

## PATHWAYS CMH

<b>POLICY TITLE:</b> Services Suited to Condition	<b>CATEGORY:</b> Recipient Rights	
<b>EFFECTIVE DATE:</b> April 2005	<b>BOARD APPROVAL DATE:</b> April 2005	
<b>REVIEW DATE:</b> October 22, 2019	<b>REVISION(S) TO POLICY STATEMENT:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>OTHER REVISION(S):</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>RESPONSIBLE PARTY:</b> Recipient Rights Supervisor or Designee	<b>CEO APPROVAL:</b> Mary J. Swift, CEO	

### **APPLIES TO:**

Employees, volunteers and contractual providers of Pathways CMH

### **POLICY:**

It is the policy of the Pathways Board that:

- A. Services shall promote the best interests of the individual receiving services and shall be designed to increase independence, improve quality of life, and support community integration and inclusion;
- B. Services for children and families will be designed to strengthen and preserve the family unit if appropriate;
- C. Services for each recipient shall be suited to his or her condition, be medically necessary, and be developed using a person-centered planning process. These services will be provided in a safe, sanitary, and humane treatment environment. These services shall be provided in the least restrictive setting that is appropriate and available.

### **PURPOSE:**

To protect the rights of recipients

### **DEFINITIONS:**

#### **Act**

The mental health code

#### **Applicant**

An individual or his or her legal representative who makes a request for mental health services.

#### **Developmental disability**

Either of the following:

- A. If applied to an individual older than 5 years, a severe, chronic condition that meets all of the following requirements:
  1. Is attributable to a mental or physical impairment or a combination of mental and physical impairments;
  2. Is manifested before the individual is 22 years old;
  3. Is likely to continue indefinitely;
  4. Results in substantial functional limitations in 3 or more of the following areas of major life activity:
    - a. Self-care;
    - b. Receptive and expressive language;

- c. Learning;
- d. Mobility;
- e. Self-direction;
- f. Capacity for independent living;
- g. Economic self-sufficiency;

5. Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated;

- B. If applied to a minor from birth to age 5, a substantial developmental delay or a specific congenital or acquired condition with a high probability of resulting in developmental disability as defined above if services are not provided.

### **Emergency situation**

A situation in which an individual is experiencing a serious mental illness or a developmental disability, or a child is experiencing a serious emotional disturbance, and one (1) of the following applies;

- A. The individual can reasonably be expected within the near future to physically injure himself, herself, or another individual, either intentionally or unintentionally;
- B. The individual is unable to provide himself or herself food, clothing, or shelter or to attend to basic physical activities such as eating, toileting, bathing, grooming, -dressing, or ambulating, and this inability may lead in the near future to harm to the individual or to another individual;
- C. The individual's judgment is so impaired that he or she is unable to understand the need for treatment and, in the opinion of the mental health professional, his or her continued behavior as a result of the mental illness, developmental disability, or emotional disturbance can reasonably be expected in the near future to result in physical harm to the individual or to another individual.

### **Intrusive Techniques:**

Those techniques that encroach upon the bodily integrity or the personal space of the individual for the purpose of achieving management or control, of a seriously aggressive, self-injurious or other behavior that places the individual or others at risk of physical harm. Examples of such techniques include the use of a medication or drug when it is used to manage, control or extinguish an individual's behavior or restrict the individual's freedom of movement and is not a standard treatment or dosage for the individual's condition.

### **Medically Necessary**

Mental health services which are:

- A. Necessary for screening and assessing the presence of a mental illness; and/or
- B. Required to identify and evaluate a mental illness that is inferred or suspected; and/or
- C. Intended to treat, ameliorate, diminish or stabilize the symptoms of mental illness including impairment in functioning, and/or
- D. Expected to arrest or delay the progression of a mental illness and to forestall or delay relapse, and/or
- E. Designed to provide rehabilitation for the recipient to attain or maintain an adequate level of functioning.

### **Mental health professional**

An individual who is trained and experienced in the area of mental illness or developmental disabilities and who is one (1) of the following:

- A. A physician who is licensed to practice medicine or osteopathic medicine and surgery in Michigan under article 15 of the public health code, Act No. 368 of the Public Acts of 1978;
- B. A psychologist licensed to practice in Michigan under article 15 of the public health code, Act No. 368 of the Public Acts of 1978;
- C. A registered professional nurse licensed to practice in Michigan under article 15 of the public health code, Act No. 368 of the Public Acts of 1978;
- D. A certified social worker, a social worker, or a social worker technician registered in Michigan under article 16 of the occupational code, Act No. 299 of the Public Acts of 1980;
- E. A licensed professional counselor licensed to practice in Michigan under article 15 of the public health code, Act No. 368 of the Public Acts of 1978;
- F. A marriage and family therapist licensed article 15 of the occupational code, Act No. 299 of the Public Acts of 1980.

**Person-centered planning**

A process for planning and supporting the individual receiving services that builds upon the individual's capacity to engage in activities that promote community life and that honors the individual's preferences, choices, and abilities. The person-centered planning process involves families, friends, and professionals as the individual desires or requires.

**Physical management**

A technique used by staff as an emergency intervention to restrict the movement of a recipient by direct physical contact to prevent the recipient from harming himself, herself, or others.

**Primary Clinician**

The staff member in charge of implementing the recipient's plan of service.

**Serious emotional disturbance**

A diagnosable mental, behavioral, or emotional disorder affecting a minor that exists or has existed during the past year for a period of time sufficient to meet diagnostic criteria specified in the most recent diagnostic and statistical manual of mental disorders published by the American psychiatric association and approved by the Department of Health and Human Services and that has resulted in functional impairment that substantially interferes with or limits the minor's role or functioning in family, school, or community activities. The following disorders are included only if they occur in conjunction with another diagnosable serious emotional disturbance:

- A. A substance abuse disorder;
- B. A developmental disorder;
- C. "V" codes in the diagnostic and statistical manual of mental disorders.

**Serious mental illness**

A diagnosable mental, behavioral, or emotional disorder affecting an adult that exists or has existed within the past year for a period of time sufficient to meet diagnostic criteria specified in the most recent diagnostic and statistical manual of mental disorders published by the American psychiatric association and approved by the Department of Health and Human Services and that has resulted in functional impairment that substantially interferes with or limits 1 or more major life activities. Serious mental illness includes dementia with delusions, dementia with depressed mood, and dementia with behavioral disturbance but does not include any other dementia unless the dementia occurs in conjunction with another diagnosable serious mental illness. The following disorders also are included only if they occur in conjunction with another diagnosable serious mental illness:

- A. A substance abuse disorder;

- B. A developmental disorder;
- C. A "V" code in the diagnostic and statistical manual of mental disorders.

**Support Plan**

A written plan that specifies the personal support services or any other supports that are to be developed with and provided for a recipient.

**Treatment Plan**

A written plan that specifies the goal-oriented treatment or training services, including rehabilitation or habilitation services that are to be developed with and provided for a recipient.

**REFERENCES:**

Act 258 of the Public Acts of 1974, as amended (Mental Health Code) Sections 705 (1) (2), 712 (1) (3), 409 (4)

Department of Community Health Administrative Rule 330.7001 and 7199

Pathways Clinical Directives

MDCH Mental Health and Substance Abuse Administration Technical Requirement for Behavior

Treatment Plan Review Committees (2012)

**HISTORY:**

Dates Reviewed: : March 2008; July 2009; June 2011; July 11, 2013; March 3, 2014, May 5, 2015; April 19, 2015; April 15, 2017; March 26, 2018; October 22, 2019;

Dates Revised: March 2008; July 2009; June 2011; July 11, 2013; March 3, 2014; October 22, 2019 (procedure)

Dates Approved: April 2005

## **PROCEDURES:**

### **A. Individualized Plan of Services**

1. Pathways will ensure that a person-centered planning process is used to develop a written individual plan of services in partnership with the recipient. A preliminary plan shall be developed within seven days of commencement of services or, if an individual is hospitalized for less than seven days, before discharge or release. The Individual Plan of Service shall address, as either desired or required by the recipient, the recipient's need for food, shelter, clothing, health care, employment opportunities, educational opportunities, legal services, transportation and recreation. The plan shall be kept current and shall be modified when indicated. The individual in charge of implementing the Plan of Service shall be designated in the plan.
2. The Pathways Clinical Directives will be followed by all staff responsible for developing, implementing or monitoring service plans.
3. The plan shall identify any limitation of the recipient's rights. 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 such 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.
4. An individual chosen or required by the recipient may be excluded from participating in the planning process only if inclusion of that individual would constitute a substantial risk of physical or emotional harm to the recipient or substantial disruption of the planning process. Justification for an individual's exclusion shall be documented in the case record.
5. The individual plan of service shall be formally agreed to in whole or in part by the responsible mental health agency and the recipient, his or her guardian, if any, or the parent who has legal custody of a minor recipient. If the appropriate signatures are unobtainable, then the responsible mental health agency shall document witnessing verbal agreement to the plan. Copies of the plan shall be provided to the recipient, his or her guardian, if any, or the parent who has legal custody of a minor recipient.
6. Implementation of a plan without agreement of the recipient, his or her guardian, if any, or parent who has legal custody of a minor recipient may only occur when a recipient has been adjudicated pursuant to Section 469a, 472a, 473, 515, or 519 of the act. However, if the proposed plan in whole or in part is implemented without the concurrence of the adjudicated recipient or his or her guardian, if any, or the parent who has legal custody of a minor recipient, then the stated objections of the recipient or his or her guardian or the parent who has legal custody of a minor recipient shall be included in the plan.

### **B. Behavior Management Review**

1. It is required that a functional analysis/assessment of a recipient's challenging behaviors be conducted.
2. Behavior modification plans are based on the analysis/assessment and are designed with maximum possible emphasis on safeguarding individual rights, respecting individual dignity, employing least restrictive/intrusive effective procedures, transitioning to the most minimally restrictive/intrusive procedures as progress is realized, and replacing problematic behaviors with more adaptive alternatives.
3. Any behavior management or treatment plan that proposes limitations of the recipient's rights, any intrusive techniques, or any use of psycho-active medications for behavior control purposes must be reviewed and approved by a formally constituted committee comprised of at least three individuals, one of whom shall be a full or limited licensed psychologist with the formal training or experience in applied behavior analysis knowledge, training, and expertise in applied behavior analysis, and one of whom shall be a licensed physician/psychiatrist.

Any use of psychoactive drugs where the target behavior is due to an active substantiated Axis I psychiatric diagnosis listed in the Diagnostic and Statistical Manual of Mental Disorders need not be reviewed and approved by a specially constituted body described in this section.

C. Provision of Services

Services shall be provided to recipients in accordance with all applicable standards of care or treatment required by the following:

1. All state or federal laws, rules or regulations governing the provision of community mental health services; and
2. Obligations of the CMH established under the terms of its contract with the Michigan Department of Health and Human Services; and
3. Obligations of a provider established under the terms of a contract or employment agreement with the CMH; and
4. CMH policies and procedures; and
5. Written guidelines or protocols of a provider; and
6. Written directives from a supervisor consistent with any of the above; and
7. A recipient's individual plan of service.

D. Physical management may only be used in situations when a recipient is presenting an imminent risk of serious or non-serious physical harm to himself, herself or others and lesser restrictive interventions have been unsuccessful in reducing or eliminating the imminent risk of serious or non-serious physical harm. Both of the follow shall apply:

1. Physical management shall not be included as a component in a behavior treatment plan.
2. Prone immobilization of a recipient for the purpose of behavior control is prohibited unless implementation of physical management techniques other than prone immobilization is medically contraindicated and documented in the recipient's record.

E. Choice of Physician or Mental Health Professional

A recipient shall be given a choice of physician or other mental health professional in accordance with Pathways standards and within the limits of available staff.

In the event that a recipient requests a change of physician or mental health professional, the immediate supervisor of the physician or mental health professional shall respond in writing within fourteen days of the request, advising the recipient of the change or reasons for not making the change.

**Routing Process for Requests for a Change of Physician/ Prescriber:**

- All requests for a change of physician/prescriber shall be routed to the Office of Recipient Rights.
- A Recipient Rights staff shall speak with the recipient/guardian/parent of a minor making the request and obtain pertinent information on the reason for the request. The recipient shall be advised that a written response to their request will be provided within 14 days.
- The Recipient Rights staff shall submit the request by e-mail directly to the Medical Director and c.c. the Medical Director's Administrative Assistant.
- A copy of the response letter, advising the recipient of the change or reason for not making the change, shall be scanned into the recipient's record in ELMER.

If the Medical Director is the recipient's current provider and a request for a change of physician is made, the Recipient Rights staff shall submit the request by e-mail to the Pathway CEO.

**Process for Handling Requests for a Change of Mental Health Professional:**

When a recipient is requesting a change of caseworker, therapist, or other mental health professional, the worker receiving the request shall forward it directly to the appropriate supervisor to address. This should be done the same day the request was received. A copy of the response letter advising the recipient of the change or reasons for not making the change, shall be scanned into the recipient's chart in ELMER.

F. Denial of Services

See the Pathways Grievance and Appeals policy.