Contents

This self-assessment asks 13 questions in two sections. Each section includes definitions, examples, and a score card. After both score cards are completed, participants can review reflection questions that may be relevant to them.

Purpose

Beginning in January of 2022, the Conflict-Free Access and Planning Workgroup (CFA&P) was convened to discuss conflict of interest mitigation in Michigan's public behavioral health care system. The Workgroup continues to meet to discuss the requirements, define the problem, and discuss implications of conflict mitigation solutions. The target audience for this self-assessment are CFA&P Workgroup members who represent providers, CMHs, and PIHPs. Workgroup members act as a "Point Person" and may delegate the completion of this self-assessment to others in their organization. The Workgroup member is welcomed to bring back the insights identified by their delegate and share with the Workgroup. The CFA&P Workgroup is facilitated through an Inform, Frame, Feedback approach:

> **Inform:** Members are provided with relevant contextual information.
>
> **Frame:** Members identify areas that are impacted by change and develop "criteria" for evaluating each option.
>
> **Feedback:** Members share specific impacts of changes and evaluate options.

This self-assessment was developed and edited with support from CFA&P Workgroup members. For more information about the CFA&P Workgroup, see this MDHHS Webpage.

Use of Results

This self-assessment is a part of the Frame portion of the workgroup where members who oversee or provide services are invited to reflect on the types of conflict they may bear. The self-assessment is intended to elicit insights from workgroup members. Responses will not be collected; however, Workgroup members are invited to share their insights in monthly workgroup meeting.

If, at any time, Workgroup members need support with the self-assessment, they may contact Josh (JoshH@tbdsolutions.com) or Remi (RemiR@tbdsolutions.com).

Instructions

Using the check boxes below, indicate each item that is true for your organization. At the end of each section, review which scenarios may be true for your organization. See the definitions section for clarification on terms used in the self-assessment.

If you are a representative of an organization, you should answer this survey on behalf of all activities that take place within your organization. "You"-language should be understood to mean "your organization." If you do not have the expertise about all activities that take place within your organization, please collaborate internally with others to comprehensively complete this assessment.

Examples and code examples in this assessment are not intended to be comprehensive. They are meant to provide a list of some, but not all, situations and codes that may meet the criteria for that section. Similarly, code exclusions within this assessment are not intended to be comprehensive. They are an initial list of codes that are not included in the definition of that section.

Section 1: Organizational Demographics and Duties

For the sake of understanding and self-assessing current areas where risk of conflict is present, it is important to identify key characteristics of you/your organization. Identifying and understanding the implications of conflict is important for preparing how your organization may engage conflict mitigation strategies in the future. This section asks about organization demographics and duties in three parts: Organizational Level, Organizational Type, and Duties. For more information why these areas are important, see the Definitions and Context section.

Organization Level

This section informs the Organizational Type portion of the self-assessment. There are different considerations for providers who work for themselves/individually and those that work for an entity.

Are you an individual or an entity?

Directions and Rules

In this portion of the assessment, you can answer either A-Individual or B-Entity based on the definitions below.

- There is only one option in this portion. You must select either A **OR** B
- In sections with "OR," only one of the provided definitions must apply to you for you to select that section.
- If you are a representative of an organization and there is more than one person who works for this organization, answer for the entity.

		Are you an individual or an entity?	Selection
A		**INDIVIDUAL:** You work as a sole provider of supports and services and are independent of any non-profit, for-profit, or governmental entity with more than one staff member. You may provide supports and services in a person's plan and/or you support the planning process. *Examples:* *-Independent facilitator who is not associated with- or employed by any organization.* *-An independent individual who provides services in a person's self-directed arrangement and is not associated with— or employed by any organization.*	☐
B		**ENTITY:** You provide supports and services in a person's plan or support the planning process. OR You oversee organizations/entities that provide supports and services in a person's plan or support the planning process. *Examples:* *-A staff of— or a representative of a CMH or PIHP.* *-A staff of— or representative of a provider organization.*	☐

Organization Type

This portion of the self-assessment asks about your Organizational Type. There are different considerations for public and private organizations.

Are you a public or private organization?

Directions and Rules

In this portion, you can answer either C-Public or D-Private based on the definitions below.

- For the sake of this self-assessment, *individuals* are designated as private.
- If you are an individual, you qualify as "private."
- This portion of the self-assessment does not refer to for-profit and non-profit status.
- There is only one option in this portion. You must select either C **OR** D

	Are you a public or private organization?	**Selection**
C	**PUBLIC:** Your organization is a governmental/quasi-governmental entity that is publicly funded with taxpayer dollars. To identify as "public," you must be a representative of either a CMH or PIHP. *Examples:* *-A representative of a CMH* *-A representative of a PIHP*	☐
D	**PRIVATE:** Your organization is not a governmental/quasi-governmental entity that is publicly funded with taxpayer dollars. *Examples:* *-A representative of a for-profit provider organization.* *-A representative of a non-profit provider organization.* *-An independent facilitator who works for themselves.* *-An independent provider who works for themselves.*	☐

Duties

As organizations assess their current level of conflict, they must understand where there are potential conflicts in their processes. Duty identifies which activities are fulfilled by the organization. When an organization is involved in specific combinations of activities, there is a risk of conflict. The Conflict portion identifies additional organizational activities which result in direct conflicts.

This portion of the self-assessment asks you to identify which duties you perform. There are different considerations for organizations that perform specific combinations of duties.

Which duties do you directly perform?

Directions and Rules

In this portion of the self-assessment, you can indicate responses to more than one section below.

- Indicate all sections that apply to you. If a section does not apply to you, please leave the "Selection" column to the right blank for that section and do not document it on your selection form.
- In sections with "OR," only one of the provided definitions must apply to you for you to select that section.
- Your response should be comprehensive of the entire organization's activities across all departments and levels of the organization.
- If you provide services to more than one population, please indicate the duties you directly perform for ALL populations.

	Which duties do you directly perform?	**Selection**
E	**Eligibility Assessment and Determination:** You conduct eligibility assessments. **OR** You have the authority to determine someone eligible or ineligible for services. *Examples:* *-A CMH access center that can approve/deny a person access to the system due to their finances or needs.* *-A PIHP access center that can approve/deny a person access to the system due to their finances or needs.*	☐
F	**Assessment of Need:** You conduct assessments of need. *Code Examples:* *H0031, H0031 WX, H0031 WY, 90791/90792* *Code Exclusions:* *96116, 96121, 96130, 96131, 96132, 96133, 96136, 96137, 96138, 96139, 96146* *Examples:* *-A CMH who conducts the SIS, LOCUS, CAFAS, or PECFAS.* *-An organization who conducts the SIS, LOCUS, CAFAS, or PECFAS.*	☐

G	**Planning:** You facilitate the planning process. **OR** You help write the IPOS. **OR** You provide planning services (including plan development or monitoring). **OR** You make changes to the person's plan, as necessary. **OR** You can make changes to the person's plan through the Person-Centered Planning Process without approval of another organization. *Code Examples:* *H0032* *T1017* *Examples:* *-An independent facilitator who performs facilitation.* *-A CMH who develops the IPOS with the person.* *-A provider who develops the IPOS with the person.* *-A provider organization who writes goals and objectives with the person as a part of their planning.*	☐
H	**Authorizations:** You approve, deny, or partially deny service authorizations. *Examples:* *-A CMH that approves service authorization requests.* *-A PIHP that denies service authorization requests.* *-A delegated entity that does Utilization Management functions.*	☐
I	**Direct Services:** You provide direct services (excluding assessment services and case management T1017) that are in a person's plan. *Code Examples: 90785, 90837, H2015, H2014, H2023* *Code Exclusions: T1017, T2022, T2024, T1007, H0032, H0006* *Examples:* *-A CMH who provides CLS* *-A provider organization who provides outpatient services*	☐

Section 1 Score Card

Below the score card displays selection combinations that may be in conflict. Using the items documented in your selection form, see which scenarios apply to you. The selections in the columns are ones that have an associated conflict. For example, if your selection included "D" but not "E," Scenario 1 is not relevant to you. Once you identify which scenarios are relevant or not relevant to you, see the Action Items below.

Did you select **D** and **E**? **Scenario 1** may be true for you.	42 CFR 431.10 requires eligibility determinations are the responsibility of the State Medicaid Agency or are delegated to a quasi-governmental organization.
Did you select one of the following **E, F, G, or H** AND **I** **Scenario 2** may be true for you.	If you/your organization provides ELIGIBILITY ASSESSMENT/DETERMINATION, ASSESSMENT OF NEED, PLANNING, and/or AUTHORIZATION (outlined in E, F, G, H) above TO THE SAME PERSON for whom you/your organization provides DIRECT SERVICE (I), there may be conflict with 42 CFR 441.301(c)(1)(vi) or 42 CFR 441.730(b).

Section 2: Additional Conflicts

This portion asks about specific situations outlined by CMS that are conflicted and may be dishonoring to free choice, put service quality and outcomes at risk, and enmesh relationships between roles.

Which situations does your organization have policies that prohibit?

Directions and Rules

In this portion of the self-assessment, you can indicate responses to more than one section below.

- Select all sections for which you answer "NO" to the question listed. If you answer "YES" to the question listed in a section, do not include that section in your selection form.

		Which situations are true for you?	Selection
	J	**Related by Blood/Marriage:** You do not have policies that prohibit staff from providing planning or direct services to a relative (by blood or marriage). *Example:* *-Your organization does not, in writing, prevent staff from providing outpatient services to their husband.* *-Your organization does not have a policy that prevents staff from providing therapy for their child.*	☐
	K	**Financially Responsible:** You do not have policies that prohibit staff from providing planning or direct services to a person for whom your staff are financially responsible? *Examples:* *-Your organization does not prevent staff, in policy, from providing therapy to a person for whom they are a conservator.*	☐
	L	**Empowered to Make Decisions:** You do not have policies that prohibit staff from providing planning or direct services to a person for whom they make legal decisions? *Examples:* *-Your organization does not prevent staff in policy from developing the plan for a person for whom they are a guardian.*	☐
	M	**Holding Financial Interest:** You do not have policies that prohibit staff with a financial interest in a direct service provider organization from conducting planning with people who receive services from that direct service provider? *Example:* *-You do not prevent staff who owns an AFC home from conducting planning for a person who lives in the home.* *- You do not prevent staff who owns stock in a provider organization and conducts planning for people who receive services from the provider organization.*	☐

Section 2 Score Card

Below the score card displays selection combinations that may be in conflict. Using the items documented in your selection form, see which scenarios apply to you. The selections in the columns are ones that have an associated conflict. For example, if "J", "K", or "L" were not true for you, Scenario 3 is not relevant to you. Once you identify which scenarios are relevant or not relevant to you, see the Action Items below.

Did you select one of the following **J,K,** OR **L?** **Scenario 3** may be true for you.	42 CFR 441.730(b) requires people served do not receive planning or direct services from their relatives and people who are responsible for them.
Did you select **M**? **Scenario 4** may be true for you.	42 CFR 441.730(b) requires people served do not receive planning from entities/individual who have financial interest in— or are the person's direct service providers.

Action Items

Workgroup members are encouraged, but not required, to share their responses with the workgroup. However, it would enrich the Workgroup feedback to the state if any insights or considerations gathered when conducting this self-assessment were shared with the Workgroup.

If you were asked to complete the self-assessment by a Workgroup Member, please share your thoughts and findings with the Workgroup member who invited you to complete the self-assessment.

Reflection Questions

General Questions	
General reflection questions for all self-assessment participants	The State will review various options for mitigating conflict. What is important for them to consider?
	How might removing conflict in each scenario impact your organization?
Section 1 Scenarios	
Reflection question for Scenario 1	If your organization no longer conducted eligibility assessments, how would this impact your organization?
Reflection question for Scenario 2	Do you/your organization have a way to track how many people receive both Eligibility Evaluation, Assessment of Need, and/or Planning AND Direct service from your organization? If so, for how many people served does this scenario apply? For what percent of people you serve does this scenario apply? Are some populations more heavily represented?
	Are people served receiving any combination of E,F,G,H AND I from the same staff?
	How might removing this conflict impact **people served? Your organization**? (Consider both positive and negative impacts)
Section 2 Scenario	
Reflection question for Scenario 3	Have staff ever served a person they were related to or responsible for? If so, how was your organization made aware of the scenario? How was the conflict addressed when it was brought up?
Reflection question for Scenario 4	What other organizations or providers do you/your organization have a financial interest with?
	Do you have staff who have a financial interest in any provider organization

Definitions and Context

All Populations: For the sake of this self-assessment, "All Populations" refers to people who receive services and/or supports for a Serious Emotional Disturbance, Intellectual and/or Developmental Disability, Serious Mental Illness, and/or Substance Use Disorder.

Assessment of Need: Per the Medicaid Provider Manual (Behavioral Health and Intellection and Developmental Disability Supports and Services, Section 3.3 Assessments), "Generally accepted professional assessment or tests, other than psychological testing, that are conducted by a mental health care professional within their scope of practice for the purpose of determining eligibility for specialty services and supports, and the treatment needs of the beneficiary." If you or your organization provides one or more of these activities, you should include this duty in your selection.

Eligibility Assessments and Determinations: Any activities that the organization conducts to grant or deny access to public behavioral supports and services are considered Eligibility Assessments and Determination for the sake of this assessment. Per the MDHHS Access Standards, Section IV, Eligibility Determination activities and authorities include providing an access screening **AND/OR** authority to grant admission or denial to the public behavioral health care system and its supports and services to a person based on:

- Their presenting problem
- Need for services and supports
- Qualifying population group
- ASAM criteria

- Legal eligibility and priority criteria
- Presence of urgent or emergent need
- Identification of screening disposition

If you or your organization provide these activities or have this authority, you should include this duty in your selection.

Financial Interest: For this self-assessment, financial interest refers to a direct or indirect monetary relationship held by an organization or a staff at an organization as defined by *42 CFR § 441.730 - Provider qualifications.*

Planning: Within this assessment, any reference to planning includes provision of any services to support the person-centered, family-driven, youth-guided, and treatment planning. Per the Medicaid provider manual (Behavioral Health and Intellection and Developmental Disability Supports and Services, Covered Services Section, 3.28- Treatment Planning), planning includes the following activities[1]:

- Pre-planning activities
- Facilitation of the person-centered planning
- Writing goals, objectives, and outcomes
- Documentation related to the above activities

- Designing strategies to achieve outcomes (identifying amount, scope, and duration and ways to measure achievement related to outcomes)
- Documentation of the person-centered plan
- Monitoring the IPOS

If you or your organization provide one or more of these activities, you should include this duty in your selection.

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[1] The Medicaid Provider Manual includes "Attending the person-centered planning meetings per invitation" as a part of planning. This was removed from the definition of "Planning" for the self-assessment. If your organization only attends the person-centered planning meeting per invitation, the "Planning" selection does not apply to you for the purpose of this self-assessment.

Why are Organization Demographics important?

The Center for Medicare and Medicaid (CMS) requires both individual providers and entities that provide services consider and mitigate conflict. Conflict may be present in areas where an individual provider or entity is involved in several steps of the service/support experience. Entities that have staff who are involved in more than one step in the service/support experience for a person, even if they are different staff, may bear conflict. CMS also has different requirements for public and private providers, specifically around eligibility determinations.

Why are Duties important?

CMS identifies several combinations of activities that incentivize providers to act on behalf of their own financial interests. It is important for organizations to assess which steps of the service/support experience they are involved in and for who. Additionally, CMS identifies several situations that are directly conflicted no matter the combination of duties.