

FMS SELF-DETERMINATION REQUIREMENTS & TRAINING GRID

FMS must perform annual criminal background checks, and ensure that all individuals who are providing services to beneficiaries pursuant to this Agreement meet the following criteria:

1. Are at least 18 years of age;
2. Are able to prevent the transmission of communicable diseases;
3. Are able to communicate expressively and receptively in order to follow individual plan requirements and beneficiary-specific emergency procedures, and to report on activities performed;
4. Are in good standing with the law (i.e., not a fugitive from justice, a convicted felon who is either under jurisdiction or whose felony relates to the kind of duty to be performed, not an illegal alien);
5. If transporting beneficiaries, ensure that individuals have an appropriate and valid driver's license under State law, and perform primary source verification of State driving infractions prior to service provision and annually thereafter;
6. Complete required trainings as listed below:

Required Trainings, Aide Level Service Working with Adults	Initial	Ongoing	Source	Online, non-virtual Training Acceptable (Y/N)
Recipient Rights	Within 30 days of hire	Annually	MH Code: 330.1755(5)(f) SUD admin rules: R 325.14302 MDHHS Master Contract Schedule A, Section 1(B)(3)(k)	Y - refresher class only.
Basic First Aid	Within 60 days of hire	As required per the training program (usually every 2-3 years)	Medicaid Provider Manual 2.4 & 18.12	Y
Blood Borne Pathogens (Exposure Control, Prevention of Disease Transmission)	Within 30 days of hire	Annually	MIOSHA R 325.70016	Y – Training must afford ample opportunity for discussion and question/answer with a knowledgeable trainer.
Training in Individual Plan(s) of Service of customers served, including customer-specific emergency procedures	prior to delivery of service	when plans are updated or amended	Medicaid Provider Manual 15.2.C. MDHHS Person-Centered Planning Practice Guideline, Section VIII(D)	N
Medication Administration *Only required if necessary to implement individual person-centered plans/member requires but is unable to take medicine independently*	Within 90 days of hire or prior to working independently with customer(s)	N/A	N/A	N
Non-Aversive Techniques for Prevention and Treatment of Challenging Behavior (PIHP-approved curriculum if restrictive interventions included – MANDT, CPI, Safety Care, and Satori are currently approved) *Required if necessary to implement individual person-centered plans*	Within 60 days of hire	Annually	R 330.1806	N

Required Trainings, Aide Level Service Working with Children on SED and CWP Waivers	Initial	Ongoing	Source	Online, non-virtual Training Acceptable (Y/N)
Recipient Rights	Within 30 days of hire	Annually	MH Code: 330.1755(5)(f) SUD admin rules: R 325.14302	Y - refresher class only.
First Aid, as evidenced by completion of a first aid training course	Within 60 days of hire	As required per the training program (usually every 2-3 years)	Medicaid Provider Manual 2.4, 14.5.A, 15.2.C, & 18.12	Y Training may be online, however, an in-person skills demonstration is required.
General Emergency Procedures (fire, tornado, etc.)	Within 30 days of hire	Annually	MDHHS PIHP/CMHSP Provider Qualifications Chart Medicaid Provider Manual 4.1, 14.5.A., 18.12.A	N
Blood Borne Pathogens (Exposure Control, Prevention of Disease Transmission)	Within 30 days of hire	Annually	MIOSHA R 325.70016	Y – Training must afford ample opportunity for discussion and question/answer with a knowledgeable trainer.
Training in Individual Plan(s) of Service of customers served, including customer-specific emergency procedures	prior to delivery of service	when plans are updated or amended	Medicaid Provider Manual 15.2.C.	N
Medication Administration *Only required if necessary to implement individual person-centered plans/member requires but is unable to take medicine independently*	Within 90 days of hire or prior to working independently with customer(s)	N/A	N/A	N
Non-Aversive Techniques for Prevention and Treatment of Challenging Behavior (PIHP-approved curriculum if restrictive interventions included, MANDT, CPI, Safety Care, and Satori are currently approved) *Required if necessary to implement individual person-centered plans*	Within 60 days of hire	Annually	R 330.1806	N

The following trainings must only be completed by employees delivering self-directed services ***if required by the employer:***

Optional Trainings	Suggested Initial Training Timeframe	Suggested Ongoing Training Timeframe	Online, non-virtual Training Acceptable (Y/N)
Corporate Compliance	Within 30 days of hire	Annually	Y
HIPAA	Within 30 days of hire	Annually	Y
Cultural Competency	Within 6 months of hire	Annually	Y
CPR (MDHHS Approved only - Approved CPR & First Aid Providers (michigan.gov))	Within 60 days of hire	As required per the training program	N Training may be online, however, an in-person

			skills demonstration is required.
Limited English Proficiency	Within 6 months of hire	N/A	Y
Medication Administration	Within 90 days of hire or prior to working independently with customer(s)	N/A	N
Non-Aversive Techniques for Prevention and Treatment of Challenging Behavior (PIHP- approved curriculum if restrictive interventions included – MANDT, CPI, Safety Care, and Satori) *Only optional if not otherwise necessary to implement individual person-centered plans*	Within 60 days of hire	Annually	N
Trauma-Informed Systems of Care	Within 60 days of hire.	At least annually	Y – on-line module: Creating Cultures of Trauma-informed Care with Roger Fallot, Ph.D. of Community Connections, Washington DC is available at http://improvingmipractices.org for use in training. Other evidence-based curriculums can be utilized, per MDHHS Trauma Policy.

EXHIBIT E
COMPLIANCE IN GENERAL

- I. **Compliance in General.** FMS, its officers, employees, servants, and agents shall perform all their respective duties and obligations under the Agreement in compliance with all applicable federal, state, and local laws, ordinances, rules and regulations, sub-regulatory guidance, administrative procedures, and applicable contract provisions, whether referenced herein or not, including but not limited to the following:
- a. **Michigan Laws.** The Agreement shall be construed according to the laws of the State of Michigan as to the interpretation, construction and performance.
 - b. **Venue.** CMHSP and FMS agree that the venue for bringing any legal or equitable action under the Agreement shall be established in accordance to the statutes of the State of Michigan and/or Michigan Court Rules. In the event that any legal action is brought under the Agreement in Federal Court, the venue for such legal action shall be the Federal Judicial District of Michigan, Western District, Southern Division.
 - c. **Medicaid.** FMS shall comply with Michigan's State Plan under Title XIX of the Social Security Act and Michigan's Medicaid FMS Manual and Medicaid Policies and Guidelines. (Schedule A, Section (1)(Q)(14)).
 - d. **Michigan Mental Health Code and Administrative Rules.**
 - e. **Michigan Public Health Code and Administrative Rules.** FMS agrees to comply with the MI Public Health Code, including health reporting requirements.
 - f. **MDHHS Appropriations Acts.** The parties shall comply with those Acts in effect during the contract period.
 - g. **Mental Health/SUD Laws.** When providing Mental Health FMS Services and/or SUD Services under the Agreement, FMS, its officers, employees, servants, and agents shall abide by all applicable provisions and requirements as set forth in the Mental Health Code, including 2012 P.A. 500, MDHHS Rules, Medicare and Medicaid laws and regulations, including the Balanced Budget Act of 1997 and the Final Rule, 42 CFR Part 438, and in policies, procedures, standards, and guidelines established by CMHSP and the PIHP.
 - h. **CMHSP Policies and Procedures.**
The CMHSP's policies and procedures, including those governing provider grievances, disputes and appeals, including without limitation any grievance, dispute or appeal of changes in the FMS's status as a provider in the CMHSP's provider network.
 - i. **CMHSP's Compliance Plan.** FMS, its principals, officers, employees, contracted and subcontracted FMS's, servants and agents are subject to and shall comply with all applicable requirements of CMHSP's Compliance Program Plan, as annually approved by

CMHSP's Board. Failure to do so will result in remediation action and/or termination of the Agreement for material breach, as provided in Section V. Paragraph (b) of the Agreement.

- j. **Confidentiality.** To the extent that CMHSP and FMS are HIPAA Covered Entities and/or Programs under 42 CFR Part 2, each agrees that it will comply with HIPAA's Privacy Rule, Security Rule, Transaction and Code Set Rule and Breach Notification Rule and 42 CFR Part 2 (as now existing and as may be later amended) with respect to all Protected Health Information and substance use disorder treatment information that it generates, receives, maintains, uses, discloses or transmits in the performance of its functions pursuant to the Agreement. To the extent that FMS determines that it is a HIPAA Business Associate of CMHSP and/or a Qualified Service Organization of CMHSP, then CMHSP and FMS shall enter into a HIPAA Business Associate Agreement and a Qualified Service Organization Agreement that complies with applicable laws and is in a form acceptable to both CMHSP and FMS. CMHSP and FMS shall maintain the confidentiality, security and integrity of beneficiary information that is used in connection with the performance of this contract to the extent and under the conditions specified in HIPAA, the Michigan Mental Health Code (PA 258 of 1974, as amended), the Michigan Public Health Code (PA 368 of 1978 as amended), and 42 C.F.R. Part 2.
- k. **Programs.** FMS shall comply under the Agreement with the 1115 demonstration waiver, the Concurrent 1915 (i) and 1915 (c) Waiver Programs, the Healthy Michigan Program and the SUD Community Grant Programs.
- l. **Waivers.** Approved Medicaid Waivers and corresponding CMS conditions, including 1915(i), (c) and 1115 Demonstration Waivers.
- m. **Whistleblower.** FMS shall abide by and post a copy of the Whistleblower's Protection Act (Act 469 of the Public Acts of 1980) in a conspicuous place at its public and/or licensed service location(s) and its headquarters.
- n. **Federal False Claims Act.**
- o. **Michigan Medicaid False Claim Act.** MCL 400.601 et seq.
- p. **Michigan Social Welfare Act.** MCL 400.1.1 et seq.
- q. **Deficit Reduction Act (DRA).** 2005, PL 109-17, section 6032 codified at Section 1902(a) (68) of Title XIX (Social Security Act) requires Employee Education About False Claims Recovery.
- r. **New Rules or Regulations.** If any laws or administrative rules or regulations that become effective after the date of the execution of the Agreement substantially change the nature and conditions of the Agreement, they shall be binding to the parties, but the

parties retain the right to exercise any remedies available to them by law or by any other provisions of the Agreement.

- II. **Laws Pertaining to Non-discrimination.** In performing its duties and responsibilities under this Agreement, FMS shall comply with all applicable federal and State laws, rules and regulations prohibiting discrimination.
- a. FMS shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex (as defined in Executive Directive 2019-09), height, weight, marital status, partisan considerations, any physical or mental disability, or genetic information that is unrelated to the individual's ability to perform the duties of the particular job or position, as required pursuant to: the Elliott Larsen Civil Rights Act of 1976 PA 453, as amended; the Persons with Disabilities Civil Rights Act, 1976 PA 220, as amended; and Section 504 of the Federal Rehabilitation Act 1973, P.L. 93-112.
 - b. FMS shall comply with the provisions of the Michigan Persons With Disabilities Civil Rights Act of 1976 PA 220, as amended, and Section 504 of the Federal Rehabilitation Act of 1973 P.L. 93-112, 87 Stat 394, as amended. FMS shall comply with MCL 15.342 Public Officer or Employee prohibited conduct, the Americans with Disabilities Act of 1990 (ADA), P.L. 101-336, 104 Stat 328 (42 USCA S 12101 et. seq.), as amended; the Age Discrimination Act of 1973; the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964; and Title IX of the Education Amendments of 1972.
 - c. FMS shall not refuse to treat nor will it discriminate in the treatment of any patient or referral, under this Agreement, based on the individual's source of payment for services, or on the basis of age, sex, height, weight, marital status, arrest record, race, creed, handicap, color, national origin or ancestry, religion, political affiliation or beliefs, involuntary patient status, gender, sexual orientation, or gender identity.
 - d. FMS shall comply with the: Title VI of the Civil Rights Act of 1964 (42 USC 2000 D et. seq.) and Office of Civil Rights Policy Guidance on the Title IV Prohibition Against Discrimination as it Affects Persons with Limited English Proficiency; Title IX of the Education Amendment of 1972, as amended (20 USC 1681-1683; and 1685-1686) and the regulations of the U. S. MDHHS of Health and Human Services issued thereunder (45 CFR, Part 80, 84, 86 and 91).
- III. **Additional Federal Provisions.**
- a. **Davis-Bacon Act.** (All contracts in excess of \$2,000). (40 U.S.C. 276a to a-7) -- When required by Federal program legislation, all construction contracts awarded by the recipients and sub-recipients of more than \$2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5), "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of

Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.

- b. **Contract Work Hours and Safety Standard.** If the Contract is in excess of \$100,000 and involves the employment of mechanics or laborers, the Contractor must comply with 40 USC 3702 and 3704, (All contracts in excess of \$2,000 for construction and \$2,500 employing mechanics or laborers). (40 U.S.C. 327 - 333) -- Where applicable, all contracts awarded by recipients in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Section 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 - 333), as supplemented by Department of Labor regulations (29 CFR part 5), as applicable, and during the performance of this Contract the Contractor agrees as follows:
- i. Overtime requirements. No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
 - ii. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
 - iii. Withholding for unpaid wages and liquidated damages. The State shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or Subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

- iv. Subcontracts. The Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.
- c. **Rights to Inventions Made Under a Contract or Agreement.** (All contracts containing experimental, developmental, or research work). Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
- d. **Clean Air Act.** FMS shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the **Federal Water Pollution Control Act,** as amended (33 U.S.C. 1251 et seq.).
- e. **Byrd Anti-Lobbying Amendment.** 31 U.S.C. 1352 and 45 CFR Part 93. No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any award covered by 31 USC 1352, including the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. FMS shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any Federal award.
- f. **Political Activity.** FMS shall comply with the Hatch Political Activity Act, 5 USC 1501-1508, and Intergovernmental Personnel Act of 1970, as amended by Title VI of the Civil Service Reform Act, P. L. 95-454, 42 USC 4728. Federal funds cannot be used for partisan political purposes of any kind by any person or organization involved in the administration of federally assisted programs.
- g. **Pro-Children.** Assurance is hereby given to CMHSP that FMS will comply with Public Law 103-227, also known as the Pro-Children Act of 1994, 20 USC 6081 et seq., which requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient

drug or alcohol treatment; service FMSs whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where Women, Infants, and Children (WIC) coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity. FMS also assures that this language will be included in any sub-awards that contain provisions for children's services.

- h. FMS also assures, in addition to compliance with Public Law 103-227, any service or activity funded in whole or in part through the Agreement will be delivered in a smoke-free facility or environment. Smoking shall not be permitted anywhere in the facility, or those parts of the facility under the control of FMS.
- IV. Breach. Any breach of this Exhibit E shall be regarded as a material breach of the Agreement and may be cause for termination by CMHSP.

EXHIBIT F

DIRECT CARE WORKER RATE INCREASE

I. Purpose.

- a. In accordance with current year appropriations, the MDHHS Direct Care Worker increase provides funds to increase hourly wages by \$0.20 per hour for direct care workers providing applicable Medicaid behavioral health supports and services, and to provide an additional 12% to cover employer-related costs associated with implementing the Direct Care Wage increase. This \$0.20 per hour wage increase is in addition to continued funding for the previous \$2.35 per hour and \$0.85 per hour wage increases. This Exhibit sets forth the specific requirements applicable to these funds.

II. Employment Roles.

- a. FMS acknowledges and agrees that neither CMHSP, nor the PIHP, are co-employers with FMS or Customer nor have the power to:
 - i. direct, control, or supervise direct care staff,
 - ii. determine the work to be performed by direct care staff,
 - iii. hire or fire, or modify the employment conditions of direct care staff,
 - iv. set the wage rate, or determine compensation paid, for a direct care staff member,
 - v. determine where work is to be performed by a direct care staff member,
 - vi. determine the skills required to perform the duties of a direct care staff member,
 - vii. determine whose equipment a direct care staff member uses,
 - viii. perform payroll and human resources functions, and/or
 - ix. have any expressed or implied authority to oversee any other aspect of the employment relationship between FMS and/or Customer and its direct care staff not otherwise identified in this Agreement.

III. Process.

- a. As required by MDHHS, CMHSP will increase rates paid to FMS, as applicable for the following services codes, for services provided during the term of this Agreement. FMS shall utilize this rate increase to pay an additional \$0.20 hourly wage increase to its direct care worker staff who are providing the applicable services provided for below:

Program Name	Services	Related HCPCS Codes
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Behavioral Health	Community Living Supports Overnight Health and Safety Supports Personal Care Prevocational Services Respite Skill Building ABA Adaptive Behavior Treatment ABA Group Adaptive Behavior Treatment ABA Exposure Adaptive Treatment Crisis Residential Services Residential Services – SUD Residential Services – Co-occurring SUD/MH Withdrawal Management – SUD Supported Employment	97153, 97154, 0373T, H0043, H0019, H0010, H0012, H0014, H0018, H2014, H2015, H2016, T2027, T1020, T2015, S5151, T1005, H2023
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- b. The applicable Direct Care Wage increase rates are reflected in EXHIBIT C: REIMBURSEMENT.
- c. FMS shall apply the \$0.20 per hour Direct Care Wage increase entirely to the hourly wages of the direct care worker, paid in addition to the hourly wage the direct care worker was earning.
- d. CMHSP shall not be held responsible for any benefits owed to employees related to Direct Care Wage increase payments, including, but not limited to overtime payments, healthcare benefits, or paid time off.
- e. FMS is responsible for and shall adhere to all applicable tax requirements, including withholding payroll taxes related to the Direct Care Wage increase.

IV. Limitations.

- a. Any of the applicable codes are excluded when delivered via telehealth.
- b. Owners/Supervisors/Managers are not eligible to receive the Direct Care Wage increase unless:
 - i. They are non-salary;
 - ii. They provide direct care for the majority of their work; and
 - iii. Their wages are comparable to Provider’s other direct care workers’ wages.
- c. Pursuant to applicable MDHHS L-Letters, if a direct care employee chooses not to receive the Direct Care Wage increase, in addition to documenting this choice in writing pursuant to V(c) below, FMS shall cooperate with CMHSP in calculating and refunding to CMHSP any funds allocated for the applicable employee’s wage increase.

V. Documentation & Auditing.

- a.** FMS shall maintain records and supporting documentation of fund distribution to employees (time sheets, pay stubs, job descriptions, etc.), sufficient to evidence the provision of the direct care payment to applicable employees. FMS shall provide documentation to CMHSP and/or the PIHP upon request.
- b.** FMS agrees that CMHSP, the PIHP, and/or MDHHS may audit employee files to validate the accuracy of wages reported and to confirm the distribution of rate increases to direct care employees. FMS shall cooperate with said audits and will make records available upon request.
- c.** If a direct care employee chooses not to receive the Direct Care Wage increase, FMS shall ensure the employee's choice is evidenced in writing (including electronically) and shall notify CMHSP as soon as possible, but in no event longer than five (5) calendar days.