



## **MDHHS 5515 Consent to Share Behavioral Health Information Overview**

The following is intended to provide information and limited examples to better understand the recent changes to the MDHHS “Consent to Share Behavioral Health Information” form. MCCMH is unable to provide legal advice, so please consult your agency's counsel for specific direction.

MDHHS has updated MDHHS 5515, Consent to Share Behavioral Health Information, to comply with changes to 42 CFR Part 2. Most notably, the new version of MDHHS 5515 includes a section specifically designed for individuals served to consent to share information with any treating provider, health plan, third-party payer, and people helping to operate the program for **Treatment, Payment, and Operations (TPO)**, similar to HIPAA. MCCMH has designed both a sample MDHHS 5515 and this explainer to assist in training network staff. The section will be explained below. **5515 Instructions**

The form explains different ways in which an individual served can complete this consent to release behavioral health Information. Different combinations of the sections described below can be used. Please note that if Sections 2, 3, and 4 are all completed for healthcare providers, third-party payers, and/or health plans, then you must ensure that there is no contradictory information between sections. If an individual served wants to limit sharing any information with other treatment providers or payors (e.g., MCCMH and/or a Medicaid Health Plan), do not use Section 2; instead, use Sections 3 and 4.

### **Example of Contradictory Information**

For example, completing Section 2 allows broad TPO information sharing between entities involved in those functions such as the treating provider, MCCMH, the Medicaid health plan, and the individual's primary care physician (PCP).

Problems arise when later sections of the same form (such as Sections 3 or 4) are completed in a way that restricts disclosures that were already authorized in Section 2. If Sections 3 or 4 are used to restrict or block sharing TPO information with a PCP, the form contains contradictory instructions with one section allows the disclosure, while another attempts to prohibit it.

Before accepting or acting on this Consent form, review all sections together. Check for conflicts between broad authorizations (Section 2) and specific restrictions (Sections 3 and 4). If contradictory instructions are identified, the form should be clarified or corrected with the Individual Served/ authorized representative before any disclosures are made.

### **MDHHS 5515 Section 1 – About You Summary**

Looks similar to the previous version of MDHHS 5515. Make sure that the name listed is the person's legal name, that it is printed legibly, and that the date of birth is filled out DD/MM/YYYY.



## **MDHHS 5515 Section 2 – Treatment, Payment, and Healthcare Operations (TPO)**

This section is specifically for 42 CFR Part 2 providers. The most recent update to 42 CFR Part 2 allows for TPO disclosures when an individual served gives permission to do so. As seen in this section, there is no area to list treating providers, third-party payers, or health plans. This section grants broad consent for information to be freely shared with such organizations as they pertain to TPO.

### **Consent for All Future Uses for Treatment, Payment, and Health Care Operations**

By checking this box, an individual served is allowing the originating provider to share any SUD or Behavioral Health records with other treating healthcare providers, payors, health plans, MCCMH, and people within your organization for the purposes of treatment, payment, and health care operations. Healthcare providers are allowed to redisclose TPO information when this box is checked, until the MDHHS 5515 expires.

### **Expiration for TPO Consent: Unless Otherwise Specified Below, This Consent Does Not Expire.**

List a condition for expiration as either dictated by the individual served, organizational standards, or N/A if the individual served does not want to list a condition for expiration. Please note that if no expiration is listed, the originating provider is allowed to disclose TPO information to future treatment providers, third-party payers, and health plans until the individual served withdraws this consent.

### **If You Do Not Consent To Sharing For Treatment, Payment, And Health Care Operations, The Consequences, If Any, Are As Follows:**

MCCMH has only identified the following as a potential consequences to list; if the originating provider decides to list it, it is: “You may be responsible for paying the cost of services,” and, “Information may still be disclosed as permitted or required by Federal or State law. (See Privacy Notice)” That said, an individual served can still complete Sections 3 and 4 to allow disclosure to specific organizations that will disclose to third-party payers and health plans.

## **MDHHS 5515 Section 3 – Who Can See Your Information and How They Can Share It**

Section 3 is nearly identical to the previous version of the MDHHS 5515. If an individual served does not want to utilize Section 2 – TPO, then fill this section out with Macomb County CMH as the PIHP and your organization's name, like previous iterations of the MDHHS 5515. If an individual served does consent to TPO, but additionally wants information shared with friends, family, or other non-TPO organizations, then Section 3 must be completed.



**3a: Let us know who can see and share your behavioral health and substance use disorder records. You should list the specific names of health care providers, health plans, family members, or others. They can only share your records with people or organizations listed below.**

- If an individual served doesn't complete Section 2 – TPO, then Macomb County CMH must be listed as the PIHP, include the Medicaid Health Plan/Private Insurance Plan as applicable, and your organization in order to share records with MCCMH. Please make sure the boxes are checked next to Health Plan (if listed) and PIHP to signal consent to share information with the identified organization. Any non-TPO entities, such as family members, friends, spouse/partner, would also be listed in this section.
- If Section 2 – TPO is completed, then you do not need to list the Health Plan or PIHP, or any other health care provider or payer. This section would be used for non-TPO entities such as family members, friends, spouse/partner, etc., only.

**Please note that this consent is not approved for any civil, criminal, administrative, or legislative proceedings. Your agency would need to have a separate document to allow the release of information for these proceedings.**

**3b: Sharing Information Electronically – Health information exchanges or networks share records electronically. This type of sharing helps the people involved in your health care. It helps them provide better, faster, safer, and more complete care for you. Your health care provider and health plan may have already listed these organizations below.**

Individuals served can only check one of the three options listed in Section 3b. This is for Healthcare Providers and Payers only.

Box 1 - Share my information through the organizations listed below. This information will be shared/not shared with the individuals and organizations listed under Section 3a.

- If selected, it will allow sharing records through the Health Information Exchanges (HIEs) listed for the providers already listed in section 3a. PCE systems – the company that manages FOCUS for MCCMH, should be listed here, as well as CareConnect 360, which is the State of Michigan HIE for all Medicaid claims and healthcare data.

Box 2 - Do not share my information through the organizations listed below.

- This is intended for individuals served to specifically opt out of electronic health information exchanges. Opting out of PCE Systems would result in issues for payment, opening cases in FOCUS, and other potential issues, provided the individual served did not consent to TPO.



Box 3 - Share my information through the organizations listed below with all my past, current, and future treating providers. If I choose this option, I can request a list of providers who have seen my records.

- This box would allow sharing information with any future treatment provider via the listed HIE. For the originating organization to be paid for services and to keep cases open in FOCUS, box 1 would suffice.

#### **Section 4 – What Information You Want to Share**

This section is identical to the past version of MDHHS 5515. Only one box should be checked.

#### **Section 5 – Your Consent and Signature**

Verify that the signer's box is checked, the signature is present for the associated person, and it is dated accurately. If an individual has a guardian or authorized representative, they must sign and date this form.

#### **Section 6 – Take Away Your Consent, Who Can No Longer See Your Information**

If the individual served completes this section, information can no longer be shared. Signature and date are required.

#### **Section 7 – For Health Care Provider or Health Plan Use Only**

##### **Verbal Withdrawal of Consent**

If an individual verbally states they want to withdraw consent to share information, but is unable or unwilling to sign Section 6, the provider can complete Section 7. The staff person must print their name in the "Print name of person who received the verbal withdrawal" and then sign and date it.