

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

Policy: Personal Property & Funds, Resident Labor 7-J		Application: BCCMHA Staff & Providers
Reviewed 9/6/2023	Revised	First Effective 7/20/2022

I PURPOSE

To define and describe how residential providers are to receive, store, protect, return and dispose of resident’s personal property and funds and under what circumstances and methods searches are conducted. To protect a client’s right to compensation when performing labor, which results in an economic benefit to another person, BCCMHA program, or other agency.

II POLICY

PERSONAL PROPERTY:

Residents residing in a specialized residential setting have the right to receive, possess, and use all personal property and funds unless limited pursuant to regulations in the Mental Health Code.

Any limitations shall be reviewed at least every 90 days and removed when the circumstances justifying its adoption cease to exist.

BCCMHA and its contracted providers will assure that property or money taken into custody or placed in an account for a recipient is safeguarded against theft, loss, or misappropriation. Each recipient will have easy access to their personal funds to spend as they choose unless limited or restricted as provided by the Mental Health Code, Administrative Rules, MDHHS Licensing Rules, or other provision of law, house rules, Representative Payee or Guardian.

BCCMHA employees shall not hold or store personal property for recipients without supervisor knowledge and approval. A receipt will be given to the recipient (or parent or guardian, if applicable) and another individual designated by the recipient.

Should a resident, guardian or parent of a minor request a review of any restriction or limitation with regard to rights provided by this policy, PCP reviews shall be completed as soon as possible, but no longer than 30days from the date of the request, as provided in MHC 1712(2).

FUNDS:

CONTRACTED NON-RESIDENTIAL SETTINGS:

Contracted non-residential providers will follow internal policy regarding the maintenance and handling of client funds. Clients are to have access to their personal funds when desired, unless specifically restricted within the client’s Individual Plan of Service (IPOS). Any restriction to personal funds will be reviewed at least quarterly by the Behavior Treatment Plan Review Committee (BTPRC) at BCCMHA.

The client, guardian, and/or their representative may choose to have staff handle client funds for program activities and outings if this option is offered by the contracted provider. If BCCMHA staff notice any issues or discrepancies with a client’s fund, Recipient Rights will be consulted, and notices will be made as necessary to the Licensing Department, MDHHS, the client representative, and law enforcement.

GENERAL RESIDENTIAL SETTINGS:

Client funds are to be held and distributed in accordance with Licensing Rules for Adult Foster Homes based on size. A client shall be provided a locked storage space for money and other valuables kept in the home. Annually, or more frequently as necessary, BCCMHA staff will ensure that homers holding funds for BCCMHA clients are following all aspects of R400.14315 of the Licensing Rules for Adult Foster Care Small Group Homes, see Attachment H. Staff will keep documentation on file documenting that the home has shown that they comply with this standard.

Clients receiving case management/supports coordination services that are residing in general or specialized adult foster care homes will have their funds monitored at least quarterly. If BCCMHA staff notice any issues or discrepancies with a client's funds, the Recipient Rights and Corporate Compliance Officer will be consulted, and notices will be made as necessary to the Licensing Department, MDHHS, the client representative, and law enforcement.

SPECIALIZED REISIDENTIAL SETTINGS:

Client funds are to be held and distributed in accordance with Licensing Rules for Adult Foster Homes based on size. A client shall be provided a locked storage space for money and other valuables kept in the home. Specialized residential home providers should also follow contractual agreements with BCCMHA regarding holding client funds. All specialized residential providers need to follow the Home and Community Based Final Rule, which indicates that individuals be able to control their own personal resources. Clients are to have access to their personal funds when desired, unless specifically restricted within the client's Individual Plan of Service (IPOS). Any restrictions to personal funds will be reviewed at least quarterly by the Behavior Treatment Plan Review Committee (BTPRC) at BCCMHA.

For Specialized Residential Settings, BCCMHA staff will keep documentation of the home's compliance with this standard. If it is found that the home is not in compliance, the home will be given thirty (30) days to present a corrective action plan outlining corrective measures to ensure compliance going forward. The BCCMHA Compliance Officer, in conjunction with the assigned case manager/supports coordinator, will complete a follow-up review within the initial ninety (90) days of the corrective action plan to ensure that compliance is met.

SEARCHES:

A recipient's property or living area shall not be searched by a provider unless:

- a. A search is authorized in the recipient's plan of service or
- b. There is reasonable cause to believe that the recipient is in possession of contraband or
- c. property that is excluded from the recipient's possession by the written policies, procedures, or rules of the provider. [AR 7009(7)]

The following conditions apply to all searches:

- a. A search of the recipient's living area or property shall occur in the presence of a witness. The recipient shall also be present unless he or she declines to be present.
- b. The circumstances surrounding the search shall be entered in the recipient's record, and shall include all the following:

- a. The reason for initiating the search.
- b. The names of the individuals performing and witnessing the search.
- c. The results of the search, including a description of the property seized.
[AR7009(7)]

RESIDENT LABOR:

A recipient who voluntarily performs labor which contributes to the operation and maintenance of the home/apartment for which the program would otherwise employ someone, will be compensated appropriately and be in accordance with applicable laws and minimum wage provisions. [MHC1736(2)]

A recipient who voluntarily performs labor other than described above will be compensated in the appropriate amount if an economic benefit to another person or agency results from their labor.[MHC1736(3)]

Chores of a personal housekeeping nature or helping with daily household tasks, as permitted under licensing rules, are not covered by the above. [MHC1736(5)]

A recipient may perform labor that contributes to the operation and maintenance of the facility for which the facility would otherwise employ someone only if the resident voluntarily agrees to perform the labor, engaging in the labor would not be inconsistent with the treatment plan for the client, the amount of time or effort necessary to perform the labor would not be excessive and that in no event shall discharge or privileges be conditional upon the performance of labor.[MHC 1736(1)]

One-half of any compensation paid to a ~~client~~ recipient for labor performed shall be exempt from collection for payment of mental health services provided. [MHC1736(6)]

III STANDARDS

The Individualize Plan of Service (IPOS), or Person Centered Plan shall be utilized by BCCMHA for the recipients in the implementation for the provisions of this policy, as applicable; the IPOS 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.

IV PROCEDURE

PERSONAL PROPERTY:

A recipient is entitled to receive, possess, use and dispose of their personal property including clothing except under the conditions outlined in section 728 of the MHC [MHC.

An inventory of all belongings brought into the facility must be done and be kept current. All items purchased by recipients must be added to their personal property inventory. It is recommended that pictures be taken of large or expensive items.

Each resident must be provided with a reasonable amount of storage area for their personal property and clothing. A locked storage space shall be provided for their personal funds and other valuables.

A recipient must be permitted to inspect their property at any reasonable time [MHC1728(2)].

A recipient shall be allowed to personalize their living space.

Certain property can be excluded from a facility. Residents must be notified of such excluded items at the time of admission into the facility. All exclusions shall be reasonable, officially adopted in writing and posted in each residential program, unit or Recipient Lease Agreement. [MHC 1728(3)].

These include:

- a. Weapons, such as firearms, knives, explosives, and sharp objects;
- b. Drugs, unless prescribed;
- c. Alcoholic beverages – exceptions may be made for use, with proper consent, addressed in the PCP and/or by Dr.'s order

If a client is admitted to a residential program, items of personal property, which are not subject to an exclusion by law, house rules, lease agreement or limited in the IPOS, shall be permitted to remain with the client.

An official receipt shall be issued for limited items which are not excluded but which are essential to the client's welfare while in the program, and an individual designated by the client for any property taken into possession by the program. Each residential program shall establish procedures for the disposition of excluded property in the possession of the client at the time of admittance.

A client's right to possess personal property may be limited only if the limitation is essential:

- a. In order to prevent theft, loss or destruction of the property, unless a waiver is signed by the resident.
- b. In order to prevent the client from physically harming his/herself or others. [MHC1728(4)(a-b)].

Limitation on the right to receive, possess, and use personal property which is imposed by the person in charge of a client's plan of service shall be documented promptly in the file and will include the date it expires and justification for the limitation. The imposed limitations shall also be incorporated into the client's treatment plan and reviewed at least every 90 days. To continue a restriction, supporting documentation must be completed and added to the EMR with each review. The limitation will be removed when circumstance that justified the limitation ceases to exist.

RETURN OF PROPERTY/FUNDS:

Any personal property in the possession of the facility at the time the resident to whom the property belongs is release from the facility shall be returned to the resident.[MHC 1728(7)]

DEATH OF RECIPIENT:

Upon the death of a recipient every effort will be made by the network provider to divest itself of a receipt's personal effects and funds to the spouse, child, or parent of the decedent and provided with identification, affidavit of the relationship and judicial determination of the estate of decedent is not pending.

The provider shall send a list of personal effects or funds being held by the provider to a recipient's nearest relative by registered mail.

If there are rival claims to the personal effects or funds, property may be held until the claims are judicially decided.

If the nearest relative can't be contacted, a provider shall send, by registered mail, to the person or entity that paid the funeral expenses, a list of articles being held by the provider and a statement which calls attention to the statutes providing for disposition.

If there are no claims to personal effects of a recipient who has died, the property or funds shall be considered unclaimed after 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).

UNAUTHORIZED LEAVE:

If a resident is on unauthorized leave and if the resident's property and funds are not claimed by the resident, or their 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).

If a recipient is unhappy with their Person Centered Plan, a recipient, guardian or parent of a minor may make a request for review to the person in charge of implementing the IPOS as provided in MHC 1712(2). This review must be completed within 30 days of the request for review. See IPOS Policy.

A recipient, guardian or parent of a minor may also file a complaint to the Office of Recipient Rights regarding restrictions they feel are not justified or appropriate.

Personal belongings of a client shall not be used as community property;

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.

Contracted providers will be insured against theft or destruction as required by BCCMHA.

A list of all contraband items shall be clearly posted and included in each facility's house rules or lease agreements.

SEARCHES:

Prior to conducting a personal or property search, a resident must be informed of the reason for the search. The notification and justification for the search must be documented in the resident's record.

A resident's property, person or living are will not be subject to search, unless the search is authorized in the resident's IPOS, or there is reasonable cause to believe the resident is in possession of contraband or property excluded by written, posted policies, procedures or rules of the facility.

An individualized plan of service, which authorized search and seizure, requires consent of the recipient, guardian or parent with legal custody of a minor.

Packages brought by visitors intended for residents may be searched prior to delivery to the resident with voluntary consent by the visitor and resident. A facility may exclude packages for which a visitor and/or resident denies consent for search.

Searches of a resident's property and living area must occur in the presence of at least one witness. The resident must be present unless they decline.

Searches of the person (pat down, strip, body cavity) must be conducted by at least two employees, one of whom must be of the same sex as the recipient. Not all types of series can be done in all settings. Outpatient settings only allow pat down searches of the individual with appropriate documented justification.

A strip search and body cavity search may only be conducted in a licensed inpatient psychiatric unit and only pursuant to a written order by a physician, which includes the written justification for the search. A strip search or body cavity search also requires that at least two employees conduct the search, one of whom must be of the same sex as the recipient and that this is conducted in a private setting.

Reason for initiation, justification, type of search conducted, and name and title of person who authorized for the search and name and title of person who witnessed must be documented in the file. This includes a written order and justification by a physician when required.

BCCMHA also requires that an Incident Report be completed.

FUNDS:

A recipient shall retain possession of their own funds. This includes notes, drafts, deposit receipts, stocks, bonds, checks, credit cards, as well as cash.

A recipient with an empowered guardian shall retain possession of their money or assets, unless other direction is given by a parent or empowered guardian. Allowances provided by a parent or a guardian shall be spent at the discretion of the recipient.

A recipient may be assisted or counseled in budgeting their money. However, a recipient may not be prevented from spending their money as they choose.

A recipient shall not be denied access to or spending of their money except when it is essential to prevent unreasonable and significant dissipation of assets. If this becomes necessary, it will be in writing and part of the individual plan of service, and not to exceed 60 days.

If staff become aware that a guardian, conservator, representative payee, or other party is misappropriating or inappropriately denying a recipient access to their personal funds or property, or otherwise not acting in the recipient's best interest, the recipient's case holder shall be notified and take necessary action to ensure the rights of the recipient are protected.

This may include petitioning the court to terminate/modify guardianship, conservatorship, notification of misappropriation of funds and requesting a change in representative payee with Social Security Administration, etc.

Personal funds must be kept separate for each recipient for accounting purposes. Documentation of purchases, including original receipts, must be kept in accordance with the State's retention schedule.

Recipients, legally appointed guardians/conservators, shall have access to the records of their personal funds.

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 BCCMHA Behavior Treatment Plan Review Committee
- d. Supplements to augment the network provider's budget for consumable items, communal equipment and communal furnishings/functions.

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.

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.

Use of a recipient's funds not consistent with this policy, as determined by BCCMHA (e.g., through the contract monitoring process, audit review findings or an Office of Recipient Rights investigation), are subject to payback.

Employees, volunteers, and agents of a BCCMHA network provider shall not:

- a. Exploit their relationships with recipients for personal advantage

- b. 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 BCCMHA network provider for mental health services
- c. Enter into business transactions with recipients or legal guardians of recipient(s).

RESIDENT LABOR:

Residents performing labor shall have prior approval by the assigned care manager and if applicable, guardian, and shall be documented in the resident’s plan of service.

Resident’s progress or lack of progress is monitored at intervals as specified in the plan of service and documented in progress notes.

Resident labor shall not consume more than six hours a day, unless justified in the plan of service.

CMH shall monitor a record of payments made to the resident.

Payments up to one-half of any compensation to a resident for labor performed shall be exempt from collection for payment of mental health services provided.

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

ATTACHMENTS

[Recipient Rights attachments.pdf](#)

APPROVED BY:

Richard Thiemkey
Executive Director

Date