

(was MCCMH Policy 9-07-080)

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Chapter: **RECIPIENT RIGHTS**  
Title: **RECIPIENTS' PERSONAL PROPERTY AND FUNDS**

Prior Approval Date: 4/27/11  
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Approved by: BOARD ACTION

  
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Executive Director

 02/27/12  
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Date

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**I. Abstract**

This policy establishes the standards of the Macomb County Community Mental Health (MCCMH) Board regarding the personal property and funds of recipients.

**II. Application**

This policy shall apply to all directly-operated and contract network providers of the MCCMH Board.

**III. Policy**

It is the policy of the MCCMH Board to ensure that:

- A. MCCMH recipients retain all rights to their personal property and funds that appropriately inure to them;
- B. MCCMH recipients are protected from exploitation, misuse, or misappropriation of their personal property or funds;
- C. MCCMH recipients who reside in licensed specialized residential facilities are notified orally and in writing of any exclusions that apply to personal property that may be possessed in the residential facility;
- D. MCCMH recipients who reside in licensed specialized residential facilities are notified orally and in writing of any contraband items that may not be possessed by residents;

- E. MCCMH recipients who reside in licensed specialized residential facilities are not coerced, expected, or requested to use their personal funds to purchase or augment the cost of communal property used in the residence.

#### IV. Definitions

- A. **Personal Funds**  
Funds or other assets, such as bank notes, drafts, deposit receipts, stocks, bonds, credit cards, gift cards, checks, etc.
- B. **Communal Household Property**  
Includes furniture and other items that are used by any and all residents in a licensed residential facility. For purposes of this policy, "communal property" may also refer to items that are used solely by staff/management in a licensed residential facility.
- C. **Recipients**  
Individuals who receive mental health services provided by directly-operated and contracted network providers of the MCCMH Board. Recipients may reside in independent settings, semi-independent settings (Supported Independent Placements/SIPs and Transitional Independent Placement/TIPs), or dependent licensed specialized residential settings (Adult Foster Care/AFCs and Community Living Facilities/CLFs).  
  
Within the provisions of this policy, however, the term "**residents**" is used to refer to recipients who live in licensed specialized residential settings such as AFCs and CLFs.
- D. **Exploitation**  
An action by an employee, volunteer, or agent of a provider that involves the misappropriation or misuse of a recipient's property or funds for the benefit of an individual or individuals other than the recipient.

#### V. Standards

- A. The Plan of Service (POS), or Person-Centered Plan shall be utilized by MCCMH for recipients in the implementation of the provisions of this policy, as applicable; the POS / Person-Centered Plan, as defined in the Michigan Mental Health Code, is the 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.
- B. **Recipients' Access to Personal Funds**
  - 1. An adult recipient shall retain possession of his/her own personal funds. This includes notes, drafts, deposit receipts, stocks, bonds, checks, credit cards, as well as cash. Any of these may be required by MCCMH to be placed in a financial institution for safekeeping in an account in the recipient's name.

2. A minor recipient or an adult recipient with an empowered guardian shall also retain possession of his/her personal funds or assets.
3. A recipient shall not be denied access to or spending of his/her personal funds by an MCCMH network provider. Personal allowances provided by parents and guardians shall be spent at the discretion of the recipient.
4. Recipients may use their own funds to purchase any personal items desired, such as toiletries, clothing, etc. Staff may assist or counsel a recipient in budgeting his/her funds. However, recipients may not be prevented from spending their personal allowance as they choose.
5. If staff become aware that a guardian, conservator, representative payee, or other party is misappropriating or inappropriately denying a recipient access to his/her personal funds or personal property, or otherwise not acting in the recipient's best interests, the recipient's case manager/supports coordinator shall be notified and shall take action as necessary to assure the rights of the recipient are protected. Such action may include petitioning the court to terminate/modify guardianship, conservatorship, notification of misappropriation of funds and requesting a change in representative payee with the Social Security Administration, etc.
6. Personal funds must be segregated for each recipient for accounting purposes.
7. If a recipient's personal funds are accepted by a provider to prevent theft, loss or destruction and are invested, they may only be invested in a recipient's passbook savings account and the interest earned shall accrue to the recipient.
8. A recipient's personal funds may be otherwise expended or invested by a provider only with the written consent of the recipient (subject to the exclusions in V.D.) or, if appropriate, his or her legally appointed guardian / conservator.
9. Recipients or their legally appointed guardians / conservators, shall have access to the records of their personal funds. A MCCMH provider shall assure that access occurs within 72 business hours of the request.
10. All items purchased by recipients must be added to their personal property inventory.

C. Residents' Access to Personal Property

1. A resident shall not be prevented from receiving, possessing, and using his or her own personal property unless excluded by law, house rules or limited in the POS / Person-Centered Plan.

2. The facility shall provide a reasonable amount of storage space to each resident for his or her clothing and other personal property. A locked storage spaced shall be provided for his/her personal funds and other valuables. The resident shall be permitted access to inspect his or her own personal property at reasonable times.
3. Property items excluded from possession by residents based on law, house rules, or MCCMH policy shall apply to all residents and include weapons, explosives, illegal drugs, alcohol, sharp objects (e.g., knives), or otherwise harmful items.
4. House rules which prohibit possession of certain personal property items shall be designated in writing and posted in each residential unit.
5. MCCMH may limit access to personal property items, as indicated in the resident's POS / Person-Centered Plan, in order to prevent theft, loss, or destruction of the property. The resident must sign a waiver of provider liability for theft, loss, or destruction if he/she wishes unlimited access to these items.
6. If a limitation of an individual resident's right to receive, possess or use personal property is necessary, his/her case manager/supports coordinator shall be notified. A limitation on personal property which applies to an individual shall be justified and documented in the POS / Person-Centered Plan. Restrictions and limitations must be essential based on one of the following purposes:
  - a. In order to prevent theft, loss, or destruction of the property;
  - b. In order to prevent the resident from physically harming himself, herself, or others.
7. House rules (subsection V.B.4.) may be amended and revised as necessary when the circumstances that justified their adoption cease to exist, or new circumstances have arisen that justify changes.
8. A resident may challenge a personal property limitation and/or the expiration date of such limitation either orally or in written form. A resident wishing to challenge a limitation and/or its expiration date may contact the facility staff, his/her case manager/supports coordinator, and/or the MCCMH Office of Recipient Rights.
9. Each licensed specialized residential facility shall be responsible for items accepted from residents for safekeeping.

- a. Receipts shall be given to each resident and to an individual designated by each resident for all personal items accepted for safekeeping.
  - b. Residents shall have reasonable access to all items in safekeeping. Deposits and withdrawals shall be receipted.
  - c. Contract network providers shall be insured against theft or destruction as required by the MCCMH Board.
  - d. When a resident arrives at the facility, he/she shall be made aware of any exclusions or limitations on his/her personal property. If a resident possesses excluded or limited property, staff shall arrange for its safekeeping or assist in having the item(s) inventoried and a receipt shall be given to the resident and guardian, if any. (Consumable items need not be inventoried.)
10. Inventories of personal property of residents' in licensed specialized residential settings shall be completed upon admission and updated at least quarterly.
- D. Use of Recipients' / Residents' Funds and Personal Property
1. The following uses of recipient funds are prohibited (list is not all inclusive):
    - a. Payment for staff expenses to accompany a recipient on a vacation, except as otherwise provided in the recipient's POS / Person-Centered Plan, and only when assistance of needed staff support is neither a covered benefit nor a medical necessity;
    - b. Payments for staff expenses on local outings, recreational activities, or for community activities;
    - c. Reimbursement for damages to property or personal possessions of others unless such reimbursement is incorporated into a behavior treatment plan approved by the MCCMH Behavior Treatment Plan Review Committee;
    - d. Supplements to augment the network provider's budget for consumable items, communal equipment and communal furnishings/functions.
  2. If a recipient has excess assets, the case manager/supports coordinator shall regularly contact the recipient, guardian/conservator (if any), network provider, and family to discuss appropriate and allowable expenditures of recipient funds and shall supply provider with those identified expenditure options to ensure that recipients remain Medicaid eligible and/or SSI eligible.
  3. Personal property of a resident of significant monetary value (above \$100.00) kept in a common area shall be securely labeled as the "SOLE PROPERTY"

of the resident. The label shall include the resident's "FIRST AND LAST NAME." When the resident vacates the residence, the resident shall take his/her personal property item with him or her.

4. If a resident chooses to have his/her own personal property placed in a common area in a group home, that placement shall be specifically noted in the POS / Person-Centered Plan as the choice of the resident.
  5. A network provider may not coerce, secure or rely on the consent of a recipient, or his or her guardian/conservator to allow for the misuse or misappropriation of a recipient's property or funds to benefit an individual or individuals other than the consumer, or for any other purpose.
  6. Documentation of purchases, including original receipts, must be kept in accordance with the State's retention schedule. (MCCMH directly-operated providers see MCCMH MCO Policy 10-015, "Retention and Disposal of Non-Clinical Records.")
  7. Use of a recipient's funds not consistent with this policy, as determined by MCCMH (e.g., through the contract monitoring process, audit review findings or an Office of Recipient Rights investigation), are subject to payback.
- E. Employees, volunteers, and agents of a MCCMH network provider shall not:
1. Exploit their relationships with recipients for personal advantage;
  2. Accept money, goods, services, or other non-monetary remuneration from a recipient or on behalf of a recipient, except for service fees paid to a MCCMH network provider for mental health services;
  3. Enter into business transactions with recipients or legal guardians of recipient(s).
- F. Contraband Items in Licensed Specialized Residential Settings
1. A resident's property or living area shall not be searched unless:
    - a. A search is authorized in the resident's plan of service/person-centered plan, or behavior treatment plan,
    - b. There is reasonable cause to believe that the resident is in possession of contraband items or property that is specifically excluded from the resident's possession by law, house rules, his/her POS/Person-Centered Plan, his/her Behavior Treatment Plan, or MCCMH policy.
  2. In searches conducted pursuant to V.F.1.a. and b., the following conditions shall apply:

- a. A search of the resident's living area or property shall occur in the presence of a witness. The resident shall also be present unless he or she declines to be present.
- b. The circumstances surrounding the search shall be entered in the resident's record, and shall include all the following:
  - (1) The reason/justification for initiating the search.
  - (2) The names of the individuals performing and witnessing the search.
  - (3) The results of the search, including a description of the property seized, if any.
3. A list of contraband items shall be clearly posted and included in each specialized residential facility's house rules.

G. Return of Property at Recipients' Discharge

Network providers shall deliver to a discharged recipient those funds accounted for in the recipient's name and any personal effects, including those held in safekeeping. If property or funds were inadvertently not returned, the provider shall contact the case manager/supports coordinator who will facilitate the return of the property or funds.

H. Return of Property at Recipients' Death

Upon the death of a recipient, all of the following provisions shall be followed:

1. Every effort shall be made by the network provider to divest itself of a recipient's personal effects and funds. Divestiture shall be to the spouse, child, or parent of the decedent if the spouse, child, or parent furnishes identification and an affidavit of such relationship and a judicial determination of the estate of the decedent is not pending.
2. The provider shall send a list of personal effects or funds being held by the provider to the recipient's nearest relative by registered mail.
3. If there are questions as to rival claims to personal effects or funds, property may be held by a provider until the claims are judicially decided.
4. If the nearest relative cannot be contacted, a provider shall send, by registered mail, to the person or entity that paid the funeral expenses, a list of the articles being held by the provider and a statement which calls attention to statutes providing for disposition.
5. If there are no claims to personal effects or funds of a recipient who has died, the property or funds shall be considered to be unclaimed after thirty (30)

days and shall be handled in the same manner as other unclaimed property, pursuant to the State's Uniform Unclaimed Property Act (Public Act 29 of 1995, as amended).

I. Residents' Unauthorized Leave

If a resident is on unauthorized leave and if the resident's property and funds are not claimed by the resident, or his/her relatives, heirs or legal guardian/conservator, the network provider shall retain custody of the property and funds and shall handle them in the same manner as other unclaimed property, pursuant to the State's Uniform Unclaimed Property Act (Public Act 29 of 1995, as amended).

**VI. Procedures**

- A. None.

**VII. References / Legal Authority**

- A. 2007 Michigan Department of Community Health Administrative Rules R 330.7001; 330.7009(7)
- B. 1994 Michigan Department of Consumer and Industry Services, Division of Adult Foster Care Licensing, Administrative Rules R 400.1401 et seq.
- C. Commission on Accreditation of Rehabilitation Facilities (CARF) 2010 Standards Manual, §1, F., "Financial Planning and Management," 12, p. 59
- D. MDCH/CMHSP Managed Mental Health Supports and Services Contract FY12: Attachment C3.4.4; Medicaid Managed Specialty Supports and Services Concurrent 1915(b)/(c) Wavier Program FY12: Attachment P3.4.4

**VIII. Exhibits**

- A. None