

MIHP IMPORTANT UPDATE: VERBAL CONSENT DOCUMENTATION October 20, 2023

Good Morning MIHP Providers,

In response to provider feedback regarding documentation of verbal consent, MDHHS MIHP would like to offer clarification on the expected process as well as a commitment to enhancing the process to better meet provider and family needs. This information is being provided largely in response to questions asked during the September MIHP Community of Practice. We greatly appreciate the insight provided by agencies.

Expected Documentation

The documentation guidance is detailed in the [Cycle 9 Operations Guide](#) as follows:

- Verbal consent must be documented, and written consent obtained at the next in-person visit. Verbal consents not able to be initialed, signed and dated by the beneficiary at the first in person visit, must have rationale of why this did not occur documented on the Contact Log.
- In the Legal Representative text box write “Verbal Consent – MM/DD/YY”
 - At the next in-person visit, the beneficiary/caregiver must initial the verbal consent entry and sign and date the document.
- Verbal consent guidance was also described previously such as via the [May 2021 guidance](#).
 - As noted in this guidance, consents secured using previous COVID-19 telehealth guidance are acceptable.
- Although requested, an example of such consent documentation cannot be provided by MDHHS MIHP. If providers have questions about their process, please contact the MIHP inbox (MIHP@Michigan.gov).

Modified Documentation with Approval

Some providers, particularly those with Electronic Medical Records (EMRs), have proposed slight modifications to their consent process due to system limitations and have contacted MDHHS MIHP to obtain approval for their consent documentation process. **Please be assured that MDHHS MIHP will honor these approvals** however you must retain a copy of the approval in your records for presentation to the reviewer at the time of certification.

Certification Review

For Cycle 9 Certification purposes, we want to advise on specific consent elements being reviewed because providers have expressed interest in what may result in a citation. As noted in the Certification Specifications, and Protocol Specifications, providers can anticipate a citation for the following:

- Consents that did not have a signature obtained at the first in-person visit (or a note in the Contact Log with rationale for why a signature was not obtained).
 - **If beneficiary signature is present but their initialing of the verbal consent entry is missing, this will be acceptable.**
- Lacking a protocol that describes a procedure for verbal consents including securing a signature at the first in-person visit.
- All Certification Specifications are [available here](#), and Protocol Specifications are [available here](#).

Stay Tuned! Consent Enhancements Under Review*

As a result of your inquiries and suggestions, MDHHS MIHP is working to streamline documentation of verbal consent to reduce documentation burden and improve consistency. This would involve minor updates to the existing consent forms. The following enhancements are being drafted and reviewed with additional partners at MDHHS for feasibility:

- On all consents: Adding a checkbox to indicate “Verbal Consent Obtained (via Telehealth or Telephone-Only Visit)”. This would eliminate the need to use the “Legal Representative” textbox for verbal consent entry.
- On all consents: Reconsidering the requirement to have a beneficiary sign/initial/date the consent if verbal consent was captured previously (either the “Verbal Consent” checkbox would be checked, or the “Beneficiary Signature” line would be populated, but not both). If this can be pursued, it would eliminate the requirement to obtain a signature at the first in-person visit.
- On the Consent to Release PHI: Simplify the grid that lists “Parties with Whom Information May be Exchanged” by removing the columns of “Date” and “Beneficiary Initials”. If additional parties are added after creation of the initial Consent, an additional Consent may be added to the record.
- Updating instructions to specify expectations for verbal consent documentation.
- Additional changes may be advised by MDHHS partners.

Providers will be informed as new consents become available and provided time to transition. MDHHS MIHP will also ensure that Certification Reviews take into consideration this transition between previous documentation expectations and those moving forward.

- * **Please note that all consent enhancements above are under review, pending approval. Some suggested enhancements may/may not be implemented as written.**

Thank you,
MDHHS Maternal Infant Health Program

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