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Chapter: **ADMINISTRATION**  
Title: **ACCESSIBILITY**

Prior Approval Date: 01/24/18  
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Approved by: BOARD ACTION

  
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Executive Director

08/22/18  
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Date

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**I. Abstract**

This policy establishes the standards and procedures of the Macomb County Community Mental Health (MCCMH) Board (the "Board") for promoting program accessibility, recruitment, community opportunities, education, and awareness for persons with Disabilities.

**II. Application**

This policy shall apply to all MCCMH administrative/management staff, Access staff, individual service contractors, and direct and contract network providers of the Board.

**III. Policy**

It is the policy of the Board that:

- MCCMH will provide individuals with Disabilities an equal opportunity to participate in and enjoy the benefits of MCCMH services, facilities, programs and activities.
- No individual will be excluded from participation or denied benefits of the MCCMH Prepaid Inpatient Health Plan (PIHP) and/or Community Mental Health Services Plan (CMHSP), or related services, programs, activities, or facilities, or subjected to discrimination on the basis of Disability.

- MCCMH will actively endeavor to remove architectural, communicational, attitudinal, employment and other barriers to the provision of services through the PIHP and the CMHSP for individuals with Disabilities.
- Each MCCMH contract network provider will be responsible to implement policies and procedures and take appropriate steps consistent with their obligations under the ADA, Section 1557, and under any other applicable state or federal law that prohibits discrimination on the basis of Disability.

#### **IV. Definitions**

- A. Assistive Devices: All devices that increase the capacity of people with Disabilities to function in all aspects of daily living, including work and leisure. The following are some examples of assistive devices (the list is not comprehensive):
1. Devices for people with mobility impairments: e.g., wheel chairs, trolleys, tricycles, calipers or braces, crutches, walkers and artificial limbs;
  2. Devices for people with sight impairments: e.g., taped texts, audio recordings, brailers, low-vision devices, large print materials, white canes, adapted precision measurement instruments, and educational devices.;
  3. Devices for people with hearing impairments: e.g., hearing aids, telephone handset amplifiers, assistive listening devices, assistive listening systems, video-text displays, written materials, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices (TDDs) and text telephones (Tts); and
  4. Devices for people with communication limitation: e.g., adapted communication tools (computer programs or communication boards).
- B. Augmentative and Alternative Communication (AAC): The supplementation or replacement of verbal communication when an individual is not able to communicate effectively with speech (nonverbal), is partially able to communicate with speech but not understood by most listeners, or speech is not functional, or who has adequate speech but requires an augmentative device for purposes of writing or carrying on long conversations. Methods of AAC include, but are not limited to
1. Unaided Communication: Making use of a person's own body. This could be pointing, gesturing or pantomime, speech or vocalizations, sign language, and finger spelling.

2. Aided Communication: Utilizing things not part of the body. These consist of pens, computers, pointing devices (i.e. head pointer), letter or picture boards, or dedicated electronic devices. Low-tech or manual devices are typically some form of aided communication consisting of items not requiring a power supply; for example, communication books or boards. High-tech or electronic devices, including computers and dedicated voice output devices which do need a power supply.
- C. Auxiliary Aids: Auxiliary Aids include, but are not limited to, the following: Qualified Interpreter for Person with LEP; Qualified Interpreter for Person with a Disability; video remote interpreting services (VRI); note takers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices and systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning including real-time captioning; voice, text and video based telecommunication products and systems; text telephones (TTYs); videophones or captioned telephones; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing; qualified readers; taped texts; audio recordings; Braille materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs; large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision; acquisition or modification of equipment and devices; and other similar services and actions.
- D. Civil Rights Coordinator: A MCCMH staff member of the Community Relations Office who has been designated by the Executive Director, upon advice and mutual consent of the Compliance Officer, to coordinate MCCMH's efforts to comply with Title II ADA, Section 504, Section 1557.
- E. Civil Rights Grievance: Complaint alleging noncompliance with Title II ADA, Section 504, or Section 1557, or alleging commission of any action that would be prohibited by Title II ADA, Section 504, or Section 1557
- F. Consumer: Broad, inclusive reference to an individual requesting or receiving mental health services delivered and/or managed by the PIHP or services provided by the CMHSP.
- G. Companion: Family member, friend, or associate of an individual seeking access to an MCCMH service, program, or activity, who, along with such individual, is an appropriate person with whom the MCCMH or the provider

should communicate (e.g.,(a) a person whom the Consumer designates to communicate with MCCMH on his or her behalf regarding their condition or care; (b) a person legally authorized to make health care decisions on behalf of the Consumer; or (c) such other person with whom MCCMH staff would ordinarily and regularly communicate regarding the Consumer's medical condition."

- H. Disability: A physical or mental impairment that substantially limits one or more of the major life activities of an individual; a record of such an impairment; or being regarded as having such an impairment.
- I. Documents Critical to Obtaining Services: Provider directories, enrollee handbooks, appeal and grievance notices, denial and termination notices, and any other documents that contain information describing services, access, due process or other rights under state or federal law. Documents Critical to Obtaining Services are Vital Documents (see definition, below). The Compliance Committee will resolve disputes regarding proper designation of documents as Documents Critical to Obtaining Services.
- J. Language Assistance Services: may include, but are not limited to: oral language assistance, including interpretation in non-English languages provided in-person or remotely by a qualified interpreter for an individual with LEP or Disability, and the use of qualified bilingual or multilingual staff to communicate directly with individuals with LEP; written translation, performed by a qualified interpreter, of written content in paper or electronic form into languages other than English; taglines.
- K. Qualified Interpreter for Person with a Disability: An interpreter, preferably a member of the American Translators Association (ATA), who, via a remote interpreting service or an on-site appearance: (i) adheres to generally accepted interpreter ethics principles, including client confidentiality; and (ii) is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary, terminology and phraseology.
- L. Reasonable Accommodations: Modification or adjustment that would assist Consumers to access benefits and privileges that are equal to those enjoyed by others and would not result in undue financial burden or a fundamental alteration to the nature of the health program or activity.
- M. Section 1557: Section 1557 of the Affordable Care Act (42 U.S.C. 18116) and its implementing regulations at 45 CFR part 92, issued by the U.S. Department of Health and Human Services. Section 1557 prohibits discrimination on the

basis of race, color, national origin, sex, age or disability in certain health programs and activities.

- N. Section 504: Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 45 CFR part 84. Section 504 prohibits entities that receive Federal financial assistance from discriminating on the basis of disability.
- O. Sensory Impairments: Disabilities which adversely impact a person's ability to perceive and use written or spoken communications. Sensory Impairments may include vision impairments, hearing loss, speech impediments and autism or autistic-like limitations.
- P. Service Animal: A guide dog, signal dog, or other animal individually trained to perform specific tasks to provide assistance to a person with a disability. An animal that meets this definition is considered Service Animals under the ADA regardless of whether they have been licensed or certified by state or local government. Service Animals perform some of the functions and tasks that the person with a disability cannot perform for him or herself. Guide dogs are one type of Service Animal, used by some people who are blind, but Service Animals also help people with other kinds of disabilities in their daily activities. Some examples include: Alerting persons with hearing disabilities to sounds; pulling wheelchairs or carrying and picking up things for persons with mobility disabilities; assisting persons with mobility disabilities with balance. A Service Animal is not a pet.
- Q. Significant Publications/Communications: Publications/Communications that are targeted to beneficiaries, enrollees, applicants, or the public, and that are "significant" in terms of importance, rather than size. Examples include: Notice of Privacy Practices, patient handbooks; consent forms; complaint forms; LEP guidance; outreach, education, marketing materials; written notices pertaining to rights and benefits or services; and applications to participate in a program or activity or to receive benefits or services.

Significant Publications/Communications that are "small size," but that still contain significant content, may include postcards, tri-fold brochures, targeted fliers and pamphlets, or certain social media communications.

In contrast, the following publications/communications are not "significant": Radio or television ads, identification cards (used to access benefits or services); appointment cards; business cards; banners and banner-like ads; envelopes; or outdoor advertising, such as billboards.

- R. Taglines: Short statements written in the requisite number of Prevalent Languages that indicate the availability of Language Assistance Services free of charge and the toll-free and TTY/TDY telephone number of MCCMH's member/customer service unit.
- S. Title II ADA: Title II of the Americans with Disabilities Act of 1990 and its implementing regulations at 28 CFR part 35. Title II ADA prohibits public entities from discriminating on the basis of disability.
- T. Vital Documents: Generally, documents that affect access to, retention in, or termination or exclusion from services or benefits. Vital documents include, but are not limited to: applications; consent forms; complaint forms; intake forms with potential for important health consequences, letters or notices pertaining to eligibility for benefits; letters or notices pertaining to rights and the reduction, denial or termination of services or benefits or that require a response from the LEP person; actions affecting parental custody or child support, written tests that test competency for a particular license, job, or skill for which knowing English is not required; documents that must be provided by law; and notices regarding the availability of free Language Assistance Services for LEP individuals.

## V. Standards

- A. MCCMH and its contract network providers shall at all times remain compliant with current requirements under Title II ADA, Section 504, Section 1557, the Michigan Mental Health Code and other applicable law prohibiting discrimination on the basis of race, color, national origin, sex, age or disability.
- B. MCCMH contract network providers are required to implement policies and procedures and take action consistent with their obligations under this policy and applicable law.
- C. MCCMH will make Reasonable Accommodations, including reasonable modifications to policies, practices, or procedures, when necessary to avoid discrimination on any prohibited basis, including but not limited to Disability.
  - 1. NOTE: MCCMH contract network providers are independently responsible as places of public accommodation under Title III of the ADA to take appropriate steps and make Reasonable Accommodations for individuals with Disabilities. MCCMH will neither make reasonableness determinations nor make Reasonable Accommodations on a contract network provider's behalf. MCCMH may, however, review a contract network provider's reasonableness determination or purported

modification/accommodation in order to ensure compliance with this policy, applicable law, and relevant obligations under the Specialty Services Contract.

- D. Where required, the Deputy Director will determine what constitutes a "Reasonable Accommodation," and/or when a requested accommodation/modification amounts to an undue financial/administrative burden or a fundamental alteration to the nature of the health program or activity.
- E. MCCMH will ensure that its administrative offices and service sites are accessible to individuals with Disabilities and will make all reasonable efforts to meet the needs of those who use Assistive Devices.
- F. Notice Requirements: Individuals with Disabilities will be directed to request assistance through signage, including but not limited to posters, brochures, and other communication materials and media resources that provide the following notices and information:
1. MCCMH does not discriminate on the basis of race, color, national origin, sex, age, or disability in its health programs and activities;
  2. Auxiliary Aids and services are available, including Qualified Interpreters for Individuals with Disabilities and information in alternate formats, free of charge and in a timely manner, when such aids and services are necessary to ensure that individuals with Disabilities are provided an equal opportunity to participate;
  3. Language Assistance Services (including oral interpretation for any language and written translation in Prevalent Languages) are available free of charge and in a timely manner, when such services are necessary to provide meaningful access;
  4. Oral interpretation is available for any language and written translation is available in Prevalent languages;
  5. Procedures are available to assert and/or seek resolution to Civil Rights Grievances; and
  6. Instructions on how to obtain aids and services and how to file a discrimination complaint with the OCR.
  7. Consumers with visual impairments shall be assisted and directed to

request assistance by oral means, large print documents, etc.

G. Communication Assistance (Generally):

1. In all cases, MCCMH will provide Auxiliary Aids and services and/or furnish materials in alternate formats to individuals with Disabilities (at no cost to the Consumer) for purposes of understanding Documents Critical to Obtaining Services or Vital Documents, for communicating the requirements and benefits of the plan, and for helping individuals secure the benefits of services or supports of the plan.
2. Additionally, MCCMH will take appropriate steps and provide Reasonable Accommodations to ensure that communication with individuals with Disabilities (including applicants, Consumers, members of the public, and Companions) is as effective as communication with others.
3. Communication aids, alternative communication, AAC, and/or Auxiliary Aids will be offered irrespective of whether or not an individual with a Sensory Impairment has requested assistance or accommodation.
4. When an Auxiliary Aid, AAC, or other Language Assistance Service is requested, MCCMH will give primary consideration to the choice expressed by the individual with the Disability.

H. Augmentative and Alternative Communication (AAC):

1. Individuals with verbal communication impairments shall be given the opportunity to use those strategies of AAC which he/she determines to be most suitable to express needs and wants, to share feelings, thoughts and ideas, and to plan for services.
2. Equipment, training or interpretations necessary to enable communication to take place shall be supplied both to the Consumer and to MCCMH providers who interact with the Consumer on a regular basis.
3. The Consumer's full participation in the person-centered planning process shall be ensured by communication with allies, advocates and communication partners before, during, and after meetings.

I. Interpreter Standards (ASL): MCCMH will not:

1. Require any Sensory Impaired individual to provide his or her own interpreter;

2. Rely on an adult accompanying a Sensory Impaired individual to interpret or facilitate communication, except:
  - a. In an emergency involving imminent threat to the safety or welfare of an individual or the public where there are no Qualified Interpreters for Persons with Disabilities immediately available
  - b. If the Sensory Impaired individual specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances.
3. Rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there are no Qualified Interpreters for Persons with Disability immediately available;
4. Rely on low quality video remote interpreting (VRI) services when communicating by telephone with applicants or beneficiaries with Sensory Impairments; or
5. Rely on low quality telecommunications systems when communicating by telephone with applicants or beneficiaries with Sensory Impairments.

J. Video Remote Interpreting (VRI) Services - (ASL):

1. Video Remote Interpreting (VRI) services will only be used when arrangements cannot be made for in-person interpreting, **and** the Sensory Impaired individual specifically consents to the use of VRI, **and** when the use and technology are consistent with the standards defined in MCCMH MCO 5-002, "Cultural and Linguistic Competency; Language Assistance Services."
2. Where VRI services are appropriate and approved for facilitating communication with a Sensory Impaired individual, the following additional standards must be satisfied:
  - a. The Sensory Impaired individual should be in a private room with minimal visual distractions and no backlighting;

- b. The cameras should be focused on all stakeholders, but particularly the Sensory Impaired individual and the interpreter. The Sensory Impaired individual must be positioned properly and comfortably to have an unobstructed view of the video screen;
  - c. The equipment must provide clear, sufficiently large, and sharply delineated pictures of the interpreter's and the Sensory Impaired individual's head, arms, hands, and fingers;
  - d. The video screen should have a minimum screen size sufficient to ensure clear viewing, should be no more than two (2) feet from the individual, should be hands-free, and should be stable for the user with adjustable height options;
3. Requests for interpreting services in order to facilitate communication with Sensory Impaired individuals must be made consistent with the procedures described in MCCMH MCO 5-002.

K. Service Animals:

1. Service Animals shall be permitted to accompany a Consumer with a Disability to the areas of the MCCMH Administrative Offices or provider sites where Consumers are allowed to go.
2. Service Animals will not be excluded from any location unless allowing the Service Animal will fundamentally alter the nature of the services or program, result in an undue financial burden, or create a legitimate safety risk (actual risk, rather than concerns based upon mere speculation, stereotypes, or generalizations).
3. A Consumer with a Service Animal shall not be segregated from other Consumers or staff members.
4. If it's not readily apparent that an animal is a "Service Animal," only the following two questions will be asked to assist in making the determination: (1) is the animal a Service Animal required because of a disability? and (2) what work or task has the dog been trained to perform? MCCMH will not request documentation, require that the animal demonstrate its task, or inquire about the nature of the person's Disability.

L. Technology:

1. MCCMH and its providers shall strive to offer services to meet the needs

of persons with Disabilities through the use of technologies and resources which maximize opportunities for participation.

2. Activities and/or services provided through electronic and information technology will be accessible to individuals with Disabilities, unless doing so would result in undue financial and administrative burdens or a fundamental alteration in the nature of MCCMH health programs or activities, as determined by the MCCMH Deputy Director.

M. Institutional and Community Awareness / Opportunities:

1. MCCMH and its providers will promote community efforts to enhance social and economic opportunities for persons with Disabilities.
2. MCCMH will promote the interests of Consumers with Disabilities and increase community awareness of the needs of persons with Disabilities through public service announcements, community event announcements, and community-oriented publications, such as program brochures and informational pamphlets.
3. MCCMH and its providers will promote the recruitment of persons with Disabilities as members of the governance authority, staff members, and volunteers of the organization.
4. MCCMH and its providers will provide Reasonable Accommodations and support to promote equal opportunity for participation by persons with Disabilities; e.g., as members of the governance authority, staff members, and volunteers.

N. Discrimination Complaints / Grievance Procedure:

1. Accommodations intended to achieve accessibility will be made free of charge and in a timely manner. If a Consumer is dissatisfied with the accommodations made by MCCMH or its providers, he/she may contact the MCCMH Ombudsman, the Corporate Compliance Officer, the Civil Rights Coordinator, or utilize any or all dispute resolutions, grievance and appeal, Recipient Rights process, or hearing process made available for protection of his/her rights.
2. MCCMH will investigate and resolve complaints regarding accessibility through the procedures defined in the following policies, as appropriate: MCCMH MCO 2-009, "Medicaid Grievances; Non-Medicaid Grievance"; MCCMH MCO 9-171, "Local Appeal Process (Medicaid)"; MCCMH MCO

9-170, "Local Dispute Resolution (All Consumers)"; and MCCMH MCO 5-003, "Grievances Alleging Discrimination (Civil Rights Grievances); Title II ADA / Section 504 / Section 1557 Compliance."

- O. Copies and audiotapes of this policy shall be made available at the MCCMH Office of Recipient Rights, the MCCMH Community Relations Office, service sites of MCCMH providers, and through the office of the Civil Rights Coordinator.

## **VI. Procedures**

- A. Notice of Nondiscrimination & Taglines: MCCMH will post Notices of Nondiscrimination and Taglines (Exhibit A) in at least the top 15 languages spoken by individuals with LEP in the State of Michigan, as well as in large print (at least 18 point font), in conspicuously visible font, in all of the following locations:
  - 1. Significant Publications/Communications targeted to Consumers, beneficiaries, enrollees, applicants, and members of the public;
    - a. NOTE: Significant Publications/Communications that are "small-sized" (e.g., postcards and tri-fold brochures) must contain Taglines in at least the top 2 languages spoken by individuals with LEP in the State of Michigan, and contain the following abbreviated Notice of Nondiscrimination (rather than the full Notice of Nondiscrimination contained in Exhibit A): "MCCMH does not discriminate on the basis of race, color, national origin, sex, age or disability in its health programs and activities.
  - 2. Documents Critical to Obtaining Services;
  - 3. Conspicuous physical locations where MCCMH interacts with the public; and
  - 4. A conspicuous location on the MCCMH Web site, accessible from the home page.
- B. Civil Rights Coordinator Responsibilities:
  - 1. Maintain an accurate and current list of known resources available to assist individuals with Disabilities, including those with Sensory Impairments or other communication impairing Disabilities, and the means for accessing such resources;

2. Coordinate to connect individuals with appropriate resources;
  3. Ensure that Notices of Nondiscrimination and Taglines are posted, consistent with the guidelines and requirements described in Section V.F. & VI.A. of this policy;
  4. Promptly communicate any complaints which are received about physical accessibility to the appropriate administrative staff, including but not limited to the Compliance Officer.
  5. Collaborate with the Information Systems Manager to assess electronic and information technology accessibility issues, and to determine when modifications would result in undue financial and administrative burdens or a fundamental alteration in the nature of the health program.
  6. Promptly communicate any requests for accommodation to the Deputy Director and other appropriate staff.
  7. Investigate and resolve Civil Rights Grievances.
  8. Maintain all records described herein.
- C. Requests for Accommodations:
1. When requesting accommodations (other than those described in Section V.G.1. of this policy, which will be provided whenever necessary in order to communicate with an individual), MCCMH staff will submit a written request to the Civil Rights Coordinator at [accommodationrequest@mccmh.net](mailto:accommodationrequest@mccmh.net) that includes the following information:
    - a. A description of the accommodation requested;
    - b. The nature of the service, program and/or activity which will be accessed by the individual with the Disability;
    - c. A description of the importance of the service, program and/or activity to the individual;
    - d. Any available information concerning the cost of the accommodation;

- e. The name and contact information of the requester and the name of the individual; and
  - f. Any other relevant information.
2. The Civil Rights Coordinator will send all complete requests for accommodation to the Deputy Director or designee for approval.
3. The Deputy Director or designee will provide a written determination describing what accommodations have been approved, and explaining the rationale for determining that any particular accommodation was not approved. Upon receiving notice from the Deputy Director, the Civil Rights Coordinator will promptly arrange for any approved accommodations.
4. If the Deputy Director denies a requested accommodation based on undue financial or administrative burden, because of a legitimate safety risk, or because an equally effective accommodation or Auxiliary Aid is available, provider staff will so advise the individual requesting the accommodation or Auxiliary Aid, provide a copy of the Grievance, Civil Rights Grievance, and Recipient Rights Complaint procedures, and secure another means of effective communication in a timely manner. All steps described in this provision must be documented in detail, and maintained by the Civil Rights Coordinator.

**D. Communication Assessments:**

1. Staff interacting with Consumers and potential Consumers will perform and document communication assessments at the earliest possible time. Provider staff will perform and document a communication assessment as part of each initial Consumer assessment, and reassess communication effectiveness regularly throughout the initial visit.
2. If there is any indication that Language Assistance Services, Auxiliary Aids and/or other accommodations are necessary, staff (preferably the Case Manager), in consultation with the individual with the Disability or Sensory Impairment, will determine which accommodations are appropriate and, either:
  - a. In the case that assistance is required related to MCCMH's PIHP function (administration of benefits, management of the plan, etc. – see Section V.G.1, above), coordinate with the Civil Rights Coordinator to ensure such assistance is provided promptly; or



Michigan Relay (711), providing the area code and phone number of the individual to be contacted. Upon receipt of a call from Michigan Relay, assigned staff is to be alerted so they may be advised of the message for TTY follow-up.

- I. Procedures shall be contained in Provider manuals.

## **VII. References / Legal Authority**

- A. Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC 794
- B. Americans with Disabilities Act of 1990, 42 USC 12101 et seq.
- C. Section 1557 of the Patient Protection and Affordable Care Act; 42 U.S.C. 18116 - Nondiscrimination.
- D. 28 CFR Part 35 (Title II ADA implementing regulations)
- E. 45 CFR Part 84 (Section 504 implementing regulations)
- F. 42 CFR Part 438 (Medicaid Managed Care Rules); specifically 42 CFR 438.10 and 438.206(c)(3)
- G. 45 CFR Part 92 (Section 1557 implementing regulations); specifically, 45 CFR 92.1 – 92.8, 92.202, and 92.204
- H. Commission on Accreditation Rehabilitation Facilities (CARF) Standards Manual
- I. NAD-Deaf Seniors of America (DSA) Position Statement on Minimum Standards for Video Remote Interpreting Services in Medical Settings, <https://www.nad.org/about-us/position-statements/minimum-standards-for-video-remote-interpreting-services-in-medical-settings/>. Last updated February 13, 2018. Accessed April 24, 2018.

## **VIII. Exhibits**

- A. Notice of Nondiscrimination and Taglines (current as of this Policy's adoption; to be updated for use as necessary based on demographic changes measured by the State of Michigan)