

Chapter: **CLINICAL PRACTICE**
Title: **ADA AND OLMSTEAD COMPLIANCE**

See MCCMH MCO Policies 2-000, "Plan for Behavioral Health Services"; 2-013, "Access, Eligibility, Admission, Discharge"; 5-001, "Accessibility;" 8-006 "Consumerism"; 9-605, "Consumer Bill of Rights and Responsibilities"; 9-606, "Dignity / Services Suited To Condition / Humane Environment / Least Restrictive Treatment Environment;" and 9-670, "Services for Recipients Affected by Physical Barriers."

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Approved by: _____


Executive Director

07/02/13
Date

I. Abstract

This policy establishes the standards of the Macomb County Community Mental Health Board (MCCMH) regarding the Americans with Disabilities Act (ADA) and the Olmstead U.S. Supreme Court decision (Olmstead) for MCCMH network providers.

II. Application

This policy shall apply to all directly-operated and contract network providers of the MCCMH Board.

III. Policy

It is the policy of the MCCMH Board that all network providers, in provision of services to MCCMH consumers, shall plan for and deliver services in the most integrated and least restrictive setting and manner appropriate to the needs of persons with disabilities and enable them to interact with nondisabled persons to the fullest extent possible.

IV. Definitions

A. Contract Provider Staff

Full and part-time employees and independent contractors of the MCCMH contract network providers.

B. Directly-Operated Provider Staff

Full and part-time employees and independent contractors of the MCCMH Board.

V. Standards

- A. Eligibility criteria for participation in MCCMH programs, activities, and services shall not screen out or tend to screen out persons with disabilities, unless the requirements are necessary for the provision of the service, program, or activity.
- B. Notwithstanding A., above, legitimate safety requirements for safe operation may only be adopted if they are based on real risks, not on stereotypes or generalizations about persons with disabilities.
- C. Policies, practices, and procedures shall be modified to avoid discrimination toward consumers with disabilities without fundamentally altering the nature of a service, program, or activity.
- D. Prior to release and placement of persons from institutions, provider network treatment professionals shall determine that the placement is appropriate; the individual must not object to being released; and the provider is able to provide supports and services that enable the consumer to live successfully in the community.
- E. Treatment professionals shall respect and support the housing preferences and choices of persons with disabilities and truly fulfill the mandates of the ADA and Olmstead with respect to community integration.
- F. The person-centered planning process shall ensure that informed choice of type of residential setting, provider, roommates/housemates is guaranteed to consumers, with a transition planning process undertaken to assure that there is the right match between each individual and the licensed setting.
- G. Individual opportunities for community integration, inclusion, and productivity shall be addressed and guaranteed in licensed settings for all consumers and shall be provided in the most integrated settings appropriate to the needs of each individual with occasion for interaction with nondisabled persons to the fullest extent possible.
- H. The frequency of monitoring of individuals living in licensed settings, i.e. specialized residential settings, general AFC homes, shall be determined during the person-centered planning process and incorporated in the individual Plan of Service. Issues or deficiencies identified during placement visits or during the course of provision of services shall be noted and addressed.

VI. Procedures

- A. Provider-specific procedures necessary for the implementation of this policy shall be contained in the provider manuals of each network provider. Such procedures shall be reviewed and approved by the MCCMH Direct-Operated Services

Management Division Director or designee, or by the Contract Provider Director or designee for contracted network providers.

VII. References / Legal Authority

- A. Civil Rights Act of 1871 (CRA), 42 U.S.C. 21 §1983, as amended (1996)
- B. Americans with Disabilities Act of 1990 (ADA), 42 U.S.C.126 §§12101-12213
- C. ADA, 42 U.S.C. §6010 (2)
- D. ADA, 42 U.S.C. 126 §12101 (a) (2), (3), (5)
- E. ADA, 42 U.S.C. 126 §§12131-12165
- F. 28 CFR §35.130 (b)(7), (d), (e)(1) (1991, as amended 2010)
- G. 28 CFR §35, App. A (1998)
- H. 28 CFR §41.51(d) (1998)
- I. Olmstead v. L.C., 527 US. 581 (1999)
- J. Rehabilitation Act of 1973, U.S.C. 16 §794
- K. MDCH/PIHP Medicaid Managed Specialty Supports and Services Contract, FY 12/13 and MDCH/CMHSP Managed Mental Health Supports and Services Contract, FY 12/13

VIII. Exhibits

- A. None