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- I. **PURPOSE:** To provide policy direction that defines self-direction and guides the practice and implementation of self-direction within West Michigan Community Mental Health (WCMH) public mental health system.
- 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: An arrangement that gives the parent(s) of the child who is receiving services and support from the CWP, control within specified conditions and limitations over the resources allotted for services agreed upon in the individual plan of service (IPOS) and indicated in an individual service budget. The parent, by becoming the employer, hires the staff to work with his/her child. A financial management service provider acts as the payer of costs incurred by the child. Its use shall be guided by the Choice Voucher System Technical Advisory provided that no conflict of interest is present.

Community Mental Health Services Program (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.

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.

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 WCMH.

Financial Management Service Provider: A financial management service provider is an independent legal entity (organization or individual) that acts as a fiscal agent of WCMH for the purpose of assuring fiduciary accountability for the funds comprising some or all of a CWP budget. A financial management service provider shall perform its

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duties as specified in a contract with WMCMH or its designated subcontractor. The purpose of the fiscal intermediary is to receive funds from WMCMH making up a CWP budget, and make payments as authorized to providers and other parties to whom an individual using the CWP budget may be obligated. A financial management service provider 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 financial management service provider 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.

**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-direction agreement and for other agreements that may be necessary for the person to participate in arrangements that support Self-direction. The person may have a guardian. The role of the guardian in Self-direction 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 WMCMH and those close to the person to assure that the person's preferences and dreams drive the use of Self-direction arrangements, and that the best interests of the person are primary.

**IPOS:** The IPOS includes a treatment plan and a support plan, or both. The treatment plan sets measurable goals with the recipient, and the IPOS must identify services, supports, and treatment as desired or required by the patient. The IPOS also includes the expected start date for authorized services, and the amount, scope, and duration of each service. The beneficiary must receive a copy of their IPOS within 14 days.**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 WMCMH, 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.

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**Self-Determination:** Self-determination is a philosophy that believes people with disabilities should have the freedom to decide how to live their lives – just like everyone in the community wants. Self-determination is not a program or something you “do” – it is a way to live that incorporates a set of concepts and values that emphasize participation and achievement of personal control for individuals served through the public mental health system.

All individuals with disabilities can live in a self-determined way, if they have support to develop the skills and beliefs to take control and responsibility over how they live their lives. Self-determination is a way of living while self-direction is the method through which the principles of self-determination are accomplished. In Michigan, an individual plan of service developed through the person-centered planning process is a key part of living a self-determined life. The plan of service identifies clinically/medically necessary mental health services and supports aimed at increasing independence, community inclusion and productivity, as well as natural and community supports the individual needs to become or remain connected to family, friends, and the community. 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 choices in how they live their life.

**Self-Direction:** Self-direction is a method for moving away from professionally managed models of supports and services. It is the act of selecting, directing, and managing


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one's services and supports. People who self-direct their services are able to decide how to spend their CMH services budget with support, as desired. The methods of self-direction are crafted with the principles of self-determination.

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-direction and the possibilities, models and arrangements involved. People have access to the tools and mechanisms supportive of self-direction, upon request. Self-direction 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 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, WMCMH shall ensure that their services planning and delivery processes are designed to encourage and support individuals to decide and control their own lives. WMCMH 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 WMCMH 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 WMCMH and the individual, consistent with fiduciary obligations of the WMCMH.
- E. Realization of the principles of self-direction requires arrangements that are partnerships between the WMCMH and the individual. They require active commitment of WMCMH 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, WMCMH 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-direction with WMCMH obligations


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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-direction 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. WMCMH 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-direction are administrative mechanisms, allowing a person to choose, control, and direct providers of specialty mental health services and supports. With the exception of FMS services, these mechanisms are not themselves covered services within the array of state plan and mental health specialty services and supports. Self-direction arrangements must be developed and operated within the requirements of the respective contracts between the 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-direction 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 supports acquired using arrangements that support self-direction.
- K. Arrangements that support self-direction involve mental health specialty services and supports, and therefore, the investigative authority of Recipient Rights applies.

**VI POLICY:** It is the policy of WMCMH to ensure that all individuals with intellectual/developmental disabilities and/or mental illness have the opportunity to voluntarily participate in the self-determination process and to promote greater accessibility and availability of such arrangements for individuals receiving services.

- A. Participation in self-direction shall be a voluntary option on the part of each person.
- B. Persons involved with self-direction 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-direction 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-direction 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.

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- E. WMCMH shall actively support and facilitate a person's application of the principles of Self-direction in the accomplishment of his/her person centered plan.
- F. WMCMH shall provide training for individuals wishing to participate in a self-directed arrangement. Training provided will cover the following topics:
  - i. How to be an employer
  - ii. How to manage employees
  - iii. The roles and responsibilities of SD participant (employer), FMS provider, and WMCMH
  - iv. Budget management

## **VI. PROCEDURES:**

### *1. Inform individual's of their options*

Arrangements that support self-direction shall be explained and offered at least annually during the person-centered planning process.. All consumers/families/legal representatives shall be provided with the necessary information and education about the principles of self-direction and the possibilities, models, and arrangements involved. A person can initiate this process by requesting the opportunity to participate in self-direction. For the purposes of self-direction, 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. As part of the planning process leading to an agreement about self-direction, the arrangements that will, or may, be applied by the person to pursue self-direction shall be delineated and agreed to by the person and WMCMH.
- B. WMCMH shall assist a person using arrangements that support self-direction 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.

WMCMH shall select and make available qualified third-party entities that may function as FMS to perform employer agent functions and/or provide other support management functions, as described in the Self-Direction Technical Guide in order to assist the person in selecting, directing and controlling providers of specialty mental health services and supports.


*2. Budget development* Employers involved in self-direction shall have the authority to select, control, and direct their own specialty mental health services and supports by responsibly controlling the resources allotted in an individual budget, towards accomplishing the goals and objectives in their IPOS.

- A. The individual budget shall be formed between the participant and their chosen FMS provider using the amount, scope, and duration of medically necessary services and supports that have been authorized during the person-centred planning process.
- B. 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.



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- C. Self-direction 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.
- D. Assuring authority over an individual budget is a core element of self-direction. This means that the individual may use responsibly an individual budget as the means to authorize and direct their providers of services and supports.
- E. 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.
- F. WMCMH, an affiliate of the LRE, may establish maximum unit rates to be used for budget creation that are not less than comparable contracted service rates for the same service and level of care.
- G. Proper use of an individual budget is of mutual concern to WMCMH and the person.
  - i. Mental Health funds included in an individual budget are the assets and responsibility of WMCMH, and must be used consistent with statutory and regulatory requirements. Authority over their direction is a collaborative function between the person and WMCMH, 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.
  - ii. An agreement shall be made in writing between WMCMH 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.
  - iii. 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.
  - iv. . An individual budget shall be flexible in its use.
  - v. 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 WMCMH.


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- vi. 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.
- vii. 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.
- viii. 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.

### 3. *Financial Management Service provider (FMS)*

- A. FMS 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 by individuals and entities that have a direct agreement with the individual.
  - vi. Other supportive services, as denoted in the contract with WMCMH 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.
- B. WMCMH shall assure that FMS entities are oriented to and supportive of the principles of Self-direction and able to work with a range of personal served styles and characteristics. WMCMH shall exercise due diligence in establishing the qualifications, characteristics and capabilities of the entity to be selected as a FMS, and shall manage the use of FMS consistent with the Self-Direction Technical Guide requirements addressing fiscal arrangements.
- C. An entity acting as a FMS shall be free from other relationships involving WMCMH or the individual that would have the effect of creating a conflict of interest for the



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FMS 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. WMCMH shall identify and require remedy to any conflicts of interest of the entity that, in the judgment of WMCMH, interfere with the performance of its role as a FMS.

- D. WMCMH shall collaborate with and guide the fiscal intermediary and each individual involved in Self-direction 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 WMCMH to assure that FMS are capable of meeting and maintaining compliance with the requirements associated with their stated functions, including those contained in the Self-Direction Technical Guide.
- E. Typically funds comprising an individual budget would be lodged with the FMS, 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 WMCMH, the provider may be paid by WMCMH, not the FMS. In that case, the portion of funds in the individual budget would not be lodged with the FMS, but instead would remain with WMCMH, as a matter of fiscal efficiency.


#### 4. *Becoming the employer of record- rights and responsibilities*

All individuals, regardless of their abilities and disabilities, are presumed competent under state law unless there is a legal determination otherwise. That legal determination may be in the form of a guardian under the Mental Health Code for a person with a developmental disability or a guardian or conservator under the Estates and Protected Individuals Act for a person with a mental illness. The guardian must act of behalf of the individual per the legal guardian arrangement. In regards to self-direction this includes: assuring employee training is complete and current, following through on rules and regulations of employment, assuring that timecards and progress notes are accurate and timely, as well as reviewing the budget and hours to assure both are within limits as identified in the person-centered plan.

#### 5. *Employees*

All employees must be qualified providers per Medicaid guidelines, remain current on designated training, and adhere to WMCMH treatment processes and program specific self-direction guidelines. A Medicaid Provider Agreement must be signed by each employee. Services must be documented with sufficient detail, addressing the goals and objectives in the IPOS, and must be signed and dated by the employee.

- A. 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 WMCMH.

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- ii. Services/supports to be provided by a qualified provider if no conflict of interest exists, chosen by the individual, with WMCMH 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. WMCMH 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.
- B. 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.
- C. Copies of all agreements shall be kept current, and shall be made available by the individual, for review by authorized representatives of WMCMH. WMCMH will retain one copy of the original contract with each provider.
- D. Should an SD participant (employer) have concerns related to their employees, WMCMH shall provide assistance to resolve the concerns. To obtain such assistance, the SD participant shall contact their WMCMH supports coordinator or case manager.

## 6. Monitoring of services

Service provision must be documented on progress notes/timesheets and submitted to the FMS provider on identified basis. Monitoring of the progress notes, services, and budget is done by the SC/CM at least monthly to assure compliance with Medicaid documentation standards, IPOS, and budgetary parameters. The individual budget and progress note documentation must also be monitored by the SD participant and/or guardian.

## 7. Termination of the self-directed agreement

- A. Either party – WMCMH or the person – may terminate a self-direction agreement, and therefore, the self-direction 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-direction arrangement, the local processes for dispute resolution may be used to address and resolve the issues.
- B. Termination of a self-direction Agreement by WMCMH is not a Medicaid Fair Hearings Issue. Only a change, reduction, or termination of Medicaid services can

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be appealed through the Medicaid Fair Hearings Process, not the use of arrangements that support self-direction to obtain those services.

- C. Discontinuation of a self-direction 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.
- D. 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.

## VII. SUPPORTING DOCUMENTS:

Refer to the following:

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

Michigan Department of Health and Human Services Self-direction Technical Requirement and Implementation Guide Version 2.2, January 2022

## VI. POLICY/PROCEDURES REVIEW:

REV#	APPROVED BY	Policy/Procedure	DATE
			2/2012
			7/2014
			1/2017
			8/2017
			4/2019
2			2/2017
NC	COC	Annual Review	5/2021
3	COC / WMCMH Board	Policy	5/2022
4	COC	Procedure	5/2023
4	COC	Annual Review	3/2024
4	COC	Annual Review	2/2025
<b>Board Approval Date: 10/15/2002</b>			

## IX. CHIEF EXECUTIVE OFFICER ENDORSEMENT:

I have reviewed and approve of policy # 2-2-8 Revision # 4.

**CEO: Julia Rupp**      **Approval Signature: \_\_\_\_\_**