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- I. **PURPOSE:** The principles of self-determination recognize the rights of people supported by the mental health system to have a meaningful life in the community. The components of a meaningful life include: work or volunteer activities that are chosen by and meaningful to the individual, reciprocal relationships with other people in the community, and daily activities that are chosen by the individual and support the individual to connect with others and contribute to his or her community.
- II. **APPLICATION:** All programs and services operated by West Michigan Community Mental Health Governing Body.
- III. **REQUIRED BY:** The Lakeshore Regional Entity (LRE) PIHP and the Michigan Mental Health Code, 1996, Section 700 (G) and 712 (1).

IV. DEFINITIONS:

Agency with Choice: A provider agency that serves as employer of record for direct support personnel yet enables the person using the supports to hire, manage and terminate workers.


Choice Voucher System: The Choice Voucher System is the designation for a set of arrangements that facilitate and support accomplishing self-determination through the use of an individual budget, a fiscal intermediary, and direct individual-provider contracting. Its use shall be guided by the Choice Voucher System Technical Advisory provided that no conflict of interest is present.

Conflict of Interest: A situation in which a person, such as a public official, an employee, professional or family member who has a private or personal interest sufficient to appear to influence the objective exercise of his or her duties. “Conflicts of interest interfere with objective judgment.” Factors, like private or personal interests, that interfere or appear likely to interfere with objectivity are defined as a financial interest or another sort of interest such as to provide a special advantage to a parent, spouse, or child.

CMHSP: For the purpose of this policy, a community mental health services program is an entity operated under Chapter Two of the Michigan Mental Health Code or an entity under contract with the CMHSP and authorized to act on its behalf in providing access to, planning for, and authorization of specialty mental health services and supports for people eligible for mental health services.

Electronic Health Record (EHR) This contains all of the clinical data for each person served, in addition to other data maintained by the agency, and is where all notes are written, outside data scanned, and should be consulted for the record of treatment by WMCMH.

Individual/Person: For the purposes of this policy, "Individual" or "person served" means the person receiving direct specialty mental health services and supports. The person served may select a representative to enter into the self-determination agreement and for other agreements that may be necessary for the person to participate in arrangements that support self-determination. The person may have a guardian. The

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role of the guardian in self-determination shall be consistent with the guardianship arrangement established by the court. Where a person has been deemed to require a legal guardian, there is an extra obligation on the part of the WCMH and those close to the person to assure that the person's preferences and dreams drive the use of self-determination arrangements, and that the best interests of the person are primary.

Fiscal Intermediary: A Fiscal Intermediary is an independent legal entity (organization or individual) that acts as a fiscal agent of WCMHS for the purpose of assuring fiduciary accountability for the funds comprising an individual budget. A fiscal intermediary shall perform its duties as specified in a contract with WCMH or its designated subcontractor. The purpose of the fiscal intermediary is to receive funds from WCMH making up an individual budget, and make payments as authorized by the individual to providers and other parties to whom an individual using the individual budget may be obligated. A fiscal intermediary may provide a variety of supportive services that assist the individual in selecting, employing and directing individual and agency providers. Examples of entities that might serve in the role of a fiscal intermediary include: bookkeeping or accounting firms; local ARC or other advocacy organizations; if no conflict of interest exists.


Individual Budget: An individual budget is a fixed allocation of public mental health resources denoted in dollar terms, and may also include other public and private resources. These resources are agreed upon as the necessary cost of specialty mental health services and supports needed to accomplish a person's plan/supports. The individual served uses the funding authorized to acquire, purchase, and pay for specialty mental health services and supports in the individual's plan.

IPOS: Individual Plan of Service (IPOS) is an individual's framework of services and/or supports as developed using a person-centered planning process.

PIHP: For the purposes of this policy, a Prepaid Inpatient Health Plan (PIHP) is a managed care entity that provides Medicaid-funded mental health specialty services and supports in an area of the state.

Qualified Provider: A qualified provider is an individual worker, a specialty practitioner, professional, agency or vendor that is a provider of specialty mental health services or supports that can demonstrate compliance with the requirements contained in the contract between the Department of Community Health and the PIHP; and WCMH, including applicable requirements that accompany specific funding sources, such as Medicaid. Where additional requirements are to apply, they should be derived directly from the person served person-centered planning process, and should be specified in the IPOS, or result from a process developed locally to assure the health and well-being of individuals, conducted with the full input and involvement of local individuals and advocates. A conflict of interest shall not exist between the qualified provider and the individual.

Self Determination: Self-determination incorporates a set of concepts and values that underscore a core belief that people who require support from the public mental health system as a result of a disability should be able to define what they need in terms of

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the life they seek, have access to meaningful choices, and have control over their lives in order to build lives in their community (meaningful activities, relationships and employment). Within Michigan's public mental health system, self-determination involves accomplishing system change to assure that services and supports for people are not only person-centered, but person-defined and person-controlled. Self-determination is based on four principles. These principles are:


- **FREEDOM:** The ability for individuals, with assistance from significant others (e.g., chosen family and/or friends), to plan a life based on acquiring necessary supports in desirable ways, rather than purchasing a program. This includes the **freedom** to choose where and with whom one lives, who and how to connect to in one's community, the opportunity to contribute in one's own ways, and the development of a personal lifestyle.
- **AUTHORITY:** The assurance for a person with a disability to control a certain sum of dollars in order to purchase these supports, with the backing of their significant others, as needed. It is the **authority** to control resources.
- **SUPPORT:** The arranging of resources and personnel, both formal and informal to assist the person in living his/her desired life in the community, rich in community associations and contributions. It is the **support** to develop a life dream and reach toward that dream
- **RESPONSIBILITY:** The acceptance of a valued role by the person in the community through employment, affiliations, spiritual development, and caring for others, as well as accountability for spending public dollars in ways that are life enhancing. This includes the **responsibility** to use public funds efficiently and to contribute to the community through the expression of responsible citizenship.

A hallmark of self-determination is assuring a person the opportunity to direct a fixed amount of resources, which is derived from the person-centered planning process and called an individual budget. The person controls the use of the resources in his/her individual budget, determining with the assistance of chosen allies, which services and supports he or she will purchase, from whom and under what circumstances. Through this process, people possess power to make meaningful life choices in how they live their life.

Specialty Mental Health Services: This term includes any service/support that can legitimately be provided using funds authorized by WMCMH in the individual budget. It includes alternative services and supports as well as Medicaid covered services and supports.


V. CORE ELEMENTS:

- A. People are provided with information about the principles of self-determination and the possibilities, models and arrangements involved. People have access to the tools and mechanisms supportive of self-determination, upon request. Self-determination arrangements commence when the WMCMH and the individual reach an agreement on an individual plan of service (IPOS), the amount of mental health and other public

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resources to be authorized to accomplish the IPOS, and the arrangements through which authorized public mental health resources will be controlled, managed and accounted for.

- B. Within the obligations that accompany the use of funds provided to them, WCMCMH shall ensure that their services planning and delivery processes are designed to encourage and support individuals to decide and control their own lives. The WCMCMH shall offer and support easily-accessed methods for people to control and direct an individual budget. This includes providing them with methods to direct the delivery of specialty mental health services and supports from qualified providers selected by the individual.
- C. People receiving services and supports through the public mental health system shall direct the use of resources in order to choose meaningful specialty mental health services in accordance with their IPOS as developed through a person centered planning process.
- D. Fiscal responsibility and the wise use of public funds shall guide the individual and the WCMCMH in reaching an agreement on the allocation and use of funds comprising an individual budget. Accountability for the use of public funds must be a shared responsibility of the WCMCMH and the individual, consistent with fiduciary obligations of the WCMCMH.
- E. Realization of the principles of self-determination requires arrangements that are partnerships between the WCMCMH and the individual. They require active commitment of the WCMCMH to provide a range of options for individual choice and control of personalized provider relationships within an overall environment of person centered supports.
- F. In the context of this partnership, WCMCMH must actively assist people with prudently selecting qualified providers and otherwise support them with successfully using resources allocated in an individual budget.
- G. Issues of wellness and well-being are central to assuring successful accomplishment of a person's IPOS. These issues must be addressed and resolved using the person centered planning process, balancing individual preferences and opportunities for self-determination with WCMCMH obligations under federal and state law and applicable Medicaid Waiver regulations. Resolutions should be guided by the individual's preferences and needs, and implemented in ways that maintain the greatest opportunity for personal control and direction.
- H. Self-determination requires recognition that there may be strong inherent conflicts of interest between a person's choices and current methods of planning, managing and delivering specialty mental health services and supports. WCMCMH must watch for and seek to eliminate either potential or actual conflicts of interest between itself and its providers systems, and between individuals served and their choice of provider sought by the individual.
- I. Arrangements that support self-determination are administrative mechanisms, allowing a person to choose, control, and direct providers of specialty mental health services and supports. With the exception of fiscal intermediary services, these mechanisms are not themselves covered services within the array of state plan and mental health specialty services and supports. Self-determination arrangements must be developed and operated within the requirements of the respective contracts between the

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PIHP and WMCMH and the Michigan Department of Health and Human Services and in accordance with federal and state law. Using arrangements that support self-determination does not change an individual's eligibility for particular specialty mental health services and supports.


- J. All of the requirements for documentation of Medicaid-funded supports and services, financial accountability for Medicaid funds, and WMCMH monitoring requirements apply to services and support acquired using arrangements that support self-determination.
- K. Arrangements that support self-determination involve mental health specialty services and supports, and therefore, the investigative authority of Recipient Rights applies.

VI POLICY: The opportunity to pursue and obtain an Individual Plan of Service incorporating arrangements that support self-determination shall be established at WMCMH, for individuals with developmental disabilities and individuals with mental illness. WMCMH shall develop and make available a set of methods that provide opportunities for the individual to control and direct their specialty mental health services and supports arrangements granted no conflict of interest exists


- A. Participation in self-determination shall be a voluntary option on the part of each person.
- B. Persons involved with self-determination shall have the authority to select and direct their own specialty mental health services and supports arrangements by responsibly controlling the resources authorized in an individual budget towards accomplishing the outcomes and desired changes in their person centered plan.
- C. WMCMH shall assure that full and complete information about self-determination and the manner in which it may be accessed and applied, is provided to everyone receiving mental health services from the agency. This shall include specific examples of alternative ways that a person may use to control and direct an individual budget, and the obligations associated with doing this properly and successfully.
- D. Self-determination shall not serve as a method for WMCMH to reduce its obligations to a person, or to avoid the provision of specialty mental health services and supports.
- E. WMCMH shall actively support and facilitate a person's application of the principles of self-determination in the accomplishment of his/her person centered plan.

VI. PROCEDURES: Arrangements that support self-determination shall be made available to each person for whom an agreement in an individual plan of service along with acceptable individual budget can be reached. A person initiates this process by requesting the opportunity to participate in self-determination. For the purposes of self-determination, reaching agreement in the individual plan of service must include the delineation of the arrangements that will, or may be applied by the person to select and direct the provision of those services and supports.


- A. Development of an individual budget shall be done in conjunction with development of an individual plan of service and supports, using a person-centered planning process.

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- B. As part of the planning process leading to an agreement about self-determination, the arrangements that will, or may, be applied by the person to pursue self-determination shall be delineated and agreed to by the person and WCMH.
- C. The individual budget represents the expected or estimated costs of a concrete approach to accomplishing the individual's plan in the amount, scope and duration identified.
- D. The amount of the individual budget shall be formally agreed to by both the person and WCMH before it may be authorized for use by the person. Formal agreement is defined by signatures of all parties on the budget document. A copy of the individual budget must be provided to the person prior to the onset and finalization of a self-determination arrangement.
- E. WCMH, an affiliate of the LRE, may establish guidance regarding applicable rates and set maximum amounts that persons served pay to specific providers.
- F. Proper use of an individual budget is of mutual concern to WCMH and the person.
 - a. Mental Health funds included in an individual budget are the assets and responsibility of WCMH, and must be used consistent with statutory and regulatory requirements. Authority over their direction is a collaborative function between the person and WCMH, for the purpose of achieving the outcomes and desired changes contained in the individual's plan. The limitations associated with this delegation shall be delineated to the individual as part of the process of developing an individual plan of service and authorizing the individual budget.
 - b. An agreement shall be made in writing between WCMH and the individual delineating the responsibility and the authority of both parties in the application of the individual budget, including how communication will occur about its use. The agreement shall reference the individual plan of service and the individual budget, which shall be provided to the person. The directions and assistance necessary for the individual to properly apply the individual budget shall be provided to the individual in writing when the agreement is finalized.
 - c. An individual budget, once authorized, shall be provided to the individual and scanned into the EHR, associated with the IPOS document. An individual budget shall be in effect for a specified period of time. Since the budget is based upon the individual's plan of service and supports, when the plan needs to change, the budget may need to be reconsidered as well. In accordance with the Person-Centered Planning Policy and Practice Guideline, the plan may be reopened and reconsidered whenever the individual, or the agency, feels it needs to be reconsidered. Individual Plans of Service and individual budgets are directly tied to episodes of care, and are subject to review at the conclusion of each authorized episode of care time frame.
 - d. The individual budget is authorized by WCMH for the purpose of providing a defined amount of resources that may be directed by the person served to pursue accomplishing their individual plan of service and supports. An individual budget shall be flexible in its use.
 - i. When a person makes adjustments in the application of funds in an individual budget, these shall occur within a framework that has been agreed to by the person served and WCMH.


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- ii. The individual’s plan of service may set forth the flexibility that a person can exercise to accomplish his or her outcomes and desired changes. When a possible use of services and supports is identified in the person centered plan, the person does not need to seek prior approval to use services in this manner. The person shall inform their care manager of the intended change.
 - iii. If a person desires to exercise flexibility in a manner that is not identified in the plan of service, then the IPOS must be modified before the adjustment may be made. WMCMH shall attempt to address each situation in an expedient manner appropriate for the complexity and scope of the change.
 - iv. Funds allotted for services may not be used to purchase services which are not specialty mental health services. Contracts with providers of specialty mental health services should be fiscally prudent.
 - e. Either party – WMCMH or the person – may terminate a self-determination agreement, and therefore, the self-determination arrangement. Common reasons that WMCMH may terminate an agreement after providing support and other interventions described in the policy, include but are not limited to: failure to comply with Medicaid documentation requirements; failure to stay within the authorized funding in the individual budget; inability to hire and retain qualified providers; and conflict between the individual and the providers that results in an inability to implement the plan of service. Prior to WMCMH terminating an agreement, unless it is not feasible, WMCMH shall inform the individual of the issues that have led to consideration of a discontinuation or alteration decision, in writing, and provide an opportunity for problem resolution. Typically resolution will be conducted using the person-centered planning process, with termination being the option of choice if other mutually agreeable solutions cannot be found. In any instance of WMCMH discontinuation or alteration of a self-determination arrangement, the local processes for dispute resolution may be used to address and resolve the issues.
 - f. Termination of a Self-Determination Agreement by WMCMH is not a Medicaid Fair Hearings Issue. Only a change, reduction, or termination of Medicaid services can be appealed through the Medicaid Fair Hearings Process, not the use of arrangements that support self-determination to obtain those services.
 - g. Discontinuation of a self-determination agreement shall not, by itself, change the individual’s plan of service or eliminate the obligation of WMCMH to assure specialty mental health services and supports required in the plan are provided.
 - h. In an instance of WMCMH discontinuation or alteration, the person served must be provided an explanation of applicable appeal, grievance and dispute resolution processes and (where required) appropriate notice.
- G. Assuring authority over an individual budget is a core element of self-determination. This means that the individual may use responsibly an individual budget as the means to authorize and direct their providers of services and supports. WMCMH shall design and implement alternative approaches that people electing to use an


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individual budget may use to obtain individual-selected and directed provider arrangements.

- a. Within prudent purchaser constraints, the person served shall be able to access any willing and qualified provider entity that is available to provide needed specialty mental health services and supports provided no conflict of interest exists.
- b. When considering the type of paid staff arrangement, the person and WCMH must apply the conflict of interest definition. If a conflict of interest is present between the person and the direct service provider being considered for hire, the individual will be unable to contract with said provider.
- c. Approaches shall provide for a range of control options up to and including the direct retention of the individual preferred providers through purchase of services agreements between the person and the provider. Options shall include, upon the individual request and in line with their preferences:
 - i. Services/supports to be provided by an entity or individual currently operated by or under contract with WCMH.
 - ii. Services/supports to be provided by a qualified provider if no conflict of interest exists, chosen by the individual, with WCMH agreeing to enter into a contract with that provider.
 - iii. Services/supports to be provided by the individual selected provider (where no conflict of interest exists) with whom the person executes a direct purchase-of-services agreement. WCMH shall provide guidance and assistance to assure that agreements to be executed with individual selected providers are consistent with applicable federal regulations governing provider contracting and payment arrangements.
- d. Individuals shall be responsible for assuring those individuals and entities selected and retained as employees meet applicable provider qualifications. Methods that lead to consistency and success must be developed and supported by WCMH.
- e. Individuals shall assure that written agreements are developed with each provider entity or individual that specifies the type of service or support, the rate to be paid, and the requirements incumbent upon the provider.
- f. Copies of all agreements shall be kept current, and shall be made available by the individual, for review by authorized representatives of WCMH. WCMH will retain one copy of the original contract with each provider.
- g. Individuals shall act as careful purchasers of specialty mental health services and supports necessary to accomplish their plan. Arrangements for services shall not be excessive in cost. Individuals should aim for securing a better value in terms of outcomes for the costs involved. Existing personal and community resources shall be pursued and utilized before using public mental health resources. The person served cannot enter into an agreement with a provider where a conflict of interest exists, even if it is the best value.
- h. Fees and rates paid to providers with a direct purchase-of-services agreement with the individual shall be negotiated by the individual, within the boundaries of the authorized individual budget. WCMH shall provide guidance as to the range of applicable fees and may set maximum amounts that a person may spend to pay providers of specific services and supports.

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- i. A person shall be able to access one or more alternative methods to choose, control and direct personnel necessary to provide direct support, including:
 - i. Acting as the employer of record of personnel.
 - ii. Access to a provider entity that can serve as employer of record for personnel selected by the consumer (Agency with Choice).
 - iii. WMCMH contractual language with provider entities that assures individual selection of personnel, and removal of personnel who fail to meet individual preferences.
 - iv. Use of WMCMH employed direct support personnel, as selected and retained by the individual.
- j. A person using self-determination shall not be obligated to utilize WMCMH employed direct support personnel or a WMCMH operated or contracted program/service.
- k. All direct support personnel selected by the person, whether she or he is acting as employer of record or not, shall meet applicable provider requirements for direct support personnel, or the requirements pertinent to the particular professional services offered by the provider. Individuals selected by the person shall be free of conflict of interest as defined in this policy.
- l. A person shall not be required to select and direct needed provider entities or his/her direct support personnel if she or he does not desire to do so.
- H. WMCMH shall assist a person using arrangements that support self-determination to select, employ, and direct his/her support personnel, to select and retain chosen qualified provider entities, and shall make reasonably available consistent with MDHHS Technical Advisory instructions, their access to alternative methods for directing and managing support personnel.
 - a. WMCMH shall select and make available qualified third-party entities that may function as fiscal intermediaries to perform employer agent functions and/or provide other support management functions, as described in the Fiscal Intermediary Technical Advisory Requirement (Contract Attachment P3.4.4) in order to assist the person in selecting, directing and controlling providers of specialty mental health services and supports.
 - b. Fiscal intermediaries shall be under contract to WMCMH or a designated subcontracting entity. Contracted functions may include:
 - i. Payroll agent for direct support personnel employed by the individual (or chosen representative), including acting as an employer agent for IRS and other public authorities requiring payroll withholding and employee insurances payments.
 - ii. Payment agent for individual held purchase-of-services and consultant agreements with providers of services and supports.
 - iii. Provision of periodic (not less than monthly) financial status reports concerning the individual budget, to both WMCMH and the individual. Reports made to the person served shall be in a format that is useful to the individual tracking and managing funds making up the budget.
 - iv. Provision of an accounting to WMCMH for the funds transferred to it and used to finance the costs of authorized individual budgets under its management.
 - v. Assuring timely invoicing, service activity and cost reporting to WMCMH for specialty mental health services and supports provided

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by individuals and entities that have a direct agreement with the individual.

- vi. Other supportive services, as denoted in the contract with WCMCMH that strengthen the role of the individual as an employer, or assist with the use of other agreements directly involving the individual in the process of securing needed services.
- c. WCMCMH shall assure that fiscal intermediary entities are oriented to and supportive of the principles of self-determination and able to work with a range of personal served styles and characteristics. WCMCMH shall exercise due diligence in establishing the qualifications, characteristics and capabilities of the entity to be selected as a fiscal intermediary, and shall manage the use of fiscal intermediaries consistent with the Fiscal Intermediary Technical Advisory Requirement and MDHHS Technical Assistance Advisories addressing fiscal intermediary arrangements.
- d. An entity acting as a fiscal intermediary shall be free from other relationships involving WCMCMH or the individual that would have the effect of creating a conflict of interest for the fiscal intermediary in relationship to its role of supporting individual-determined services/supports transactions. These other relationships typically would include the provision of direct services to the individual. WCMCMH shall identify and require remedy to any conflicts of interest of the entity that, in the judgment of WCMCMH, interfere with the performance of its role as a fiscal intermediary.
- e. WCMCMH shall collaborate with and guide the fiscal intermediary and each individual involved in self-determination to assure compliance with various state and federal requirements and to assist the individual in meeting his/her obligations to follow applicable requirements. It is the obligation of WCMCMH to assure that fiscal intermediaries are capable of meeting and maintaining compliance with the requirements associated with their stated functions, including those contained in the Fiscal Intermediary Technical Requirement.
- f. Typically funds comprising an individual budget would be lodged with the fiscal intermediary, pending appropriate direction by the individual to pay individual-selected and contracted providers. Where a person selected and directed provider of services has a direct contract with the WCMCMH, the provider may be paid by WCMCMH, not the fiscal intermediary. In that case, the portion of funds in the individual budget would not be lodged with the fiscal intermediary, but instead would remain with WCMCMH, as a matter of fiscal efficiency.
- I. Self-determination does not constitute entitlement to the upper limits of care and supports, but only to those care services and supports, which are necessary, and if sufficient scope, intensity and duration to achieve their purpose and desired outcomes.

VII. SUPPORTING DOCUMENTS:

Refer to the following:

Michigan Department of Health and Human Services contract with the Lakeshore Regional Entity.

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Michigan Department of Health and Human Services Self-Determination Policy and Practice Guideline October 1, 2012 edition.

VI. POLICY/PROCEDURES REVIEW:

REV#	APPROVED BY	Policy/Procedure	DATE
			02/2012
			07/2014
			01/2017
			08/2017
			04/2019
2			02/2017
NC	COC	Annual Review	05/2021
Board Approval Date: 10/15/2002			

IX. CHIEF EXECUTIVE OFFICER ENDORSEMENT:

I have reviewed and approve of policy # 2-2-8 Revision # 2.

CEO: Lisa A. Williams **Approval Signature:** _____