

# SANILAC COUNTY COMMUNITY MENTAL HEALTH AUTHORITY

## CLINICAL POLICY

**NUMBER: BC014**

**NAME: SELF DETERMINATION POLICY**

INITIAL APPROVAL DATE:	11/30/1999	BY: Sanilac CMH Board
STAKEHOLDER REVIEW:	08/21/2023	BY: Parent Advisory Council
(LAST) REVISION DATE:	10/15/2013	BY: Clinical Policy Committee
(LAST) REVIEW DATE:	03/16/2023	BY: Policy Committee
DISCONTINUED DATE:	N/A	REPLACED BY: N/A

### I. APPLICATION

Populations: **ALL**

Programs: **All Direct and Contracted Programs and Services**

### II. POLICY

It shall be the policy of the Sanilac County Community Mental Health Authority to assure that Self Determination arrangements are available to all adult participants who have a mental illness and/or intellectual/developmental disability who are eligible for public mental health services. 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. Choice Voucher is what Self Determination is called for children.

### III. DEFINITIONS

A. **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. Within Michigan's public mental health system, self-determination involves accomplishing systemic change to assure that services and supports for people are not only person-centered, but person-defined and person-controlled.

1. **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 services and 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 in one's community, the opportunity to contribute in one's own way, and the development of a personal lifestyle.
2. **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 that are available for supports and services.
3. **Support:** the arranging of resources and personnel, both formal and informal, to assist the person in living his or her desired life in the community, rich in community associations and contributions. It is the **support** to develop a life dream or ambition and reach toward that dream.
4. **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

## Sanilac County Community Mental Health Authority Policy

use public funds efficiently and to contribute to the community through the expression of responsible citizenship.

B. Fiscal Intermediary: An independent legal entity (organization or individual) that acts as a fiscal agent of the Community Mental Health Service Provider (CMHSP) for the purpose of assuring fiduciary accountability for the funds comprising a recipient'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 a recipient's individual budget, and make payments as authorized by the recipient to providers and other parties to whom a recipient using the individual budget may be obligated. A fiscal intermediary may also provide a variety of supportive services that assist the recipient 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; the local Arc or other advocacy organizations if those organizations do not provide direct services to the beneficiary; a subsidiary of a service provider entity if no conflict of interest exists.

C. 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. These resources are agreed upon as the necessary cost of specialty mental health services and supports needed to accomplish a recipient's plan of services/supports. The recipient served uses the funding authorized to acquire, purchase, and pay for specialty mental health services and supports that support accomplishment of the recipient's plan.

D. Qualified Provider: An individual worker, a specialty practitioner, professional, agency or vendor, excluding Guardian, 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 CMHSP, including applicable requirements that accompany specific funding sources, such as Medicaid, i.e.:

- At least 18 years of age.
- Able to prevent transmission of any communicable disease from self to others in the environment in which they are providing supports.
- Able to communicate expressively and receptively to follow individual plan requirements and beneficiary-specific emergency procedures, and report on activities performed.
- In good standing with the law according to the MDCH/PIHP contract (i.e., not a fugitive from justice, a convicted felon, or an illegal alien).

## IV. **STANDARDS**

- A. Participation in Self-Determination shall be a voluntary option made available to all adult recipients of services.
- B. Participants shall responsibly control the resources allotted in an individual budget toward accomplishing the goals/objectives in their plan.
- C. Self-Determination shall not serve as a method for the CMHSP to reduce its obligation to the recipient or avoid the provision of specialty mental health services/supports.
- D. Agreement on the plan must include a description of the arrangements that may be applied by the individual to select, control, and direct the provision of those services/supports.
- E. Development of an individual budget shall be done as part of the plan and agreed to by the recipient and the CMHSP. A copy of the completed plan and budget must be provided to the

## Sanilac County Community Mental Health Authority Policy

recipient prior to the start of the self-determination arrangement and within 15 days of the meeting date.

1. The directions and assistance necessary for the recipient to properly apply the individual budget shall be provided to the recipient, in writing, when the agreement is finalized.
  2. Mental Health funds comprising an individual budget are the property and responsibility of the CMHSP. Authority over their direction is delegated to the participant, for the purpose of achieving the goals and outcomes contained in the recipient's plan of service.
  3. An agreement shall be made in writing between the CMHSP and the participant describing the responsibility and the authority of both parties in the use of the individual budget.
  4. An individual budget, once authorized, shall accompany the plan of service. It shall be in effect for a defined period of time, typically one year. Since the budget is based upon the plan of service and supports, when the plan needs to be changed, the budget must be reconsidered as well. In accordance with the person-centered planning practice guidelines, the plan may be reopened and reconsidered whenever the person or the agency feels it needs to be reconsidered.
  5. The funds aggregated and used to finance an individual budget may be controlled by more than one funding source. Flexibility in the use of these funds is therefore constrained by the specific limitation of funding sources (e.g., Home Help, VA, Vocational Rehabilitation, etc.)
  6. An individual budget shall be flexible in its use. Adjustments in the application of the individual budget shall occur within the framework that has been agreed to by the individual and the CMHSP and described in an attachment to the self-determination agreement.
  7. Funds allotted for specialty mental health services may only be used to purchase specialty mental health services. Contracts with providers of specialty mental health services should not be entered into if they are not fiscally prudent.
- F. Either party, the recipient or the CMHSP, may terminate a self-determination agreement. Prior to terminating and unless it is not feasible, each party shall inform the other of the issues that have led to considering termination and provide an opportunity for problem resolution. Typically, this will be conducted using the person-centered planning process.
- G. Community Dispute Resolution resources, the local Medicaid grievance system rules, and the Mental Health Code dispute resolution process will be available for use by the parties to resolve any disputes not resolved in the planning process.
- H. An individual shall be able to use any willing and qualified provider, excluding Guardian, (see definition) who is available to provide the needed treatment, services, and supports. Approaches may include CMHSP Direct Operated or contractual services, or a direct purchase of a service agreement.

**STANDARDS cont.**

1. Fees and rates paid to providers with a direct purchase of service agreement shall be negotiated by the individual. The participant must stay within the boundaries of the authorized individual budget. The CMHSP shall provide guidance as to the range of applicable rates and may set maximum amounts that may be spent to pay specific providers.
  2. Where selected and directed, a provider of services has a direct contract with the CMHSP, the provider may be paid by the 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 CMHSP as a matter of fiscal efficiency.
- I. An individual shall be able to access alternative methods to choose, control, and direct personnel necessary to provide direct support including:
1. Acting as the employer of record of personnel.
  2. Access to a provider entity that can serve as employer of record for personnel selected by the individual.
  3. CMH contractual language with provider entities that assures participant selection of personnel, and removal or reassignment of personnel who fail to meet the individual's preferences.
  4. Use of CMH employed direct support personnel as selected and retained by the participant.
- J. Fiscal intermediaries shall be under contract to the 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 CMHSP and the individual. Reports made to the individual shall be in a format that is useful in tracking and managing the funds making up the individual budget.
  4. Provision of an accounting to the 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 CMHSP for specialty mental health services and supports provided by individuals and entities that have a direct agreement with the individual.

**STANDARDS cont.**

- 6. Other supportive services, as denoted in the contract with the CMHSP, that strengthen the role of the participant as an employer or assist with the use of other agreements directly involving the individual in the process of securing needed services.
  
- K. An entity acting as a fiscal intermediary shall be free from any relationship that would be a conflict of interest. The fiscal intermediary may not be a direct service provider to any of the individuals to be served by this project. The fiscal intermediary must never be in the situation of having to provide payment to itself for services rendered to any participant through this Self-Determination program.

**V. ATTACHMENTS**

**VI. REFERENCES**

The MDCH Self Determination Policy and Practice Guidelines  
Self Determination Agreement, Form #0342  
Self Determination Budget Worksheet, Form #0428