



MICHIGAN DEPARTMENT OF COMMUNITY HEALTH

Distribution: Community Mental Health Services Programs 04-01

- **Issued:** March 29, 2004
- **Subject:** Clarification to Chapter III for Prepaid Inpatient Health Plans (Mental Health-Substance Abuse)
- Effective: Upon Receipt

Programs Affected: Medicaid

This bulletin provides clarifications to the PIHP/CMHSP Chapter III, released with CMHSP 03-06 bulletin, in response to questions received after the new chapter was released.

**Note:** The PIHP/CMHSP Chapter III was renamed Mental Health-Substance Abuse Chapter in the new electronic Medicaid Provider Manual recently distributed to providers on compact disc (CD). Some of the sections in the electronic version of the chapter have been renumbered to correct errors in the paper copy. This bulletin supplements the electronic version of the manual and, where appropriate, identifies where a section is numbered differently in the electronic manual.

#### Section 1.5 Beneficiary Eligibility (1.6 in the electronic manual)

The second paragraph after the table in this subsection should read:

"Medicaid beneficiaries who are not enrolled in a MHP, and whose needs do not render them eligible for specialty services and supports, receive their outpatient mental health services through the fee-for-service (FFS) Medicaid Program if experiencing or demonstrating mild or moderate psychiatric symptoms or signs of sufficient intensity to cause subjective distress or mildly disordered behavior, with minor or temporary functional limitations or impairments (self-care/daily living skills, social/interpersonal relations, educational/vocational role performance, etc.) and minimal clinical (self/other harm risk) instability.

Refer to the Practitioner Chapter of the Manual for coverages and limitations of the FFS mental health benefit."

#### Section 1.6 Definition of Terms (1.7 in the electronic manual)

Under the definition of Qualified Mental Retardation Professional (QMRP), the correct citation from the Code of Federal Regulations is "42CFR483.430."

#### Section 2.3 Location of Service

The first sentence of the last paragraph in this subsection should read:

"Medicaid does not cover services provided to children with serious emotional disturbance in Child Caring Institutions (CCIs). Medicaid <u>does</u> cover services provided to children with developmental disabilities in a CCI that exclusively serves children with developmental disabilities, and has an enforced policy of prohibiting staff use of seclusion and restraint."

#### Section 2.4 Staff Provider Qualifications

Last bullet, remove parenthetical phrase: (i.e., not a fugitive from justice, a convicted felon, or an illegal alien).

#### Section 3.2 Assessments

Under the "All Other Assessments and Testing" portion of the table, the word "mental" should be added immediately preceding "healthcare professional."

#### Section 3.14 Medication Administration

A second paragraph should be added that reads:

"For injections administered through the CMHSP clinic, refer to Section 4.13 of the Practitioner Chapter of the Medicaid Provider Manual."

#### Section 3.17 Occupational Therapy

Under the "evaluation" portion of the table, the phrase "physician-prescribed" should be added at the beginning of the sentence so it reads "Physician-prescribed activities provided by an occupational therapist..."

#### Section 3.19 Physical Therapy

Under the "evaluation" portion of the table, the phrase "physician-prescribed" should be added at the beginning of the sentence so it reads "Physician-prescribed activities provided by an a physical therapist..."

The third paragraph under the "therapy" portion of the table should be deleted and replaced with:

"Services must be prescribed by a physician and may be provided on an individual or group basis by a physical therapist or a physical therapy assistant currently licensed by the State of Michigan, or a physical therapy aide who is receiving on-the-job training. The physical therapist must supervise and monitor the assistant's performance with continuous assessment of the beneficiary's progress. On-site supervision of an assistant is not required. An aide performing a physical therapy service must be directly supervised by a physical therapist that is on-site. All documentation by a physical therapy assistant or aide must be reviewed and signed by the appropriately credentialed supervising physical therapist."

#### Section 4 - Assertive Community Treatment Program (ACT)

The last sentence of the first paragraph in this section should read:

"All team staff must have a basic knowledge of ACT programs and principles acquired through ACT specific training."

#### Section 6.2.A Child Crisis Residential Services

Replace last sentence (Child-caring institutions providing this service must have an attestation of adherence to federal standards on the use of seclusion and restraint) with "Child Crisis Residential Services may not be provided to children with serious emotional disturbance in a Child Caring Institution (CCI)."

#### Section 7.1 Program Approval

Sentence in Location of Service box should read:

"Services are provided in the family home or community settings."

#### Section 7.2.C. Age Seven through Seventeen

Following sentence at first bullet in Functional Impairment box: add "or" after CAFAS;

Second bullet, sentence should read:

"An elevated subscale score (20 or greater) on one element of the CAFAS Child/Adolescent Section, combined with an elevated subscale score (20 or greater) on at least **one** CAFAS element involving Caregiver/Caregiving Resources; or"

#### Section 8.4 Medicare

The first sentence of this subsection should read:

"For Medicare-covered services, the PIHP may only pay up to a Medicare-enrolled beneficiary's obligation to pay (i.e., co-insurance and deductibles)."

#### Section 9.3 Qualified Staff (9.4 in the electronic manual)

The word "mental" should be added immediately preceding "healthcare professionals" in the third sentence of the first paragraph.

#### Section 13 - Targeted Case Management

The second paragraph should read:

"Targeted case management services must be available for all children with serious emotional disturbance, adults with serious mental illness, persons with a developmental disability, and those with co-occurring substance use disorders who have multiple service needs, have a high level of vulnerability, require access to a continuum of mental health services from the PIHP, and/or are unable to independently access and sustain involvement with needed services."

#### Section 14.2 Client Eligibility

Remove the word "client" in this subsection title.

#### Section 14.3 Covered Waiver Services

Following the first sentence of the first paragraph, insert the sentence: "Refer to the Children's Waiver Community Living Support Services Appendix for criteria for determining number of hours." A copy of the Appendix is attached to this bulletin. The Appendix contains the information previously transmitted with MSA Bulletin Community Mental Health Services Programs 98-01.

Under the Environmental Accessibility Adaptations (EAA) portion of the table, the first paragraph should end with the additional sentence:

"A prescription or CMN is required and is valid for one year from the date of signature."

Under the Respite Care portion of the table, the third sentence of the second paragraph should read:

"When a child requires skilled nursing interventions for 24 hours, the maximum daily amount that one nurse can provide is 16 hours."

#### **Manual Maintenance**

Retain this bulletin for future reference, or refer to the April 1, 2004 (or later) version of the Mental Health-Substance Abuse Chapter of the Medicaid Provider Manual. The Manual is available online at <u>www.michigan.gov/mdch</u>, click on Providers, Information for Medicaid Providers, Medicaid Provider Manual.

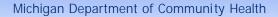
#### Questions

Any questions regarding this bulletin should be directed to: Provider Inquiry, Department of Community Health, PO Box 30731, Lansing, MI 48909-8231, or e-mail at <u>ProviderSupport@michigan.gov</u>. When you submit an e-mail, be sure to include your name, affiliation, and a phone number so you may be contacted if necessary. Providers may phone toll free: 1-800-292-2550.

Approval

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Paul Reinhart, Director Medical Services Administration







### CHILDREN'S WAIVER COMMUNITY LIVING SUPPORT SERVICES APPENDIX

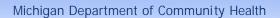
#### SECTION 1 - CHILDREN WITH CHALLENGING BEHAVIORS

#### 1.1 PURPOSE

This Section is to help the CMHSP determine whether the challenging behavioral needs of the child support hourly care and other support services, and to determine the appropriate range of hourly care that can be authorized under the Community Living Support (CLS) waiver service. The following categories do not, in and of themselves, establish eligibility for publicly funded hourly care.

The amount of CLS services (i.e. the number of hours) that can be authorized for a child is based on several factors, including the child's care needs which establish waiver eligibility, child's and family's circumstances, and other resources for daily care (e.g. private health insurance, trusts bequests, private pay). In addition to identifying the family situation and the specific behaviors as described in the category definitions, the following elements contribute to the overall assessment of need:

- Type of behaviors identified;
- Frequency, intensity, and duration of identified behaviors;
- How recently serious behaviors occurred;
- Actual specific effects of the behavior on persons in family and property;
- Level of family intervention required to prevent behavioral episodes;
- Extent to which family must alter normal routine to address behavioral needs of the child;
- Prognosis for change in the child's behavior;
- Whether or not child functions more effectively in any current setting than in other settings; and
- Age, size, and mobility of child.





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#### **1.2 CATEGORIES OF CARE**

#### 1.2.A. CATEGORY IV

Qualifications	Demonstrates mild level behaviors that may interfere with the daily routine of the family.
Definitions	<b>Mild Behavior:</b> Infrequent or intermittent behaviors including pinching, hitting, slapping, kicking, head banging, and/or elopement without careful supervision when there is evidence of lack of judgment regarding danger, or an extremely high activity level requiring extensive supervision and redirection.

#### 1.2.B. CATEGORY III

Qualifications	Demonstrates a daily pattern of medium level behaviors including self-injurious, physically aggressive or assaultive behaviors that have not resulted in hospitalization or emergency room treatment for injuries in the past year, or has engaged in occasional, significant property destruction that is not life-threatening.
Definitions	<ul> <li>Pattern of Behavior: In addition to a single serious episode in the last year, significant daily behaviors are documented.</li> <li>Medium Behavior: Includes behaviors defined in the Category II definition of "moderate behavior" when emergency room treatment or hospitalization have not been required for treatment of injuries resulting from the behavior. Examples include head banging resulting in bleeding and bruising without concussion or detached retina, hair pulling without removing hair from the scalp, smearing feces without PICA, and biting without drawing blood.</li> <li>Occasional Property Destruction: Property destruction that occurs with a frequency not greater than one time per week.</li> </ul>

#### 1.2.C. CATEGORY II

Qualifications	Demonstrates a daily pattern of moderate self-injurious, physically aggressive or assaultive behavior when medical intervention, or emergency room treatment has been required for treatment of injuries in the past year without resulting hospitalization, or if the child has engaged in frequent, significant property destruction that is not life-threatening.
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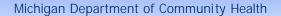


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Definitions	<b>Moderate Behavior:</b> Includes behaviors that pose a significant risk of injury to self or others in the immediate environment. Examples include physical assault or self- abuse resulting in injuries requiring hospital emergency room treatment without hospital admission in the past year, biting that breaks the skin, hair pulling resulting in removal of clumps of hair from the scalp, multiple daily episodes of smearing feces with associated PICA, and head banging resulting in documented concussion or detached retina.

#### 1.2.D CATEGORY I

Qualifications	Demonstrates a pattern of severe self-injurious, physically aggressive or assaultive behavior, or life-threatening property destruction that has occurred one or more times in the past year. Documented evidence of additional behavioral problems on a frequent basis each day supports a need for one-to-one intensive behavioral treatment.
Definitions	<b>Severe Behavior:</b> Poses a very significant risk of serious injury or death to self, a family member, or others in the immediate environment. Examples include fire setting, physical assault or self-abuse resulting in injuries to self or others requiring inpatient hospital admission for treatment in the past year.







#### SECTION 2 – MEDICALLY AND PHYSICALLY COMPLEX CHILDREN

#### 2.1 PURPOSE

The purpose of this Section is to help the CMHSP determine whether CLS services are medically necessary. The following categories do not, in and of themselves, establish eligibility for publicly funded hourly care.

#### 2.1.A. CATEGORY IV

Qualifications	A medical condition and requires significant levels of daily assistance or guidance with activities of daily living (ADLs). In addition, medical condition is stable and observations and interventions are required infrequently. Interventions require minimal training and are associated with minimal or no risk to health status.
Examples	<ul> <li>Includes levels of support that would exceed those expected for a person of the child's age in the areas of:</li> <li>Assistance and/or guidance in ADLs including eating, toileting, bathing, grooming, dressing, and mobility (ambulation and transferring);</li> <li>Assistance and/or guidance with physical transfer (e.g. bed to chair);</li> <li>Assistance and/or guidance with therapeutic positioning and physical therapy; or</li> <li>The child weighs 80 pounds or more and is not ambulatory and/or not mobile and unable to assist the primary caregiver.</li> </ul>

#### 2.1.B. CATEGORY III

Qualifications	A medical condition that routinely requires daily hourly care or support in order to maintain and/or improve health status. Clinical observations and interventions may be intermittent. Medical interventions are typically associated with minimal risk to health status, and delayed interventions are not associated with imminent risk to health status.
Examples	<ul> <li>Includes a combination of interventions such as:</li> <li>G-tube feedings with no oral suctioning needs;</li> <li>PRN oxygen administration less often than daily over the past 30 days with or without pulse oximeter;</li> <li>Daily oxygen administration at less than two liters without pulse oximeter and without the need for on going judgments and observations for oxygen needs (e.g. routine nightly administration without other skilled nursing interventions);</li> </ul>





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Catheterization fewer than five times per day;
<ul> <li>Routine chest physiotherapy four or more times per day;</li> </ul>
Ostomy care;
<ul> <li>Total feeding or formal feeding program requiring more than 45 minutes per meal with need for special trunk-head positioning;</li> </ul>
<ul> <li>Concurrent diagnosis of severe hypertonicity, severe contractures, or severe scoliosis that requires therapeutic positioning every two hours; or</li> </ul>
<ul> <li>Documented evidence that positioning causes apnea and cyanosis, and that positioning is limited to positions with the body in less than a 45 degree angle to horizontal plane.</li> </ul>

#### 2.1.C. CATEGORY II AND CATEGORY I

Services for Category II and Category I children are covered under the Medicaid State Plan private duty nursing (PDN) benefit. Refer to the Private Duty Nursing Chapter of this manual for PDN coverage criteria.





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#### SECTION 3 - COVERAGE DECISIONS

#### 3.1 DECISION RESPONSIBILITY

The MDCH Children's Waiver Review Team will continue to review all plans of service and current assessments, and prior authorize waiver services, for those children who:

- Qualify for Category of Care I; or
- Any child who has been approved to receive additional CLS hours under the exception process.

The responsible CMHSP, following the Children's Waiver Decision Guide in the following subsection, will review and prior authorize waiver services for those Children's Waiver beneficiaries who are:

• Determined to qualify for Categories II, III, or IV.

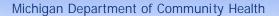
#### 3.2 DECISION GUIDE

The determination of the amount of hourly care should result from a person-centered planning/familycentered practice process that considers both the child's and family's needs. The Children's Waiver Decision Guide Table below assists in identifying the range of hours provided for children based on their category of care and the family's resources to provide that care. It is expected that hourly care services will be provided within the range for which the child qualifies. Within the four Categories of Care are five sections that apply to the child's family status. In determining the total number of hours, it is acceptable to use the highest range within the appropriate section of the eligible category. The range of hours identified in the guide is an average daily amount that is provided seven days a week, based on a monthly total authorization.

If the child is attending school an average of 25 hours per week, the Section VI maximum would apply unless the maximum exceeds the range qualified for in Sections I-V. In that case, the maximum range in Sections I-V would apply. The Section VI maximum would not be required during school breaks, such as Christmas, Easter, and summer vacations, or if the child is out of school due to illness for 5 or more consecutive days.



CHILDREN'S WAIVER DECISION GUIDE TABLE				
	DOCUMENTED CATEGORY OF NEED FOR HOUR CARE AUTHORIZATION			
ADDITIONAL FAMILY RESOURCES	CATEGORY	CATEGORY	CATEGORY	CATEGORY
	IV	III	II	I
<ul> <li>Section I – Number of Caregivers</li> <li>1. Two or more caregivers live in home; both work F/T</li> <li>2. Two adult caregivers; one works F/T</li> <li>3. Two adult caregivers; neither is employed</li> <li>4. One adult caregiver lives in home and works F/T</li> <li>5. One adult caregiver; does not work F/T</li> </ul>	4 - 8	6 -10	8 -12	12 -16
	2 - 8	2 - 8	4 -10	10 -16
	2 - 4	2 - 6	4 - 8	8 -12
	4 - 8	4 -10	8 -12	12 -16
	2 - 6	2 - 8	8 -10	10 -14
<ul> <li>Section II – Health Status of Caregivers</li> <li>1. Significant health issues</li> <li>2. Some health issues</li> </ul>	6 - 8	6 -10	10 -14	12 -16
	4 - 6	4 - 8	8 -12	10 -12
<ul> <li>Section III – Additional Dependent Children</li> <li>1. Applicant has one or more siblings age 5 or older</li> <li>2. Applicant has one or more siblings under age 5</li> </ul>	2 - 4	2 - 6	4 - 8	8 -12
	4 - 6	4 - 8	6 - 8	8 -12
<ul> <li>Section IV – Additional Children with Special Needs</li> <li>1. Applicant has one or more siblings with nursing needs</li> <li>2. Applicant has one or more siblings with non-nursing special needs</li> </ul>	4 - 8	6 - 8	4 - 8	8 -12
	2 - 4	2 - 6	N/A	N/A
<ul> <li>Section V – Night Interventions <ol> <li>Requires 2 or fewer interventions at night or total time less than one hour</li> <li>Requires 3 or more interventions requiring one hour or more to complete</li> </ol> </li> </ul>	2 - 4	2 - 6	4 - 8	8 -12
	4 - 8	6 - 8	6 -10	8 -12
Section VI – School Child attends school an average of 25 hours per week	6 max	6 max	8 max	12 max







#### **3.3 EXCEPTION PROCESS**

The exception process ensures the safety and quality of care of children served by the waiver through consideration of the unique needs of each child and family, and special circumstances that may arise. When occasional relief through respite services is not sufficient, an exception of hourly care may be authorized.

Contingent upon the availability of funds and upon receipt of a Prior Review and Approval Request (PRAR), limited authority to exceed the published hourly care amount defined in the Decision Guide subsection may be granted by the MDCH to a CMHSP to better serve identified children with exceptional care needs. The PRAR must be developed pursuant to family request, person-centered planning/family-centered practice team recommendation, and CMHSP administrative concurrence.

The PRAR must document and substantiate both a current clinical (either medical or psychological) necessity for the exception **and** a current lack of natural supports requisite for the provision of the needed level of care. The hourly care services must be essential to the successful implementation of a plan of active treatment as defined by CMS ICF/MR rules, and any enhancements must be essential to maintain the child within their home. Consideration for an exception will be limited to situations outside the family's control that place the child in jeopardy of serious injury or significant deterioration of health status such as:

- A temporary deterioration of the child's clinical condition (e.g. need for nursing care following an acute hospitalization or surgical procedure, or an acute cyclic exacerbation of challenging behaviors);
- A temporary inability of the primary caregivers to provide the requisite level of care (e.g. an acute illness or injury);
- Health condition requires continuous implementation of high risk medically prescribed procedures requiring licensed nursing personnel that are not already addressed within the Decision Guide subsection. The procedures must be beyond the demonstrated capacity of the parents to provide;
- Behavior treatment needs significantly exceed the recommended ranges for the assigned category of care **and** this exception is essential to prevent an otherwise inevitable (i.e. previously documented) deterioration in behavior. The enhanced staffing must be continuously active in the implementation of the behavior treatment plan;
- Natural supports are unable to provide the requisite level of care (e.g. only available care providers have a physical, mental, or emotional disability or they cannot demonstrate competence with the procedures essential to the implementation of the treatment plan). The plan of service must also address plans to rectify the condition or circumstance.

Exceptions may be granted for a specified period not to exceed 180 days. Renewal requests must substantiate the continuing clinical necessity and lack of natural supports.



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Exceptions approved by MDCH can occur in one of the following ways:

- Temporary emergency basis only. Verbal approval can be given to the CMHSP, with written justification to be forwarded to MDCH within 10 days; or
- In a nonemergency situation, the CMHSP provides the MDCH with written documentation of the specific rationale to support the exception (i.e. physician's prescription). This would include a revised Plan of Care, highlighting the care needs to be provided with the additional staffing hours, and all current assessments. A response from MDCH will occur within 10 working days.
- When approval of an exception is not granted through either of the two processes listed above, the family, case manager, or MDCH may request a meeting in order to clarify and reconsider the basis for the exception.

MDCH has the option to request a home visit to meet the child when it is necessary for an effective decision.

#### **3.4 APPEAL PROCESS**

The child and family have the right, under the Michigan Mental Health Code, to appeal a negative coverage decision to the director of the CMHSP. The child and family may also request a recipient's rights investigation through their CMHSP.

The CMS approval of the Children's Waiver requires the availability of a fair hearing for any Medicaideligible child enrolled in the Children's Waiver Program when that child is subject to a negative action. A negative action results when a Medicaid-covered service or benefit is taken away, reduced, or denied to a Medicaid beneficiary. The Medicaid beneficiary must be notified of the negative action in writing. The negative action notice must indicate:

- The beneficiary's right to appeal through the MDCH administrative hearing process;
- The beneficiary has 90 days to submit an appeal; and
- Where to send the appeal.

The MDCH appeal process may occur simultaneously with a recipient's rights or CMHSP administrative appeal process. Individuals and their families are encouraged to resolve disputes regarding waiver services at the local CMHSP level.

The CMHSP is financially responsible for any services that may be approved as a result of the judgment from the administration appeal process.