FY21 Self-Directed Services Requirements

Overview

Overview

Policy changes

Members of Policy workgroup

Implementation

Summary of Changes

- Changes to reflect updates to 1915(c) and 1915(i) waivers
- Formatted more like Medicaid policy and shortened
- Definitions and terms clearer
  - Reflects value of self-determination throughout system - universal
  - Clearly define self-direction as a service delivery method – limited
  - Terminology is different, values philosophies are the same

Long term Effort

Updated by key stakeholders for over a year's period

Compromised of SD experts, PIHP and CMH employees, FMS provider and MDHHS staff

Affiliation Membership

Workgroup	Affiliation
Marie Eagle	The Arc of Michigan
Laura Demeuse	Behavioral Health & Developmental Disabilities Administration
Tedra Jackson	Michigan Developmental Disability Council
Patricia Carver	Community Drive, Inc.
Jill Gerrie	The Arc of Michigan
Ambrosia Jackson	Macomb County Community Mental Health
Jan Lampman	Partners Advancing Self-Determination Consultant
Tifany Lang	GT Independence
Sydney Larsen	Au Sable Valley Community Mental Health
Christine Dillon Lennon	North Country Community Mental Health
Kathy Lentz	Integrated Services of Kalamazoo
Angela Martin	Michigan Developmental Disabilities Institute
Brittany Pietsch	North Care Network Prepaid Inpatient Health Plan
Emily Meeder-Ramirez	North Country Community Mental Health
Mick Sheridan	Copper Country Community Mental Health
Teresa Tokarczyk	Au Sable Valley Community Mental Health

Highlights

- Purpose
  - Wavier renewal expands to all populations
- Requirements
  - Clarifies that all SD models must be offered
  - Clarifies ORR authority
- Review of key parts of person's authority in SDS

Highlights

- Clarified need for support for the person self-directing from the system at all times up to termination of agreement

- Definitions
  - **Self-determination** (SD) is the right of all people to have the power to make decisions for themselves; to have free will…..builds upon choice, autonomy, competence and relatedness which are building blocks of psychological wellbeing.
  - **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 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.

Policies

- MDHHS Self-Direction Technical Requirement (contract attachment)
- MDHHS Self-Direction Technical Requirement Implementation Guide *(Provides direction for PIHPs/CMHSPs on how to implement in practice)*
  - *"When using self-directed services, the person-centered planning process must include the individual's need for information, guidance, and support regarding:*
    - Control of the budget
    - Directly contracting with chosen providers
    - Directly employing staff
    - Requirements and responsibilities of the employer role
    - Opportunities to learn how to direct and supervise support workers
    - Ways that allies can provide informal support to assist the individual with the tasks involved"
  - MDHHS Person-Centered Planning Policy

Self Direction Technical Requirement Implementation Guide

Preface

Definitions

I. PREFACE

This Technical Guidance provides people with methods to control and direct how the services and supports in their Individual Plan of Service (IPOS) are implemented. Self-Directed Services are a partnership between the PIHP/CMHSP and the individual. The person-centered planning process will drive self-determination along with the development of an Individual Plan of Service (IPOS), as well as exploration of self-directed services.

The PIHP/CMHSP is required to develop and maintain a system that supports people who choose to use any method of the self-directed options, (i.e. direct-employment, purchase of service, agency-supported self-direction). The PIHP/CMHSP must actively educate people about the option to direct services, ensure all CMHSP staff are aware of self-directed services, the different levels of control available, and the methods to exercise that control. **A PIHP/CMHSP may not deny someone the option to direct services.** A PIHP/CMHSP may not limit access to any self-directed options (direct-employment, purchase of service, agency-supported self-direction). See section XII for more information.

Self-directed services must include an individual service budget. The individual budget provides a set amount of funds necessary to implement the individual's IPOS. An individual may choose to direct one specific service, some, or all services in their IPOS. The level of control will be determined by the individual. The individual will choose who will support them to manage their self-directed services. Without a legal agreement, the family member of an adult does not have the right to be involved without the individual's consent.

Please note that provider controlled or congregate settings at places like day programs, group homes, and foster care, are not self-directed (or vouchered) because the funding and hiring of staff are not controlled by the individual. An exception would be if the person has a plan to move or transition out of these settings in the current IPOS.

Self Direction Technical Requirement Implementation Guide

Responsibilities in Supporting Self Direction

III. SUPPORTING SUCCESFUL SELF-DIRECTED SERVICES

Individuals who successfully self-direct do not do it alone. They use informal support from others to assist them to implement services arrangements that best meet their needs. The involvement of informal supports starts in the person-centered planning process. Through this process, the IPOS, budgets, and the manner of methods for their implementation are developed. The individual chooses which allies to involve in the person-centered planning process. These allies provide input and support to the planning process and the IPOS that results. The individual will decide how much support they need, in what areas, and whether that support is paid or informal. The following requirements must be written in the individual's plan of services (IPOS):

- Which services the individual will direct and control, including if the individual will directly hire workers and control the individual budget.
- What support is chosen by the individual to help them direct their services; if no support is needed or desired, they must have the following training:
  - ✓ How the self-directed option works
  - ✓ Employer of record duties
  - ✓ How to act as a supports broker, including information on how to access the community and other resources
- The employer's chosen method for documentation of services provided must be included within the IPOS. (See sections III.B, V.3, and VI. for more information.)
- The Financial Management Services Provider (FMS) (formally known as a Fiscal Intermediary Provider) is chosen by the individual.
- A written copy of the IPOS and individual budget is provided to the Community Mental Health Service Program (CMHSP) and other necessary people.

Self Direction Technical Requirement Implementation Guide

Provider Qualifications & Training

IV. PROVIDER QUALIFICATIONS & TRAINING

All Medicaid beneficiaries have rights defined by federal law, including the right to choose the providers of the services and supports they need. The PIHP/CMHSP must ensure the individual understands their right to provider choice. Providers must meet Medicaid provider qualifications and receive the minimum required training, per the Michigan Medicaid Provider Manual. Provider choice may not be limited by the PIHP/CMHSP. **The individual has the right to hire anyone who meets the provider qualifications. A PIHP/CMHSP may not require a provider to be placed on a provider panel in order to provide services in a self-directed arrangement.**

In a self-directed arrangement, the individual is the employer, and **only the employer** may determine additional training requirements or qualifications for their employees. The PIHP/CMHSP may not mandate any additional training or provider qualifications to those listed below. Individuals who direct their services cannot hire or contract with their legally responsible individuals (the individual's spouse, conservator, etc.) or with his/her legal guardian. They also cannot hire or contract with their landlord for supports and/or services.

A. MEDICAID PROVIDER QUALIFICATIONS:[1]

- Be at least 18 years of age
- Able to prevent transmission of communicable disease
- Able to communicate effectively to follow IPOS requirements, beneficiary-specific emergency procedures, and to report on activities performed
- Be in good standing with the law (i.e., not a fugitive from justice, a convicted felon who is either under jurisdiction or whose felony relates to the kind of duty to be performed, or an illegal alien)
- Recipient rights

Self Direction Technical Requirement Implementation Guide

- Steps to Implement Self-Directed Services and Supports
- Oversight
- Developing the Budget
- Arrangement Models
- Forms

V. STEPS TO IMPLEMENT SELF-DIRECTED SERVICES & SUPPORTS

Ensure the individual understands their roles and responsibilities for directing their services. Discuss the following and decide the level of support needed for the individual to be able to self-direct well:

Types of self-directed models

DOL and FSLA Rules – Co-employment, overtime, hiring/firing workers

Managing, scheduling, authorizing timesheets, documentation, Medicaid qualifications

Appendix B:

Best Practices

APPENDIX B: BEST PRACTICES FOR PROBLEM SOLVING FOR ANY SELF-DETERMINATION MODEL

Issue	Best Practice	Responsible Party
Provider Qualifications: **The Employer of Record (EOR) must be made aware of all mandatory background and optional driving record results for current and potential employees.** **The CMHSP/PIHP does not have authority over hiring decisions. They do, however, have a responsibility to ensure the EOR is aware of Medicaid Provider Qualifications and how to apply the Medicaid Exclusion List.**		
Background Record Results	All background check decisions must be made in accordance with the Medicaid mandatory/historically limited exclusion list. Hiring decisions based on any result not covered in this list are at the sole discretion of the EOR. The EOR will document these decisions using an acknowledgement form.	Employer
Driving Record Results	If a driving record is checked, the EOR has sole discretion to make hiring decisions or employment restrictions based on these results. For example, an EOR may choose to limit an employee's driving responsibilities based on these results. In these instances, any restrictions should be documented in employee specific Employment Agreement/Job Description.	Employer
Substantiated Recipient Rights Violation	Any substantiated ORR violations should be reviewed by the EOR and CMHSP. The CMHSP has the responsibility to minimize serious health and safety risks. If the CMHSP has valid concerns the employer of record would be abused, neglected or otherwise put in serious danger, CMHSP may notify the Employer of Record that they can still choose to hire the potential employee however, CMHSP will not be able to fund that employee's payroll.	CMHSP
Provider Qualifications	An EOR may not hire staff through the SD Arrangement who do not meet Medicaid qualifications (i.e. is guardian for the individual being supported, not 18 years old, etc.) If an EOR attempts to hire an employee who does not meet Medicaid Provider Qualifications, written direction will be provided stating Medicaid funds cannot be used for services provided by this employee. The EOR may use this individual as a natural support.	CMHSP/ FMS

Issue	Best Practice	Responsible Party
Budget: **EOR must be made aware of the parameters on wages in the budget.**		
Wage and Benefits Decisions	EOR has sole authority of determining pay wages, within established budget parameters. EOR coordinates with FMS on all wage and benefit decisions and adjustments. FMS is responsible for informing EOR if a wage or benefit decision falls outside of approved budget. The employer will decide the wage range and benefits based on the rate cap for their budget based on CMHSP authorizations.	
Budget Over-Utilization	Monthly Budget/Spending Report: This is a tool for all parties to use when working to stay within budget. The FMS must have report sent to the EOR and CMHSP by 10th of the month. EOR and CMHSP are responsible for consistently reviewing the report and working collaboratively, when appropriate, to ensure the budget is not exceeded. If the budget report is trending toward over-utilization, FMS must notify EOR and CMHSP. At least once every quarter EOR should engage in a complete review of budget utilization. If needed, the EOR may ask the CMHSP/Support Broker for assistance on strategies to stay within budget. No later than 3 months prior to end of the authorized budget period, the EOR and FMS should review budget utilization and, if needed, develop utilization plan for remainder of budget period. Common Issues Over Time (OT) Usage If budget overage is caused by unexpected use of OT, EOR will need to adjust hours used, or reduce budget elsewhere, to cover additional cost of OT. Over-utilization of hours EOR must adjust service unit/hour utilization for remainder of budget period to balance overage.	EOR, FMS, CMHSP
Staff working Overtime	Timesheets reviewed and approved by both the employee and employer are to be paid by the FMS, in accordance with an established payment schedule. This includes unexpected or unplanned Over Time hours that	EOR, FMS

Appendix B: Best Practices

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Issue	Best Practice	Responsible Party
Staff working Unexpected Hours	The EOR and CMHSP/PIHP should work together when unexpected OT occurs to responsibly manage the funds within the approved budget. The CMHSP/PIHP may not intervene with FMS payment of timesheets. For example, no PIHP/CMHSP entity can deny payment for hours an employee has worked. No entity will violate DOL regulation by intervening in the payment of lawfully worked hours. See over time usage for specifics on addressing unexpected over time. The FMS will ensure that all DOL regulations are followed when completing payroll on behalf of employer.	
Resolving Claims Issues	CMHSPs should follow claims guidance in their contracts to work with FMS provider to fix any claim issue. Claim issues should not impact payment of employees.	CMHSP/FMS/EOR
Training		
Late Training	Employers should be assisted to be proactive to avoid late training. FMS or others can help to track training and set reminders for those needing training for 4 months in advance of expiration. CMHSP can work in partnership with FMS to proactively avoid any missed training dates. By ensuring training systems are not barriers to being able to self-direct services, procedures can be put in place to assure services can run smoothly. For example, rapid training, or online options are a good way to ensure staff can stay current in their qualifications.	Employer, CMHSP, FMS
Non-compliant Staff	Staff who are trying to maintain compliance are different than non-compliant or non-responsive to training. In situations where non-compliance is an issue, the employer must be made aware and has the responsibility to provide supervision as they see fit, which can include temporary suspension. If after the employer has attempted to resolve the issue, the EOR can request assistance from the CMHSP to use the authority of the Medicaid Provider Agreement to encourage staff to complete training. This can mean temporary suspension of the Medicaid Provider Agreement, which will force a stoppage of work until training is completed. The CMHSP should document the terms of the suspension in writing for the employee.	Employer, CMHSP
Mismanagement of SD Arrangement by EOR		
Supervision of Employees	If an EOR is struggling with supervision of employees, the EOR may request assistance from the CMHSP. CMHSP should provide training and modeling for EOR in supervision skills and may provide in-person individual support during meetings. CMHSP may also assist EOR to engage their family/friends/allies in assisting with employer responsibilities, including supervision. CMHSP must not provide supervision in the EOR's place.	EOR and CMHSP

Issue	Best Practice	Responsible Party
Medicaid Documentation **The CMHSP/PIHP must ensure the EOR is trained in Medicaid documentation standards for their employees. The EOR has responsibility to ensure employees are meeting established Medicaid documentation standards, including timeliness of documentation submission. (These responsibilities should be detailed in the SD Agreement).** **While the CMHSP is not the employer and does not have authority over hiring/firing decisions, if robust collaboration with employer on significant employee issues fails (i.e. refusal to take training), the CMHSP/PIHP does have authority to terminate Medicaid Provider Agreement with any employee**		
Concerns related to acceptable Medicaid documentation	EOR and CMHSP must review clinical Medicaid documentation to ensure services are provided in accordance with IPOS. If CMHSP finds documentation does not support IPOS goals ongoing and consistently, CMHSP will inform EOR, who has responsibility to ensure staff document according to established Medicaid standards.	EOR and CMHSP
Late/ Inconsistent Timesheet Submission	The employer will decide how their staff will document services provided, using the individual-centered planning process. The employer determines how documentation is organized, as long as the documentation: • Meet Michigan's Medicaid rules • Is complete, concise, and accurate, including the face-to-face time spent providing services • Is legible, signed, and dated To assure the chosen documentation method is individual-centered and directed by the employer, their chosen documentation method must be documented within the IPOS or the SD Agreement. CMHSP should train or retrain employer of record. Training could also be provided to an individual designated by that employer who would then be responsible to train other staff. In instances where the employer has addressed the issue through supervision, they can request assistance from the CMHSP to use the Medicaid Provider Agreement to temporarily suspend the employee.	Employer, CMHSP, FMS
Overlapping timesheets	FMS contacts EOR. EOR is responsible for reviewing and approving all timesheets and documentation. EOR is responsible for ensuring accuracy in all documentation submitted for payment. EOR is expected to provide staff supervision to ensure timely and accurate submission of timesheets and Medicaid documentation.	EOR, FMS

Appendix B: Best Practices

Documentation

Issue	Best Practice	Responsible Party
Fraud, waste, abuse The EOR and CMHSP have joint responsibility to ensure documentation for services within the SD Arrangement meet Medicaid requirements. The EOR and FMS have joint responsibility to ensure timesheets are accurate. Cases of suspected fraud/waste/abuse will involve compliance, OIG, ORR, etc. and all decisions may not be under the CMHSP authority.		
Suspected Fraud, Waste, Abuse by EOR	During investigations of Suspected fraud, waste, or abuse by an EOR or the individual, the CMHSP must takes steps to ensure medically necessary services continue without interruption. This may include increased oversight and monitoring of service delivery, temporary addition of provider-controlled services, or temporarily suspending the arrangement and replacing with provider-controlled services. The least restrictive option must be utilized during the investigation.	
Confirmed Fraud, Waste, Abuse by EOR	If, following a thorough and complete investigation, there is CONFIRMED Fraud, Waste or Abuse on the part of the EOR or the individual, the CMHSP may act. Each circumstance should be handled individually. In instances of unintentional fraud, waste, or abuse, the CMHSP may choose to provide the employer with in-depth counseling related to Fraud/Waste/Abuse and implement heightened oversight of documentation and service delivery, rather than terminating the SD Arrangement. In instances of intentional fraud, waste, or abuse, the CMHSP should take steps to end the arrangement.* If the arrangement ends, CMHSP must engage in robust planning with EOR/ and team to ensure no interruption to services occurs. Services may not be limited or terminated because of the ending the SD Arrangement. The decision to end the arrangement must be detailed, in writing, to the individual. *It is worth noting that the decision to end the arrangement may not fall within CMHSP authority, but may instead be determined by an outside agency, (such as the OIG). Decisions made in these cases do not absolve the CMHSP from the need to engage in planning to ensure services continue without interruption.	EOR, CMHSP, FMS

Issue	Best Practice	Responsible Party
Suspected Fraud, Waste, Abuse by Employee	In instances of SUSPECTED Fraud, Waste or Abuse by an employee, the EOR may temporarily suspend the employee from working during the investigation. The CMHSP may elect to temporarily suspend the employee's Medicaid Provider Agreement until the completion of the investigation (meaning the employee would not be able to provide Medicaid services during the investigation). The employer and employee must fully cooperate with any investigation into suspected fraud, waste, or abuse. Refusal to willingly participate may lead to termination of Medicaid Provider Agreement or Self Determination Agreement.	EOR, CMHSP
Confirmed Fraud, Waste, Abuse by Employee	If, after a thorough and complete investigation, there is CONFIRMED Medicaid Fraud, Waste or Abuse on the part of the employee, action may be taken. The EOR may act against employment, up to terminating the employee. If EOR does not terminate employment, CMHSP has authority to terminate Medicaid Provider Agreement. Each circumstance should be handled individually. There may be instances where the action was unintentional. In these instances, CMHSP may choose to provide the employee and employer within depth counseling related to Fraud/Waste/Abuse and implement heightened oversight of documentation and service delivery, rather than terminating the Medicaid Provider Agreement.	Employee

Best Practices: Fraud, Waste & Abuse

Upcoming Technical Assistance

Save the Date!

➨3rd Tuesday of every month from 3-4pm, free webinars will be held on topic areas related to Person-Centered Planning.

November 17, 2020 3:00 p.m.

Person-Centered Planning 101

➨**Self Determination Technical Assistance Webinars**

Currently in development, with dates TBD.