BERRIEN MENTAL HEALTH AUTHORITY
-- PROCEDURE --

SUBJECT: PERSONAL PROPERTY & FUNDS	SECTION: 01-17-01 Page 1of 9
APPLICATION: Directly Operated & Contractual Residential and Inpatient Programs EFFECTIVE DATE: 7/22/98 APPROVED BY: _____ Chief Executive Officer REVISED: 6/99, 10/99, 10/00, 3/02, 5/02, 11/02, 2/05, 5/05 7/05, 4/06, 8/07, 6/13, 7/2020, 7/2022, 2/2026	REQUIRED BY: MHC 728, 730, 732, 752; AR 7009 DHS Licensing R 400.14315

POLICY:
A recipient is entitled to receive, possess, display and use all personal property; including clothing, as provided by this policy. A recipient's personal property or living area shall not be subject to search except under the conditions established in this policy and the MHC.

Berrien Mental Health Authority (BMHA) and its contract agents will assure that money taken into custody or placed in an account for a recipient is safeguarded against theft, loss, or misappropriation. Each recipient will have easy access to his/her personal funds to spend as he/she chooses unless limited or restricted as provided by the Mental Health Code, Administrative Rules, MDHHS Licensing Rules, other provisions of law.

PURPOSE:
To define and describe how residential providers are to receive, store, protect, return and dispose of recipient's personal property and funds, & under what circumstances and methods searches are conducted.

STANDARDS:
- Should the recipient request review of any restriction or limitation with regard to rights provided by this policy, PCP reviews shall be completed as soon as possible, but no longer than 30 days from the date of the request, as provided in Section 712(2) of the Mental Health Code.

DEFINITIONS:
Prohibited Items: any item prohibited by law or excluded by policy/rules/restrictions or treatment plan limitations for possession, by a recipient.

Divest: to end the occupancy or possession of; discharge; release.

Fiduciary: a relationship that encompasses the idea of faith and confidence; entrusted; duties include loyalty and reasonable care of the assets within custody. All fiduciary actions are performed for the advantage of the beneficiary.

Facility: Can be either a State-run facility, a community placement that is directly operated or contracted with Berrien Mental Health Authority or a supported independent housing arrangement w/ lease held by an entity besides the recipient.

Money: any legal tender, note, draft, certificate of deposit, stock, bond, check or credit card, debit card, gift card or gift certificate; also called personal funds in supported settings.

Personal Property: any item/belongings possessed by an individual that have value or meaning to the person that is not considered personal funds/money.

Reasonable Cause: a belief based on facts or circumstances that a recipient has prohibited items on his/her person or has concealed prohibited items within areas containing his/her personal property.

Search: a physical inspection for prohibited items conducted by authorized staff. There are 5 types of searches:

(1)**-Package:** any search of packages intended for delivery to recipients.
(2)-**Area:** any search located within areas containing personal property of a recipient (e.g., wardrobe, bed, drawers, and lockers).
(3)-**Pat Down:** any search of a recipient that does not require removal of clothing other than a coat or jacket. This search consists of requesting the recipient to reveal any item on his/her person followed by physically patting areas of clothing.
(4)-**Strip Search:** any search of a recipient and/or a recipient's clothing, which requires the recipient to remove or alter the position of clothing, which reveals his/her body.
(5)-**Body Cavity Search:** any search of a recipient's body cavities.

PROCEDURE:

A. Personal Property

1. Each recipient must be provided with a reasonable amount of storage space for his/her personal property.

2. An inventory of all belongings brought into the facility must be done and be kept current. The BMHA inventory list sample form may or may not be used - as long as an inventory is completed and maintained. Although not required, it is recommended that pictures be taken of large and/or expensive items.

3. A recipient must be permitted to inspect his/her personal property at any reasonable time.

4. A recipient shall be allowed to personalize their living space.

5. A provider may exclude particular kinds of personal property from the facility. Any exclusion must be reasonable, officially adopted, and posted in each residential unit. Recipients must be notified of such excluded items at the time of admission to the facility.

6. Excluded property must include, but is not necessarily limited to, all of the following:

a. Weapons such as firearms, explosives, knives or other sharp objects.
b. Drugs, whether prescribed or not, unless possession of the drug is authorized by the professional in charge of the Person-Centered Plan.
c. Alcoholic beverages – exceptions may be made for use.

7. A recipient's right to receive, possess, and use personal property may be limited by the individual in charge of the plan of service. Each limitation must be essential for one of the following purposes:
    a. In order to prevent theft, loss, or destruction of property, unless a waiver is signed by the recipient or his/her legally empowered representative.
    b. In order to prevent the recipient from physically harming himself/herself or others.

8. All limitations must be documented in the recipient's plan of service and must include the justification for its adoption and the date it expires. Justification reviews must occur frequently; but not to exceed every 90 days. To continue a restriction, supporting documentation must be completed and added to the EMR with each review.

9. A limitation must be removed when circumstances which justified its adoption, cease to exist.

10. If a person is not happy with their Person-Centered Plan, a recipient or guardian may make a request for review to the person in charge of implementing the plan of service, as provided in Section 712(2) of the Mental Health Code. This review must be completed within 30 days of the date of the request.

11. A recipient or guardian may also file a complaint to the Office of Recipient Rights regarding restrictions they feel are not justified or appropriate.

12. A facility may limit property in order to prevent theft, loss, or destruction of the property unless a waiver is signed by the recipient.

13. A receipt must be given to a recipient and/or an individual designated by a recipient, for any of his/her personal property taken into possession of the facility. Any personal property of a recipient in the possession of a facility at the time of a recipient's release from the facility shall be returned to the recipient.

14. A recipient's property or living area will not be searched unless such a search is authorized in the plan of service or there is reasonable cause to believe the recipient is in possession of contraband or property that is excluded from the recipient's possession by written policies, procedures or rules of the provider. At a minimum, these procedures must include documentation and justification of the search, the type of search, and authorization for the search. All searches must be witnessed, and the recipient must be allowed to be present unless they decline.

B. Searches

1. Prior to conducting a personal or property search, a recipient must be informed of the reason for the search. The justification and notification must be documented in the recipient's record.

2. A recipient's property, person or living area will not be subject to search, unless the search is authorized in the recipient's plan of service, or there is reasonable cause to believe the recipient's is in possession of prohibited items or property excluded by written, posted policies, procedures, or rules of the facility.

3. A plan of service, which authorizes search and seizure, requires the consent of the recipient, guardian or parent with legal custody of a minor.

4. Packages brought by visitors intended for recipients may be searched prior to delivery to the recipient. Search of a package brought by a visitor must be based upon voluntary consent by the visitor and the recipient. A facility may exclude packages for which the visitor and/or recipient denies consent for search.

5. Searches of a recipient 's property and living area must occur in the presence of at least one witness. The recipient must be present unless he/she declines.

6. A strip search and a body cavity search may only be conducted in a licensed inpatient psychiatric unit and only pursuant to a written order by a physician, which includes the written justification for the search.

7. In addition to #6 above, a strip search must be:
   a. Conducted by at least two employees, one of whom must be of the same sex as the recipient.
   b. Conducted in a private setting.

8. In addition to #6 above, a body cavity search must be:
   a. Conducted by a physician with an employee witness, one of whom must be of the same sex as the recipient, and
   b. Conducted in a private setting.

9. Documentation in the record of a recipient who is subjected to a search must include:
   a.) A written order and justification by a physician when required by the above provisions.
   b.) The reason for initiating the search.
   c.) The type of search [of the person (pat down, strip, body cavity), property or living area].
   d.) Name and position of person who authorized the search.
   e.) Name and positions of persons who conducted and witnessed the search.
   f.) The results of the search, including a description of the property seized and its disposition.

C. Money

1. Personal Allowance Funds are those monies, which belong to a recipient for their personal use and are sometimes in the custody of a program operated by or under contract with the Berrien Mental Health Authority.

2. Recipients shall be responsible for their own funds unless there is legal documentation to the contrary or the recipient chooses to do otherwise. The recipient's choice must be documented. If a recipient is unable to exercise choice and management by the residential program is requested, the guardian must assent in writing.

3. Restrictions may be placed on recipient's handling or expenditure of personal funds if it is specified in the Individual Plan of Service/Supports.

4. If Personal Allowance Funds are to be managed by the provider, the provider shall maintain both the funds and accounting for the disbursements, including original bank statements. The account should be separate from funds received for reimbursement for care and program. Funds are to be used at the discretion of the recipient.

5. Personal Allowance Funds maintained by the provider must be accompanied by written documentation of disbursement. If items are purchased for the consumer, receipts must be maintained and accounting for funds must be kept up to date. Inventory of personal items should also be kept current to document both receipt and destruction of the recipient's personal property.

6. Personal Allowance Funds are not to be used for personal care items that are basic to the provision of room, board and supervision. Those items included in the per diem provided for room, board and supervision and are required by licensing standards.

7. A state facility may, but is not mandated to, require that all money that is on the person of a recipient, that comes to a recipient, or that the facility receives on behalf of the recipient, be turned over to the facility for safekeeping. The facility must provide a receipt for this money to the recipient and another individual designated by the recipient.

8. A facility may take other reasonable measures to safeguard recipient money against theft, loss, or destruction so long as these measures do not prevent the recipient from having easy access to his/her money and to spend or otherwise use the money as he/she chooses.

9. Upon request, money accounted for in the name of the recipient must be turned over to a legal guardian of the recipient if the guardian has that authority.

10. Staff may spend recipients' personal funds only for lawful purposes as directed by the recipient, representative payee, guardian or parent of a minor.

11. Pooling of recipients' funds is prohibited, except for group activities, with the assent of the recipient and guardian if one has been appointed.

12. Money accounted for in the name of a recipient may be deposited with a financial institution. Currency must be accounted for in the name of the recipient and recorded periodically in the record of the recipient. Any earnings attributable to money in an account of a recipient must be credited to that account.

13. All recipient funds, which include bank accounts, shall be kept separate and apart from all funds and monies of the licensee. Interest and dividends earned on recipient funds shall be credited to the recipient. Payments for care for the current month may be used by the licensee for operating expenses.

14. Except for bank accounts, a licensee shall not accept recipient funds of more than $200.00 for any recipient of the home after receiving payment of charges owed, unless assisting with an authorized purchase of greater value has been previously arranged. Documentation of these exceptions should be clear.

15. A recipient has the right to easy access to the money in his/her account and to spend or otherwise use the money as he/she chooses if not dictated by treatment plan. They should have access to a minimum of $20.00 unless they do not have the funds to maintain that amount.

16. A recipient's account shall be individual to the recipient. A licensee shall be prohibited from having any ownership interest in a recipient's account and shall verify such in a written statement to the recipient or the recipient's designated representative.

17. A licensee, administrator, direct care staff, other employees, volunteers under the direction of the licensee, and members of their families shall not accept, take, or borrow money or valuables from a recipient, even with the consent of the recipient.

18. Charges against the recipient's account shall not exceed the agreed price for the services rendered and goods furnished or made available by the home to the recipient.

19. A licensee shall provide a complete accounting, on an annual basis and upon request, of all recipient funds and valuables which are held in trust and in bank accounts or which are paid to the home, to the recipient, or to his or her designated representative's request, not more than 5 banking days after the request and at the time of the recipient's discharge from the home.

20. A licensee shall have a written refund agreement with the recipient or his or her designated representative. The agreement shall state under what conditions a refund of the unused portion of the monthly charge that is paid to the home shall be returned to the recipient or his or her designated representative. The refund agreement shall provide for, at a minimum, refunds under any of the following conditions:

a) When an emergency discharge from the home occurs as described in Licensing R 00.14302.
b) When a recipient has been determined to be at risk pursuant to the provisions of sections 11 and11a to 11f of Act No. 280 of the Public Acts of 1939, as amended, being SS400.11 and 400.11a to 400.11f of the Michigan Compiled Laws.
c) When a recipient has been determined to be at risk due to substantial noncompliance with licensing rules which results in the department taking action to issue a provisional license or to revoke or summarily suspend, or refuse to renew, a license and the recipient relocates. The amount of the monthly charge that is returned to the recipient shall be based upon the written refund agreement and shall be prorated based on the number of days that the recipient lived in the home during that month.

21. If a recipient has demonstrated a significant inability to manage funds, the individual responsible for implementing the plan of service is required to initiate an assessment process to determine whether or not appropriate assistance in this area should be facilitated if he/she has not already been given a representative payee and/or guardian.

22. Automatic regular allowances or spending programs are prohibited. An allowance may only be implemented on an individual basis provided it has been requested by the recipient, parent of a minor, empowered guardian or representative payee. The specified amount of funds must be entered into the plan of service.

23. Consumer funds are not to be spent to provide items that are for the use of the facility. Items purchased with consumer funds should be able to be taken by the consumer when they leave the facility.

24. If there is reason to suspect a consumer is being financially exploited for his or her funds, in addition to the Rights Office, Adult Protective Services must be notified immediately, Police, and DHS Licensing in AFC/RTC settings *(see abuse & neglect reporting policy 01-06-01).*

D. Disposal of Recipient's Property & Funds

1. Upon discharge of a recipient, all money and personal property are to be returned to the recipient or designated representative. Each facility is to establish procedures for disposition of items, which are inadvertently overlooked. The policy should consider the guidelines included in BMHA policy, if applicable and the licensing rules. Whichever policy/rule is the most protective of the recipient's rights, that standard shall be adopted.

2. If a recipient entered a psychiatric, medical or substance abuse inpatient program, the personal property and funds not taken with them shall be safeguarded by the facility until the recipient returns to an out-patient setting. If incarcerated 90 days or less, personal property and funds shall be safeguarded until released. Other arrangements may be made by the individual, representative payee or their

guardian if able and practical, but is not mandatory, as no facility or employee shall add hardship to the recipient's circumstances.

3. If a recipient does not return from an authorized leave, or following discharge from an inpatient setting, and the recipient's property and money are not claimed by the recipient or recipient's relatives, heirs, or personal or legal representative the facility director shall retain custody of them and handle the matter as unclaimed property per #9 of this section.

4. In the event of the death of a recipient, every effort shall be made by the facility to divest itself of a recipient's personal property and monies. Divestment shall be to the spouse, child or parent of the deceased. The relative shall furnish identification and an affidavit of such relationship, and evidence that an estate of the deceased is not pending.

5. The facility shall send a list of personal property and money by registered mail to the guardian or nearest relative of the deceased if they did not have a guardian.

6. If there are questions as to rival claims to personal property and money, the property and money may be held by a facility until claims are determined in a Probate Court.

7. If the nearest relative cannot be contacted, the facility shall send a list of the personal property and money by registered mail, to the person or entity that paid for the funeral expenses, if known.

8. If there are no claims to personal property or money of a deceased recipient, the property and money shall be considered to be unclaimed per #9 of this section.

9. If the personal property or money of recipient is unclaimed without documented instructions of what that individual or responsible person would prefer, and have been held for at least 60 days, the property or money shall be disposed of by returning finances to Social Security; personal property / clothing may be given as a charitable donation or otherwise destroyed.

10. When property is disposed of upon the discharge or death of a recipient, the person receiving the property shall sign for everything given to them, and if they are unable, two (2) witnesses shall sign to verify the transfer of the property. This documentation of items disposed of, how, and to whom, shall be made part of the recipient record at the facility.

E. Monitoring

1. The contracting Community Mental Health Service Program (CMHSP) may at any time request documentation or financial statements from a provider with fiduciary responsibilities, accounting for any monies or belongings taken in or managed by them, for the recipient. That may be any member of the contract monitoring team, finance, case manager, supports coordinator, etc.

2. The consumer, recipient, designated representative, payee or guardian may also request an accounting of monies that have been accepted into the facility for the individual.

3. The responsible clinician, as part of their review process, will annually assess the monies managed by paid supports in supervised living situations and document this specific activity in the consumer's EMR. If there are questionable practices found, the clinician should request a closer inspection from one of the compliance or finance department representatives and/or the DHHS Licensing Consultant.

4. The Office of Recipient Rights Annual Site Assessment does an overview of recipient funds held by the provider/staff and shall utilize an enhanced tool to document their findings in the contract monitoring file.

5. The provider must maintain favorable credentialing status with the CMHSP.

6. All state licensed facilities will comply with all rules and recommendations/directives of their Licensing Consultant to keep their license active.

7. It is the expectation of BMHA that all supported living situations, licensed or not licensed, with regard to this policy, shall safeguard all consumer's personal property, and funds in an equal fashion if receiving similar levels of care/supervision. Rights regarding searches should also be treated equally. The forms utilized may be different but the intent should be in the same spirit.

FORMS:

Standard Clothing Inventory Guidelines Men/Women – (Sample Form)
Forms used in Licensed Settings:
AFC Recipient Information & Identification Record – (DHHS Form 3483)
Recipient Funds Part II – (DHHS Form 2319)
Recipient Care Agreement (DHHS 3266)

Reviewer: Office of Recipient Rights
Reviewed: 5/07, 2/08, 7/09, 6/10, 3/11, 5/12, 6/13, 4/14, 7/15, 7/16, 4/17, 7/18, 5/19, 4/2020, 9/2021, 7/2022, 8/2023, 8/2024, 8/2025, 2/2026