	Open Lines of Communication			
	Chapter:	Corporate Compliance	Policy #	6-1-3
	Section:	Regulatory Management	Revision #	6

- I. **PURPOSE:** The purpose of this policy is to foster open lines of communication within West Michigan CMH and between West Michigan CMH and the Director of Corporate Compliance in the prevention of noncompliance including why and how a compliance violation could or should have been detected, deterred or remediated. In addition, it is to facilitate and encourage the timely reporting of noncompliance incidents to minimize delays in detection, investigation, remediation and mitigation of probable harm.
- II. **APPLICATION:** All programs and services operated by West Michigan CMH.
- III. **REQUIRED BY:** 42 CFR Chapter IV §438.608; 45 CFR Parts 160, 162 and 164; 42 CFR Part Two; Michigan Mental Health Code (MCLA 330.1100 et. seq.) and contract with Lakeshore Regional Entity/PIHP.

IV. **DEFINITIONS:**

Workforce members means governing body members, employees, volunteers, or agents of a provider, and other persons whose conduct in the performance of work for West Michigan CMH, is under the direct control of West Michigan CMH, regardless of if they are paid by West Michigan CMH or not.


Protected Health Information (“PHI”) means the privacy, confidentiality, security, or privileged status of individually identifiable health information which is protected under state or federal law, regulation or rule, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and regulations promulgated there under, 42 CFR Part Two, and the Michigan Mental Health Code. Specifically, and without limitation, protected health information includes all health information, whether in oral, written or electronic form, that:

1. Is created or received by a West Michigan CMH workforce member (45 CFR 160.103); and
2. Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for health care to an individual; and
3. That identifies the individual; or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

Security is defined as measures taken to guard against espionage or sabotage, crime, and attack. Such as, any event that inappropriately places PHI at risk for unavailability, improper alteration, breach of confidentiality, or other potential harm to recipients, staff, WCMH itself, or others that may result in adverse legal action.

Privacy is defined as freedom from unauthorized intrusion. Such as, improper disclosure of PHI to a person or entity not authorized to receive the information.

Fraud is an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to him/her or some other person. It includes any act that constitutes fraud under applicable Federal or

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State law including but not limited to the Federal False Claims Act and the Michigan False Claims Act.

Abuse is defined as provider practices that are inconsistent with sound fiscal, business or clinical practices, and result in an unnecessary cost to the Medicaid programs, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards of care. It also includes beneficiary practices that result in unnecessary cost to the Medicaid programs.

Waste is overutilization of services or other practices that result in unnecessary costs. Generally, not considered caused by criminally negligent actions but rather the misuse of resources.

V. POLICY:


Compliance Hotline. The West Michigan CMH 24-hour toll free number at 1-800-992-2061 and may be called at any time to make a report of any suspected, actual or potential compliance issues, anonymously if desired. In addition, staff or contractors may report suspected fraud and abuse to the Michigan Attorney General’s Office using the online reporting process as detailed at www.michigan.gov/ag or the Office of Inspector General at 1-800-HHS-TIPS.

Non-Retaliation. Workforce members who in good faith report actual or suspected compliance violations or who cooperate in the investigation of actual or suspected compliance violations shall not be the subject of retaliation in any form by any employee of the Authority. Employees shall report retaliation to the Director of Corporate Compliance, who shall investigate such reports in a manner prescribed for allegations of compliance violations.


Any employee found to have engaged in retaliation in violation of this policy shall be subject to disciplinary action up to and including dismissal.

VI. PROCEDURES:

1. Suspected compliance violations of the West Michigan CMH Corporate Compliance program/policies shall be reported and reviewed, to the extent practicable, in a timely and efficient manner as follows:
 - a. *Duty to Report.* All workforce members are required to report to the Director of Corporate Compliance any suspected conduct that a reasonable person would, in good faith, believe to be fraud, abuse, waste or any violation of WCMH Compliance program/policies within 24- hours of personal awareness verbally or in writing. Refer to Table A – Staff Responsibilities for Process of Alleged Compliance Violation.
 - b. *Failure to Report.* The failure of a workforce member to report such conduct to the Director of Corporate Compliance constitutes a compliance violation that is subject to disciplinary action up to and including dismissal or contract termination.

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- c. *Duty of Supervisors.* Supervisors have an affirmative duty to use due care to detect compliance violations by the persons they supervise, and the failure of a supervisor to discover a compliance violation of which the supervisor knew, or in the exercise of reasonable care should have known, itself constitutes a compliance violation that is subject to disciplinary action up to and including dismissal.
 - d. An allegation in a complaint that would constitute a violation of Recipient Rights under the Michigan Mental Health Code shall be reported to the WMCMH Office of Recipient Rights per West Michigan CMH Recipient Rights policies and procedures (Recipient Rights General Policy 5-1-1; and Reporting Abuse and Neglect Policy 5-2-10)
 - e. West Michigan CMH shall be and hereby is vested with responsibility for proper managing of compliance violations.
 - f. All noncompliance allegations will be recorded under the coordination of the West Michigan CMH Director of Corporate Compliance.
 - g. Staff charged with receiving, referring, investigating or resolving violations shall take reasonable steps to safeguard the privacy and security of information and documents used in connection therewith.
 - h. When an alleged compliance violation is communicated by any person to any workforce member, that workforce member shall promptly submit a report to the Director of Corporate Compliance (refer to Table A).
2. WMCMH, as a Lakeshore Regional Entity (LRE) member CMHSP, will report suspected compliance issues within three business days or less to the LRE Corporate Compliance Officer and prior to any self-disclosure to any federal or State of Michigan Medicaid authority. Reporting will initiate when one or more of the following Criteria are met (In no way, is this intended to nor should it be interpreted as a requirement or request to violate the letter or spirit of federal or Michigan reporting and whistleblower statutes or related regulations):
- a. During an inquiry by the member CMHSP compliance officer there is determined to be (reasonable person standard) Medicaid fraud, waste or abuse as defined by federal statute, CMS, HHS OIG and applicable Michigan statute, regulation or PIHP contract definition; or
 - b. When as a result of fraud, abuse, or waste, the member CMHSP makes a material revision to prior reported financial statements to the PIHP; or
 - c. When a member CMHSP knows or should have known that an action or failure to take action in the organization or its contractors could result in the improper application or improper retention of Medicaid funds.

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Member CMHSP staff are encouraged to request technical assistance discussions with the LRE CCO on any compliance issue at any time. Such contacts will not automatically be considered a “report of compliance issue” by LRE. In the event that the LRE CCO receives a complaint or report from a Member CMHSP that he/she determines to not be fraud, waste or abuse, he/she will refer to the matter to the LRE CEO to be addressed through the Dispute Resolution Process as set forth in the LRE Operating Agreement, if appropriate.


3. The Director of Corporate Compliance shall have discretion to report substantiated violations of fraud and abuse to the Office of Civil Rights of the Department of Health and Human Services and/or to the Michigan Department of Attorney General.
 - a. If an alleged compliance violation relates to the conduct of the Director of Corporate Compliance or Recipient Rights Officer, the Complaint and the individual lodging the violation shall be referred in writing directly to the CEO or designee which will act as a Responsible Compliance Officer for purposes of that specific alleged violation.
 - b. The Director of Corporate Compliance shall facilitate the documentation of all compliance related violations, their resolution, and any actions resulting there from. Such documentation shall be maintained for a minimum period of six (6) years from the date of final resolution.
4. West Michigan CMH may prescribe additional procedures for the filing of alleged non-compliance.

VII. SUPPORTING DOCUMENTS:

Appendix 6-1-3A: Table A, Staff Responsibilities for Process of Alleged Non-compliance
Appendix 6-1-3B: DCH-0030, MDCH Recipient Rights Complaint Form

VIII. POLICY/PROCEDURE REVIEW:

REV#	APPROVED BY	Policy/Procedure	DATE
1	Unknown	Procedure	2/05
2	HIPAA Workgroup	Procedure	4/05
3	CCC	Procedure	2/15
NC	TB		5/16
NC	TB		5/17
NC	CCC		5/18
NC	CCC		6/19
4	CCC/Board	Policy/Procedure	01/21
4	CCC	Annual Review	02/22
5	CCC	Procedure	1/23
6	CCC	Procedure	1/24
Board Approval Date: 3/19/2002			

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IX. CHIEF EXECUTIVE OFFICER ENDORSEMENT:

I have reviewed and approve of policy # 6-1-3 Revision # 6 .

CEO: Lisa Williams

Approval Signature: _____

WEST MICHIGAN COMMUNITY MENTAL HEALTH

TABLE A

STAFF RESPONSIBILITIES FOR PROCESS OF ALLEGED COMPLIANCE VIOLATIONS

Position Title	Areas of Responsibility	Contact Information
Workforce member	Any reports of suspected compliance violations, questions or possible concerns may be directed to the WMCMH Corporate Compliance Director via telephone, verbally or in writing using Form CR091, e-mail (report@wmcms.org) or by using the compliance hotline, within 24-hours of personal awareness;	<ul style="list-style-type: none"> • WMCMH Director, Corporate Compliance & Risk Management at 920 Diana Street, Ludington, MI 49431 or Ph: 231-845-6294 or direct to 231-923-2097 • WMCMH Toll-Free Compliance Hotline 1-800-992-2061
Director of Corporate Compliance, Security Officer or Designated Alternate Advisors	<ul style="list-style-type: none"> • Receives alleged noncompliance violations from workforce members, hotline, customers, providers or vendors; • Conducts and/or coordinates investigation of alleged violation; • Coordinates findings of fact and conclusions with respect to alleged violation; • Coordinates recommendations to WMCMH Senior Management Team, Directors, and Supervisors for remedial and mitigation measures, sanctions, and corrective action plans; 	<ul style="list-style-type: none"> • Director, Corporate Compliance • Security Officer • Supervisor • Senior Management Team • Customer Services • Compliance Hotline 1-800-992-2061 • Compliance E-Mail: report@wmcms.org

<p>Recipient Rights Officer or Recipient Rights Advisor</p>	<ul style="list-style-type: none"> • Receives Recipient Rights Complaints from customers that arise out of WMCMH operations including operations of providers and vendors; • Conducts intervention or investigation of Complaints; • Coordinates intervention or investigative and summary reports; • Reports findings to the CEO, & respondents as appropriate, & summary to complainant/recipient. • Report Recipient Rights Complaints to the WMCMH Rights Office use DCH-Form 0030. 	<p>Office of Recipient Rights</p> <ul style="list-style-type: none"> • WMCMH Recipient Rights Officer at: 920 Diana Street, Ludington, MI 49431 or Ph: 231-845-6294.
<p>Clinical Support Staff</p>	<ul style="list-style-type: none"> • Handles routine requests for access to clinical records in a designated record set (45 CFR 164.501); • Handles routine requests for restrictions on the use or disclosure of PHI in a designated record set; • Handles routine requests for disclosures of PHI to third parties, • Handles routine requests for amendment or correction of a designated record set; • Handles routine requests for accountings of disclosures; • Reports alleged compliance violations from individuals receiving services to the Director of Corporate Compliance; • Reports Recipient Rights Complaints to the Office of Recipient Rights. 	<ul style="list-style-type: none"> • Clinical Support Staff • Director, Corporate Compliance
<p>Customer Engagement Coordinator</p>	<ul style="list-style-type: none"> • Receives alleged compliance violation from workforce members and from customers that arise out of WMCMH operations including operations of providers and vendors; • Reports alleged compliance violations to the Director of Corporate Compliance; • Reports Recipient Rights Complaints to the Office of Recipient Rights. 	<p>Office of Customer Services</p>

RECIPIENT RIGHTS COMPLAINT
Michigan Department of Health and Human Services

Complaint Number

INSTRUCTIONS:

If you believe that one of your rights has been violated, you (or someone on your behalf) may use this form to make a complaint. A rights officer/advisor will review the complaint and may conduct an investigation. Send this form to the rights office at the Community Mental Health (CMH) or hospital where you are receiving (or received) services at: West Michigan CMH, 920 Diana St., Ludington, MI 49431.

Keep a copy for yourself. If you send your complaint to Michigan Department of Health and Human Services, Office of Recipient Rights (MDHHS-ORR), it will be forwarded to the appropriate rights office. The MDHHS-ORR address is: Michigan Department of Health and Human Services, Office of Recipient Rights, Lewis Cass Building, 320 South Walnut Street, Lansing, MI 48933.

Complainant's Name	Recipient's Name (if different from complainant)	
Complainant's Address	Where did it occur (name or address of hospital/agency)?	
Complainant's Telephone Number	When did the alleged violation occur (indicate date and time)?	
What right was violated?		
Describe what happened:		
What would you like to see happen in order to correct the violation?		
Complainant's Signature	Date	Name of person assisting complainant

The Michigan Department of Health and Human Services (MDHHS) does not discriminate against any individual or group because of race, religion, age, national origin, color, height, weight, marital status, genetic information, sex, sexual orientation, gender identity or expression, political beliefs or disability.

Authority: PA 258 of 1974 as amended

Original to ORR

Copy to complainant (with acknowledgement letter)