, purchase, and pay for specialty

mental health services and supports that support accomplishment of the consumer's plan.

Qualified Provider: A qualified provider is a provider of services or supports who can demonstrate compliance with the requirements contained in the contract between the Department of Community Health and the 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 consumer's person centered planning process and should be specified in the person's plan or result from a process developed locally to assure the health and well being of consumers conducted with the full input and involvement of local consumers and advocates.

Choice Voucher System: The choice voucher system is a term describing a set of arrangements where an individual served by the public mental health system may be authorized to use an individual budget to directly obtain one or more of the services and supports required to accomplish the person's plan of services. The system supports ways to apply resources to the costs of services and supports obtained from qualified providers chosen by the individual. The system supports the consumer to be a direct employer of personal assistants, the contractor for services or supports with qualified providers, and in a lead role in determining where and by whom needed services will be provided. In a choice voucher system, most often an independent fiscal intermediary is used to handle the funds making up the individual's budget. They also assure compliance with tax and labor law requirements for those who the individual employs. A CMHSP has been provided with the authority to issue a choice voucher to a consumer in accordance with his/her plan of services and supports as provided by the Mental Health Code. The choice voucher system requires the CMHSP to assist and support its use through development of the proper agreements and contracts linking qualified providers to the consumer and assuring that provider arrangements fit with pertinent local, state, and federal requirements. Included in this is the use of agreements between each provider and the CMHSP that assure provider compliance with requirements associated with the use of Medicaid funds.

Standards / Procedures

1. Self determination arrangements will be considered a partnership between SCCMHA and the consumer where SCCMHA will be committed to provide a range of options that promote consumer choice and control. As a partner, SCCMHA will assist the consumer in selecting qualified providers and will support the consumer's success by using resources allotted in an individual budget. Issues concerning health and safety are imperative and must be considered to assure success in a consumer's plan of service and supports. Self determination arrangements must be developed and

- operated within the requirements of the Michigan Department of Community Health.
2. Self determination arrangements will begin when the consumer and SCCMHA reach an agreement on a plan of specialty mental health services and supports, the amount of mental health and other public resources to be authorized to accomplish the plan, and the arrangements where authorized public mental health resources will be controlled, managed, and accounted for.
 3. When individuals and or their representative inform their Supports Coordinator they are requesting self determination, their Supports Coordinator will notify the Director of Services to Developmentally Disabled and Elderly or the Director of Recovery and Self Determination.
 4. Developing a Plan
 - a. A person centered planning process will be used in the development of a plan of services and supports. This will be supported by the development of an independent budget.
 - b. SCCMHA employees involved in the planning process will support and facilitate a consumer's application of the principles of self determination.
 - c. The individual budget will represent a best estimate of the cost needed to accomplish the individual's identified plan.
 - d. Self determination will not be used to reduce obligations to the consumer or to avoid providing critical services and supports.
 - e. The plan cannot support choices that have the potential to do harm, are illegal, or present a devalued image to the consumer.
 - f. The Support Coordinator will have current services and contract rates for services available for the consumer and the planning team at the person centered planning meeting.
 - g. The consumer and planning team will explore creative options for helping the consumer achieve his/her desires with respect to where he/she wants to live, with whom, how he/she wants to spend his/her time and what he/she wants to do within his/her financial means from personal resources (ex. SSI, SSDI, family, work, etc.).

- h. The plan should include the type and level of services and supports needed for the consumer to achieve his/her identified dreams and desires which fall within what CMH would legally pay for.
 - i. The plan should first include and draw upon any family and natural supports that the consumer is utilizing or could utilize to accomplish his/her identified dreams and desires.
 - j. The plan will explore the level of independence, individual talents, and abilities that will be considered strengths when exploring dreams and desires.
 - k. The planning team will ensure that the consumer's and/or designated representative's wishes drive the plan and that every attempt is made to offer choices and alternatives.
 - l. Within the obligations that accompany the use of funds provided, SCCMHA will ensure that service planning and delivery processes encourage and support a consumer's desire to control his/her own life. The consumer's plan with identified needs, dreams, and desires will guide his/her individual budget.
5. Developing the Budget
- a. The use of an individual budget and the wise use of public funds is a shared fiscal responsibility between the consumer and SCCMHA.
 - b. A written agreement between the consumer and SCCMHA will serve to assure both parties individual responsibilities with regard to the consumer budget. A copy of the consumer's support plan and his/her individual budget will accompany this agreement.
 - c. Although the consumer has the authority to direct his/her identified budget to achieve his/her plan, the mental health funds in an individual budget are the asset and responsibility of SCCMHA and must be used consistent with statutory and regulatory requirements.
 - d. An individual budget will be flexible in its use as planned adjustments can be made by notifications in the person centered planning meetings as person centered plans are updated.
 - e. When funding or resources other than that of SCCMHA are used the consumer will be assisted in working within the constraints that may accompany them.

- f. During the person centered planning process the Supports Coordinator will introduce an individual budget worksheet which will detail various categories and line items incorporating the consumer's earned and unearned income and estimated expenses. SCCMHA maintains sole authority to obtain fair market ruling for notes. Non-paid or natural supports must be integrated into the plan. The worksheet will serve as an approximate cost of support and services required to support the consumer in his/her plan.
- g. The consumer and his/her support team will meet as needed to gather budgetary details relating the consumer's plan.
- h. The amount of the individual's budget will be formally agreed upon by both the consumer and SCCMHA before the consumer is authorized to use it. Once authorized the individual budget will be filed with the consumer's approved plan of service.
- i. The individual budget will be in effect to coincide with the person centered plan.
- j. Since the budget is based on the consumer's specialty mental health service and support need, the budget may need to be changed when the plan changes. A consumer's wish to terminate the self determination agreement will not, by itself, change the consumer's plan of service nor eliminate the obligation of SCCMHA to provide services and supports identified in the plan.

6. Provider Arrangements

- a. Consumers at SCCMHA shall use their individual budget to assist in their decision about who they want to provide their services and supports.
- b. A variety of provider options will be made available to all consumers and may include the following:
 - i. A person or provider entity currently employed by or under contract with SCCMHA,
 - ii. A qualified provider chosen by the consumer who agrees to contract with SCCMHA,
 - iii. A provider chosen by the consumer with whom the consumer administers a direct purchase of service agreement.

- c. When a consumer enters into a direct purchase of service agreement with a provider the consumer and SCCMHA staff will be responsible for assuring that the consumer meets applicable provider requirements as established by SCCMHA.
- d. In conjunction with the fiscal intermediary the consumer with assistance from a responsible SCCMHA staff will assure written agreements are developed with each provider entity or individual that specifies the type and amount of service or support, the specific job duties, the provider qualifications, and the rate to be paid. Copies of all agreements must be current and made available for review and approval by SCCMHA.
- e. Consumers will be expected to purchase providers carefully to prevent being extravagant in cost. Existing natural supports including personal and community resources shall be pursued before using public mental health system resources. Fees and rates paid to the providers will be negotiated by the consumer but must remain within the boundaries of the approved budget and rate limits established by SCCMHA. Fiscal intermediary may provide the consumer guidance as to the range and costs of provider rates.
- f. Consumers participating in self determination will be encouraged to select a CLS in home provider from the agency's current provider panel. Upon request consumers will be provided a listing of current CLS home providers who have been approved by SCCMHA. Providers outside of the approved network will be required to apply and subsequently meet all established network criteria.
- g. Consumers who wish to select, employ, and direct their support personnel will be guided in that process thorough a fiscal intermediary under contract with SCCMHA or a designated subcontracting agency. Consumers who wish to choose another fiscal intermediary entity may do so but that fiscal intermediary entity must meet all of the requirements established by SCCMHA to serve in that role.
- h. SCCMHA will assure that fiscal intermediary entities are oriented to and supportive of self determination principles and are able to work with a range of consumer styles and characteristics. SCCMHA will be responsible for assuring that the select fiscal intermediary is capable of meeting and complying with the requirements associated with their stated function.
- i. Responsibilities of the fiscal intermediary may include:

- i. Acting as payroll agent for persons directly employed by the consumer which includes managing payroll withholding and employee insurance, acting as employer agent for the IRS, and maintaining personnel records;
 - ii. Acting as payment agent to providers of services and supports provided to the consumer;
 - iii. Providing the consumer and SCCMHA monthly financial status reports concerning an individual budget in a format that is user friendly for the consumer; and
 - iv. Assist consumers with ensuring that staff meets the standards in regards to training, criminal background checks, etc.
- j. SCCMHA will assure that the fiscal intermediary is free from conflict of interest relationships between the consumer and SCCMHA and that they are not direct providers of services. SCCMHA will work with the consumer and his/her fiscal intermediary to assure that there is compliance with state and federal requirements. SCCMHA will support the relationship between the consumer and the fiscal intermediary by providing information and encouraging the principles of self determination.

7. Termination

- a. Both the consumer and SCCMHA reserve the right to terminate a self determination agreement and arrangement given applicable notice, 30 days or immediate termination.
- b. SCCMHA provides an opportunity for problem resolution using a person centered approach related to issues that have lead to consideration of termination or alteration of the agreement.
- c. Termination will remain an option if other mutual agreeable solutions cannot be found. Termination of the self determination agreement will not necessarily change the plan of service but will discontinue the consumer's right to control the individual budget. In any instance of SCCMHA discontinuation or alteration of a self determination arrangement the local processes for dispute resolution may be used to address and resolve these issues.

8. Appeals

- a. The consumers will be encouraged to seek resolution through line staff and supervisory staff.

- b. If the consumer is not satisfied with the results they may submit a complaint in writing to the SCCMHA Recipient Rights Officer. The consumer may also appeal to the SCCMHA Chief Executive Officer.
- c. Consumers who have Medicaid may also request a Medicaid Fair Hearing from the Department of Community Health; Notice and Hearing Rights other advocacy organizations; a subsidiary of a service provider entity if no conflict of interest exists.

Related Forms

Medicaid procedure agreement

Related Materials

Training forms and requirements

Reference / Legal Authority

- 1. MDCH Specialty Pre-paid Health Plan 2002 Application for Participation Expected Contract Requirements, Second Draft, 1-3-02.
- 2. MDCH Self Determination Practice Guideline

Approved by: *Jerry Walden*
Board Chairperson

 4/28/08
Date

 Scott Gilman
Chief Executive Officer

 4/28/08
Date

