BERRIEN MENTAL HEALTH AUTHORITY
-- PROCEDURE --

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| SUBJECT: RECIPIENT COMMUNICATIONS BY MAIL, TELEPHONE & VISITS | SECTION: 01-36-01<br>Page 1 of 4 |
| APPLICATION: Directly Operated & Contractual Residential and Inpatient Programs<br><br>EFFECTIVE DATE: 10/01/94<br><br>APPROVED BY: _____<br>Chief Executive Officer<br>REVISED: 4/95, 11/98, 10/99, 3/02, 6/03, 11/04, 2/05, 06/08, 07/13, 7/2022 | REQUIRED BY:<br><br>MHC 715, 726, 752<br>Board Policy 12-02-01 |

**POLICY:** It is the policy of Berrien Mental Health Authority (BMHA) that a recipient is entitled to unimpeded, private and uncensored communication with others by mail and telephone and to visit with persons of his/her choice, except under the conditions set forth in the Mental Health Code and this procedure.

**PURPOSE:** To provide standards for the unimpeded, private, uncensored communication by mail, telephone or visits to residents. To provide guidelines for situations when a resident's communication (mail, telephone or visits) may be restricted or to protect the resident or others.

**STANDARDS:**
1. To provide controlled conditions, two staff must be present.
2. Daily pickup and distribution of correspondence must be provided.
3. Any form of communications by phone, mail or visit, concerning matters that may be the subject of legal inquiry involving a resident and an attorney, or court, or any other individual, may not be limited or restricted by staff.

**DEFINITIONS:**
**Controlled Condition**: A controlled condition is a minimum of two employees involved in opening the mail.

**House Rules**: Although house rules are optional under state licensing rules, for the purposes under HCBS Final Rule, house rules will not be permitted.

**Incoming Mail**:
a) Recipient's mail (including parcels and packages); and
b) Agency/facility mail (includes mail in the form of government check addressed to agency/facility as representative payee for the recipient).

**Legal Inquiry**: Discussion of any matter involving civil, criminal or administrative law with a private physician, mental health professional, court or attorney for the resident.
**Limitation**: A limit placed on resident's right to receive and send mail, to use the telephone or to visit with persons of their choice as written and documented in the resident's Person-Centered Plan of Service/Supports.
**Private**: Secret, not intended to be publicly known, confidential.

**Reasonable Time**: Not seriously taxing the effective functioning of BMHA or a Provider Network Agency.
**Uncensored**: Without rebuke, reproach or disapproval; free from criticism; not judged or condemned.
**Unimpeded**: Without hindrance, barricade or other obstacle.

**PROCEDURE:**

**A) MAIL**

1) Mail for residents shall not be opened unless the resident or legally empowered guardian has consented that a designated person may open an article of mail or there is reasonable belief that the mail is in violation of a written limitation or restriction. Outgoing mail shall not be opened or destroyed without written consent of a resident or legally empowered guardian. Instances of opening or destruction of mail by staff shall be recorded and placed in the resident's record.
2) Correspondence is to be conveniently and confidentially received and mailed with daily pick up and distribution provided.
3) Non-letterhead stationery, envelopes, pens and pencils shall be available upon request. The provision of postage in reasonable amounts for indigent persons shall also be available upon request. They shall receive these provisions to create and send correspondence no less than three times per week.
4) All mail received shall be sorted for distribution to resident or for opening if agency/facility mail.
5) Mail reasonably believed to contain some article in violation of a written restriction or limitation shall be delivered to and opened by the resident under controlled conditions, in the presence of designated personnel, one or both of who shall be agency staff. If the article is found to be in violation of the restriction or limitation, it may be withheld from the resident provided that:
    a) The reason for withholding the article is explained to the resident;
    b) A statement is placed in the resident's record, which specifies:
        (1) The staff members who assisted in opening the article;
        (2) The date on which it was opened;
        (3) The justification for withholding the article including the specific restriction or limitation that served as the basis for the decision;
        (4) The disposition of the resident's mail.
6) If the article is reasonably believed to be potentially dangerous or harmful, the article may be opened under controlled conditions with the resident being present.
    a) When the article is not found to be in violation of a restriction or limitation, the article shall be delivered to the resident and the resident shall be informed why the article was opened;
    b) When the article is found to be in violation of a restriction or limitation, the resident shall be informed that it was received and informed of the disposition.
        (1) Money shall be placed in the resident's account;
        (2) Articles restricted by agency/facility policy shall be held in safekeeping and returned at the time of discharge from the facility;
        (3) Receipt for the article of mail shall be given to the resident.
    c) In either case (a or b) a statement shall be placed in the resident's record which specifies:
        (1) Who opened the article;

(2) The date on which it was opened;
(3) The justification for opening the article, including the restriction or limitation that served as a basis for the decision to open the piece of mail;
(4) The disposition of the resident's mail.

7) Articles of mail placed in safekeeping are the resident's personal property and shall be inventoried and returned at the time of discharge from the facility.
8) Mail addressed to residents who have legally empowered guardians shall be delivered to the resident unless the Person-Centered Plan of Service/Supports specifies that mail be forwarded to the guardian for their review or opened by a designated person. The empowered guardian shall be informed of this condition at the time of the resident's admission.
9) Limitations on mail must be supported and authorized by documentation in the Person-Centered Plan of Service/Supports, including reasons to justify the limitation and specific expiration date of the limitation. Each limitation will be reviewed with resident at designated intervals, or sooner if necessary and removed if the reason for the limit no longer exists. Restricted items per house rules shall be posted in plain view.

**B) TELEPHONE**

1) Each facility shall make telephones reasonably accessible.
2) Funds for telephone usage shall be provided in reasonable amounts to indigent residents who are financially unable to procure phone service. They shall receive no less than 20 minutes per week of long-distance call time to communicate with family or natural supports, if requested.
5) Limitations:
The right of a resident to communicate by telephone may be limited:
a) When essential to prevent the resident from violating the law, or;
b) To prevent substantial physical or mental harm, or;
c) If an individual accuses the resident of harassment and:
(1) Future telephone harassment can reasonably be expected;
(2) Frequency of past harassing phone calls is established;
(3) Written request by person requests limitation.
6) Limitations on phone usage must be supported and authorized by documentation in the Person-Centered Plan of Service/Supports, including reasons to justify the limitation and specific expiration date of the limitation. Each limitation will be reviewed with resident at least monthly, or sooner if necessary.

**C) VISITS**

1) Visiting hours are not allowed in any residential setting.
2) Visiting hours may be established for non residential settings and are to be posted in waiting rooms and guest areas.
3) Adequate space to visit privately with residents shall be provided.
4) If a resident is able to secure the services of a Mental Health Professional, non-emergency visits for physicians or mental health professionals shall be allowed at any reasonable time. Staff will insure prompt access by the resident to private physicians and legal counsel.
5) Limits on visitation are allowed only as written in the PCP:
a) To prevent substantial physical and mental harm;

b) To prevent substantial interference with ongoing treatment;
c) Restrictions or limitations shall be reviewed regularly and removed when the situation that led to it is no longer a significant issue.

**D) GENERAL LIMITATIONS**

1) All limitations on mail, telephone calls and visits must meet the following criteria:
   a) Be approved by the director of the facility, Behavior Treatment Committee, recipient or guardian if one has been appointed - unless contingencies of a court order;
   b) Be of the minimum amount necessary to achieve the stated purpose;
   c) Be supported by documentation of the Person-Centered Plan of Service/Supports and/or Behavior Treatment Plan and include the following:
      (1) Reasons to justify the limitation;
      (2) Significant evidence to support expected mental or physical harm, violation of law or harassment;
      (3) Reasons and evidence to justify extent of limitation as being the minimum amount essential;
      (4) Specific expiration date within limits established by the primary worker;
   d) Be reviewed at regular intervals noted in the plan and modified as appropriate.
2) The resident shall promptly be met with to discuss limitation on mail, telephone calls or visits. The resident shall be informed of the purpose the limitation is intended to achieve.
3) Limitations are subject to review upon request. A resident or guardian may request review of the PCP justification to the person in charge of development of the plan. If dissatisfied, complaints may also be made to the BMHA Office of Recipient Rights.
4) Any form of communications by phone, mail or visit, concerning matters that may be the subject of legal inquiry involving a resident and an attorney, or court, or any other individual, may not be limited or restricted by staff.

**FORMS:**
None

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