

MEDICAID POLICY INFORMATION SHEET

Policy Analyst: Dana Moore

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Initial

Public Comment

Final

Brief description of policy:

The purpose of this policy is to revise the Behavior Treatment Review subsection of the Behavioral Health and Intellectual and Developmental Disability Supports and Services Chapter within the MDHHS Medicaid Provider Manual. Revisions are being made to make language clearer and more concise, language was added to define what is prohibited and will not be approved by the Behavior Treatment Plan Review Committee (BTPRC), updates were also made to the committee member requirements, and new language was added based on chapter 1 of the Mental Health code and to better align with the Mental Health Code administrative rule.

Reason for policy (problem being addressed):

To bring policy into alignment with the Mental Health Code Administrative rule.

Budget implication:

budget neutral

will cost MDHHS \$, and (select one) budgeted in current appropriation

will save MDHHS \$

Is this policy change mandated per federal requirements?

Yes

Does policy have operational implications on other parts of MDHHS?

No

Does policy have operational implications on other departments?

No

Summary of input:

controversial

acceptable to most/all groups

limited public interest/comment

Supporting Documentation:

State Plan Amendment Required: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Public Notice Required: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes, please provide status: <input type="checkbox"/> Approved <input type="checkbox"/> Pending <input type="checkbox"/> Denied	If yes, Submission Date:
Date: Approval	Date:

DRAFT FOR PUBLIC COMMENT

Michigan Department of Health and Human Services

Project Number: 2326-BH

Date: July 18, 2023

Comments Due: August 22, 2023

Proposed Effective Date: October 1, 2023

Direct Comments To: Dana Moore

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Policy Subject: Policy Updates to Behavior Treatment Review

Affected Programs: Behavioral Health 1915(c) Home and Community-Based Services (HCBS) Waivers and 1915(i) SPA

Distribution: Prepaid Inpatient Health Plans (PIHPs), Community Mental Health Services Programs (CMHSPs)

Summary: The purpose of this policy is to revise the Behavior Treatment Review subsection of the Behavioral Health and Intellectual and Developmental Disability Supports and Services chapter within the MDHHS Medicaid Provider Manual. Revisions are being made to make language clearer and more concise, language was added to define what is prohibited and will not be approved by the Behavior Treatment Plan Review Committee (BTPRC), updates were also made to the committee member requirements, and new language was added based on chapter 1 of the Mental Health code and to better align with the Mental Health Code administrative rule.

Purpose: To bring policy into alignment with the Mental Health Code Administrative rule.

Cost Implications: Budget neutral

Potential Hearings & Appeal Issues: None

State Plan Amendment Required: Yes No
If yes, date submitted:

Public Notice Required: Yes No
Submitted date:

Tribal Notification: Yes No - Date:

THIS SECTION COMPLETED BY RECEIVER

Approved

No Comments

See Comments Below

Disapproved

See Comments in Text

Signature:

Phone Number

Signature Printed:

Bureau/Administration (*please print*)

Date

Proposed Policy Draft

Michigan Department of Health and Human Services
Behavioral & Physical Health and Aging Services Administration

Distribution: Prepaid Inpatient Health Plans (PIHP), Community Mental Health Services Programs (CMHSPs)

Issued: September 1, 2023 (Proposed)

Subject: Policy Updates to Behavior Treatment Review

Effective: October 1, 2023 (Proposed)

Programs Affected: Behavioral Health 1915(c) Home and Community-Based Services (HCBS) Waivers and 1915(i) SPA

The purpose of this policy is to update the Behavioral Health and Intellectual and Developmental Disability Supports and Services chapter of the Michigan Department of Health and Human Services (MDHHS) Medicaid Provide Manual, Behavior Treatment Review subsection. The changes include:

- Updates to Behavior Treatment Plan Review Committee (BTPRC) committee members requirements to include language indicating other staff who can participate as non-voting members to serve as consultants and provide technical assistance per the beneficiaries request.
- New language removes “target behavior is not due to an active substantiated psychotic process” and added “beneficiary’s challenging behavior is due to the active symptoms of a serious mental illness and serious emotional disturbance” (as defined in chapter 1 of the Mental Health Code [MHC]). Therefore, better aligning MDHHS Medicaid Provider Manual language with the MHC Administrative rule.
- Added language defining what is prohibited and will not be approved by the BTPRC.
- Made language clearer and more concise.

Behavior Treatment Review

The federal Balanced Budget Act of 1997 requires states to ensure that enrollees in their PIHPs will "be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience, or retaliation, as specified in other Federal regulations on the use of restraints or seclusion" at 42 CFR 438.100 (b)(2)(v).

A behavior treatment plan (BTP), where needed, is developed through the person-centered planning process that involves the beneficiary. To determine the need for a BTP plan, a comprehensive assessment must be completed in order to rule out any physical or environmental cause for the behavior. Any BTP that includes limitations of the beneficiary's rights, any intrusive behavior treatment techniques, or any use of psycho-active drugs for

behavior control purposes, must be reviewed and approved by a Behavior Treatment Plan Review Committee (BTPRC) comprised of at least three individuals, one of whom shall be a board-certified behavioral analyst or licensed behavior analyst and/or fully- or limited-licensed psychologist with the specified training, and one of whom shall be a licensed physician/psychiatrist. A representative of the Office of Recipient Rights (ORR) shall participate on the BTPRC as ex-officio, non-voting member in order to provide consultation and technical assistance to the Committee. Other non-voting members may be added at the BTPRC's discretion and with the consent of the individual whose behavior treatment plan is being reviewed, such as an advocate or Certified Peer Support Specialist.

Exception: Limitations of the beneficiary's rights, any intrusive treatment techniques, or any use of psychoactive drugs where the beneficiary's challenging behavior is due to the active symptoms of a serious mental illness and serious emotional disturbance (as defined in Chapter 1 of the MHC). Any limitation shall be justified, time-limited, and clearly documented in the plan of service. Documentation shall be included that describes attempts that have been made to avoid limitations, as well as what actions will be taken as part of the plan to ameliorate or eliminate the need for the limitations in the future.

The required BTPRC members must be present during the review and approval process. A BTPRC member who has prepared a behavior treatment plan must recuse themselves from the final decision-making. Any BTP submitted for review and approval (or disapproval) must be done in light of current research and prevailing standards of practice as found in current peer-reviewed psychological/psychiatric literature. Any intrusive or restrictive technique not supported in current peer-reviewed psychological/psychiatric literature must be reviewed and approved by MDHHS prior to implementing. BTPs that propose the use of physical management, and/or involvement of law enforcement in a non-emergent situation, aversive techniques, or seclusion or restraint in a setting where it is prohibited by law shall be disapproved by the committee. Acceptable BTPs are designed to reduce maladaptive behaviors, to maximize behavioral self-control, or to restore normalized psychological functioning, reality orientation, and emotional adjustment, thus enabling the beneficiary to function more appropriately in interpersonal and social relationships. Such reviews shall be completed prior to the beneficiary's signing and implementation of the plan and as expeditiously as possible. Staff implementing the beneficiary's BTP must be trained in how to implement the plan. This coverage includes the monitoring of the BTP by the BTPRC or a designee of the committee which shall occur as indicated in the BTP.