

**BARRY COUNTY COMMUNITY MENTAL HEALTH AUTHORITY
POLICY AND PROCEDURE MANUAL**

Policy: Communication by Telephone, Mail, and Visiting Rights 7-E		Application: BCCMHA Staff & Providers
Reviewed 9/6/2023	Revised 9/6/2023	First Effective 7/20/2022

I. PURPOSE

To establish policy and procedures for residents to communicate by mail, telephone and/or visits.

II. POLICY

It is the policy of BCCMHA to assure that all residents will have reasonable access to private telephone conversations, private, unopened, uncensored mail, and visitation rights except when limited in the resident’s plan of service or by written program policy when receiving residential services as set forth in MCL 330.1726 and 330.1715.

III. STANDARDS

A resident is entitled to unimpeded, private, and uncensored communication with others by mail and telephone and to visit with persons of his or her choice, except in the circumstances and under the conditions set forth in this section.

Each facility shall make telephones reasonably accessible and ensure that funds for the telephone usage are available in reasonable amounts [MHC 1726(2)]

Each facility shall ensure correspondence can be conveniently and confidentially received and mailed (i.e. postal box or daily pickup and deposit) and that writing materials and postage shall be provided in reasonable amounts. MHC 1726(2)]

If reasonable times and places for use of telephone and for visits are established, these shall be in writing and posted in each program or in the Resident Lease Agreement or IPOS in adherence to HCBS guidelines. MHC 1726(3)

The right of a resident to communicate by mail or telephone or receive visitors shall not be further limited except as authorized in the resident's individual plan of services. MHC1726(4)].

A space will be made available for visits. MHC 1726(2)]

A limitation upon the rights guaranteed by subsection (1) shall not apply between a resident and an attorney or a court, or between a resident and other individuals if the communication involves matters that are or may be the subject of legal inquiry. MHC1726(5)]

If a resident can secure the services of a mental health professional, they shall be allowed to see that person at any reasonable time [MHC 1715]

IV. PROCEDURES

If reasonable times and places for use of telephone and for visits are established, these shall be in writing and posted in each program or in the Resident Lease Agreement or IPOS in adherence to HCBS guidelines.

TELEPHONE CALLS:

A resident shall be able to place and receive telephone calls and to talk on the telephone in private during the times posted in written policy, unless the resident is in seclusion in a Child Caring Institution or otherwise restricted pursuant to an approved plan of service.

These times shall not be less than daily daytime shift hours and at least two evening hours. The telephone shall be reasonably accessible and funds for such telephone usage are available in reasonable amounts. Any policy limiting length of incoming/outgoing calls shall not be less than five minutes.

Allocation and distribution of reasonable funds for telephone for indigent residents.

Restrictions that are more limiting than general residence rules for an individual resident's incoming/outgoing telephone calls shall be specifically identified in the resident's IPOS.

Specific criteria for a limitation on incoming and outgoing calls are:

1. A limitation is essential to prevent substantial and serious physical or mental harm.
2. A limitation is essential to prevent a resident from violating a law.
3. A limitation is essential to prevent reasonably expected future telephone harassment by a resident of an individual previously harassed and who has complained. A limitation to prevent harassment shall require a written request from the victim of the harassment.

MAIL:

A residential program shall provide a resident, unless otherwise restricted, all of the following:

1. Correspondence will be conveniently and confidentially received and mailed, and all writing materials and postage are provided in reasonable amounts.
2. Non-letterhead stationery, envelopes, and pens or pencils, upon request.
3. A postal box or daily pickup and deposit of mail.

Mail for a resident or outgoing mail from a resident shall not be opened, destroyed, or delayed unless one of the following conditions are met:

1. With written consent of the resident, a legally empowered guardian, or the parent of a minor.
2. There is a reasonable belief that the mail is in violation of an authorized limitation in the resident's written treatment plan.

Instances of opening or destruction of mail by staff shall be recorded and placed in the resident's record.

All limitations shall meet the following criteria:

1. The limitation is the minimum essential action to achieve the purposes proposed.
2. There is supporting documentation of the reasons, which justify the limitations, and the extent of the limitation. The documentation must contain significant evidence to support the expected harm (mental or physical), the violation of law, or harassment. The documentation will also include an assessment of any immediately preceding limitation.

The specific criteria for a limitation on incoming and outgoing mail are:

1. The Behavior Treatment Review Committee shall approve each limitation on a resident's outgoing or incoming mail, telephone calls, or visits.
2. The limitation is essential to prevent serious physical or mental harm. Mental harm may include mail that, in the opinion of the professional staff, would interfere with ongoing treatment or habitation or would substantially upset the resident.
3. There is good reason to believe that the mail contains items excluded by the written policies of the program or are limited in the resident's written plan of service.
4. The limitation is essential to prevent a resident from violating a law.

VISITS

A resident shall be able to have visitors they wish to see. Unless the resident is in seclusion (Child Caring Institutions only), or otherwise restricted in an approved IPOS.

Space will be made available for visits in private.

A resident's right to receive visitors shall not be further limited except as authorized in the resident's IPOS.

If a resident in an Adult Foster Care Home or Licensed Psychiatric Hospital is able to secure the services of a mental health professional, they shall be allowed to see the professional at any reasonable time. Reasonable Time is meeting the criteria of not seriously taxing the effective functioning of the facility.

Limitations on visitors may be made only to prevent serious physical or mental harm. Mental harm may include a visit that, in the opinion of clinical staff, would substantially upset the resident and interfere with ongoing treatment or habilitation. A visit may be limited or prohibited to prevent mental harm only if the person and the limitations are specifically identified in a plan of service.

The program may refuse to admit visitors who have previously abused persons or property or who have been disruptive to residents. This abuse or disruption shall be documented in an Incident Report.

LIMITATIONS

All limitations or modifications shall be documented in the resident's treatment plan and/or Behavior Plan and be time limited. Documentation will include the following:

1. A limitation is the minimum restriction necessary to achieve the purposed purpose, including a brief description of less restrictive methods which have been tried.
2. A limitation is supported by documentation and entered into the resident's record establishing the following:
Clinical justification for the limitation, significant evidence support potential mental or physical harm, the violation of law or harassment.
3. A specific expiration date at which time the limitation will be reviewed. This must be reviewed and must not exceed 90 days.
4. Approval from BTPRC.

5. When and by whom the limitation was explained to the resident, and when applicable, to the parent of a minor or empowered guardian.
6. Instructions to the implementing provider(s) that each instance of the restriction or limitation will be documented in the recipient's record with a plan for data collection and review of progress.

The resident, and when applicable, parent of a minor, or empowered guardian, shall be informed of:

1. General restrictions in program rules.
2. Individual limitations in the treatment plan.

A restriction/limitation will be removed when the circumstance that justified the restriction ceases to exist.

See BTPRC and/or Least Restrictive Environment Policies for additional information regarding restrictions/limitations approval, review and documentation and requirements for transfers to a more restrictive setting.

Except when providing services pursuant to an Alternative Treatment Order, if the recipient has refused an offer to consent, any restriction shall be consented to by the recipient or his/her legally empowered representative.

(See Restraint and Seclusion Policy, BTPRC policy for additional information.)

A resident may contest the justification, extent, or duration of a limitation by contacting the Office of Recipient Rights.

LEGAL INQUIRY:

Mail, calls to or from, and visits from a resident's private physician or attorney, a mental health professional, a court, or other person when the communication is or may be the subject of legal inquiry shall not be limited.

1. "Legal inquiry" includes any matter concerning civil, criminal, or administrative law.
2. A resident's request to see their private physician or legal counsel will be promptly facilitated by program staff.
3. Non-emergency visits of a private physician or mental health professional may be limited to reasonable times, which do not seriously tax the effective functioning of the program.

A resident may voluntarily limit incoming phone calls or visits while working to stabilize a crisis or for other personal reasons.

REFERENCES

Act 258, Public Acts of 1974, as amended, being MCL 330.1001 through 300.2106
Rule 330.7001 through 330.7254, Administrative Rules of the Department of Community Health
Appropriate Department of Community Health Administrative Manual Sections
1982 Guidelines for Community Mental Health Recipient Rights System
BCCMHA

CARF
CMS
Department of Health and Human Services
Michigan Mental Health Code
Office of Recipient Rights
Administrative Rules
HCBS
Recipient Rights Policy Merge 2022

APPROVED BY:

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Date