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Owner: *Kip Kliber: Director, Recipient Rights*
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References:

Personal Property And Search

POLICY

It is the policy of the Detroit Wayne Mental Health Authority (DWMHA) that a recipient is entitled to receive, possess, and use all personal property within the framework established by this policy. Further, a recipient's person, property or living area shall not be subject to search except under the conditions established in this policy.

PURPOSE

To provide policy direction regarding a recipient's receipt, possession, use of personal property, and rights with regards to search of his/her person, property or living area.

APPLICATION

1. The following groups are required to implement and adhere to this policy: DWMHA Board, DWMHA Staff, Contractual Staff, Access Center, MCPN Staff, Network Providers, Crisis services vendor
2. This policy serves the following populations: Adults, Children, I/DD, SMI/SEI, SED, Autism
3. This policy impacts the following **contracts/service lines**: MI-HEALTH LINK, Medicaid, Autism, Grants, General Fund

KEYWORDS

1. Adult Foster Care facility
2. Contraband
3. Facility
4. Licensed facility
5. MCPN
6. Reasonable Cause
7. Search

STANDARDS

1. Personal Property

- a. Each recipient shall be provided with a reasonable amount of storage space for his/her personal property.
- b. Personal Property taken into the possession of the MCPN or contractor or their subcontractors:
 1. Shall be inventoried and logged
 2. A receipt shall be given to a recipient, and an individual designated by a recipient, for any of his/her personal property taken into possession of the facility.
 3. The receipt must be signed by the recipient, guardian, or parent of a minor, the person compiling the property log, and a witness.
- c. A mechanism shall be established for providing resolution of substantiated complaints and incidents of theft, loss, or destruction of personal property while in possession of facility.
- d. A recipient shall be permitted to inspect all of his/her personal property at reasonable times.
- e. An MCPN, contractor, or their subcontractors may exclude particular kinds of personal property from the facility. Any exclusion shall be reasonable, officially adopted, and posted in each residential unit. Recipient shall be notified of such excluded items at the time of admission to the facility.
- f. Excluded property shall include, but not be limited to, all of the following:
 1. Weapons such a firearms, explosives, knives or other sharp objects.
 2. Drugs, whether prescribed or not, unless possession of the drug is authorized by the attending physician.
- g. A recipient's right to receive, possess and use personal property may be limited by the individual in charge of the individual plan of service.
- h. Each limitation shall be essential for one of the following purposes:
 1. In order to prevent theft, loss or destruction of property, unless a waiver is signed by the recipient or his/her legally empowered representative.
 2. In order to prevent the recipient from physically harming himself/herself or others.
- i. All limitations shall be documented in the recipient's individual plan of service and shall include the justification for its adoption and the date it expires.
- j. A limitation shall be removed when circumstances that justified its adoption cease to exist.
- k. A recipient, or person with the authority to act on behalf of a recipient may request and if requested, shall receive an explanation of any limitation and/or the expiration date.
- l. A receipt shall be given to a recipient and an individual designated by a recipient for any of his/her personal property.
- m. Any personal property of a recipient in possession of a facility at the time of a recipient's release from the facility shall be returned to the recipient.
- n. A MCPN or contractor shall establish procedures whereby a recipient who is suspected of possessing an item that is excluded or limited may be searched. At a minimum these procedures shall include documentation of the justification of the search, the type of search, and authorization of the search.
- o. Upon the death of a recipient, all of the following provisions shall be complied with:
 1. Every effort shall be made by a facility to divest itself of a recipient's personal effects and

monies if the effects and monies consist of only wearing apparel and up to \$100 cash. Divestiture shall be to the spouse, child, or parent of the decedent if the spouse, child, or parent furnishes identification and an affidavit of such relationship and that an estate of the decedent is not pending.

2. A facility shall send a list of personal effects or monies being held by the facility to the nearest relative by registered mail and to probate court and shall call attention to statutes that provide for disposition.
 3. If there are questions as to rival claims to personal effects or monies, property may be held by a facility until the claims are determined in a probate court.
 4. If the nearest relative cannot be contacted, a facility shall send by registered mail, to the person or entity who paid the funeral expenses, a list of the articles being held by the facility and a statement which calls attention to statutes providing for disposition.
 5. If there are no claims to personal effects or monies of a recipient who has died, property or monies shall be considered to be unclaimed.
- p. If a recipient is on unauthorized leave and if the recipient's property and money is not claimed by the recipient, or the recipient's relatives, heirs, or personal or legal representative, the facility director shall retain custody of the property and monies and shall handle them in the same manner as other unclaimed property.
 - q. If personal effects or monies of recipients become unclaimed and have been held for 2 years, the property or money shall be disposed of pursuant to applicable Michigan law.
2. Search of Person, Property or Living Area
- a. Routine searches may be conducted in common areas of the living unit.
 - b. Prior to conducting a personal or property search, a recipient shall be informed of the reason for the search. This notification shall be documented in the recipient's record.
 - c. A recipient's property, person, or living area shall not be subject to search unless the search is authorized in the recipient's individual plan of service or there is reasonable cause to believe the recipient is in possession of contraband or property excluded by written policies, procedures, or rules of the facility.
 - d. A individual plan of service that authorizes search and seizure requires the consent of the recipient, guardian, or parent with legal custody of a minor.
 - e. Any search of the person, property or living area of a recipient shall be based upon reasonable cause or authorized in the recipient's individual plan of service with the following exceptions:
 1. Pat Down Search may be conducted on each recipient at the time of admission or upon return from Unauthorized Leave of Absence.
 2. Pat Down Search may be conducted, when indicated, on each recipient prior to the implementation of seclusion or personal restraint.
 3. Package brought by visitors intended for recipient may be searched prior to delivery to the recipient. Search of a package brought by a visitor shall be based upon voluntary consent by the visitor. A facility may exclude package for which the visitor denies consent for search.
 - f. Search of a recipient's property and living area shall occur in the presence of a witness. The recipient shall be present unless he/she declines. If the recipient declines to be present, documentation of this

- shall be placed in the recipient's record
- g. Documentation in the record of a recipient who is subjected to a search shall include:
 - 1. The reason for initiating the search.
 - 2. The type of search (person, property, or living area).
 - 3. Who authorized the search.
 - 4. The names of the individuals who conducted and witnessed the search.
 - 5. The results of the search, including a description of property seized and its disposition.
 - h. Search of the person shall be conducted by at least two employees, one who shall be of the same sex as the recipient.
 - i. A strip search requires a written order by a physician and must include justification for the search. This search shall be:
 - 1. Conducted by at least two employees, one who shall be of the same sex as the recipient, and
 - 2. Conducted in a private setting.
 - j. A body cavity search requires the written order of a physician and must include justification for the search. This search shall be:
 - 1. Conducted by a physician with an employee witness, one who shall be of the same sex as the recipient, and
 - 2. Conducted in a private setting.
 - k. An MCPN or contractor shall establish and implement procedures that further particularize and comply with the minimum standards established by this policy.

QUALITY ASSURANCE/IMPROVEMENT

DWMHA shall review and monitor contractor adherence to this policy as one element in its network management program, and as one element of the QAPIP Goals and Objectives.

The quality improvement programs of MCPNs, their subcontractors, and direct contractors must include measures for both the monitoring of and the continuous improvement of the programs or processes described in this policy.

COMPLIANCE WITH ALL APPLICABLE LAWS

DWMHA staff, MCPNs, contractors, and subcontractors are bound by all applicable local, state and federal laws, rules, regulations and policies, all federal waiver requirements, state and county contractual requirements, policies, and administrative directives, as amended.

LEGAL AUTHORITY

1. Michigan Mental Health Code, P.A. 258 of 1974, as amended, MCL 330.1728
2. Michigan Administrative Code R330.7009(7)

RELATED POLICIES

1. Individual Plan of Service/Person-Centered Planning

2. Resident Funds
3. Services Suited to Condition in the Least Restrictive Setting.
4. Treatment with Dignity and Respect

RELATED DEPARTMENTS

1. Administration
2. Clinical Practice Improvement
3. Customer Service
4. Managed Care Operations
5. Quality Improvement
6. Recipient Rights

CLINICAL POLICY

YES

INTERNAL/EXTERNAL POLICY

EXTERNAL

Attachments:

No Attachments

Approval Signatures

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