Meeting Agenda
BOARD OF DIRECTORS
Lakeshore Regional Entity
January 22, 2025 – 1:00 PM
GVSU Muskegon Innovation Hub
200 Viridian Dr, Muskegon, MI 49440

1. Welcome and Introductions – Ms. Gardner
2. Roll Call/Conflict of Interest Question – Ms. Gardner
3. Public Comment (Limited to agenda items only)
4. Consent Items:
   Suggested Motion: To approve by consent the following items.
   - January 22, 2025, Board of Directors meeting agenda *(Attachment 1)*
   - December 18, 2024, Board of Directors meeting minutes *(Attachment 2)*

5. Reports –
   a. CEO – Ms. Marlatt-Dumas *(Attachment 3)*
   b. LRE Leadership – *(Attachment 4)*

6. Chairperson's Report – Ms. Gardner
   a. January 15, 2025, Executive Committee *(Attachment 5)*

7. Action Items –
   a. Governance Policies *(Attachment 6, 7)*
      Suggested Motion: To approve the LRE Board Governance Policies:
      ii. 10.6 Open Meetings Act
      iii. 10.13 Communication and Counsel to the Board of Directors

8. Financial Report and Funding Distribution – Ms. Chick *(Attachment 8)*
   a. FY2025, December Funds Distribution *(Attachment 9)*
      Suggested Motion: To approve the FY2025, December Funds Distribution as presented.

   b. LRE Budget Amendment #1 *(Attachment 10)*
      Suggested Motion: To approve FY2025 Budget Amendment #1

   c. Statement of Activities as of 11/30/2024 with Variance Reports *(Attachment 11)*
   d. Monthly FSR (*Attachment 12)*

9. CEO Evaluation
   Suggested Motion: To approve at the request of the LRE CEO to move into closed session for the purpose of considering the periodic personnel evaluation of the LRE CEO per MCL Act 267, OMA 15.268.a.

10. Board Member Comments
11. Public Comment
12. Upcoming LRE Meetings
    - February 19, 2025 – Executive Committee, 1:00PM
    - February 26,2025 – LRE Executive Board Work Session, 11:00 AM
      GVSU, Muskegon Innovation Hub, 200 Viridian Dr, Muskegon, MI 49440
    - February 26, 2025 – LRE Executive Board Meeting, 1:00 PM
      GVSU, Muskegon Innovation Hub, 200 Viridian Dr, Muskegon, MI 49440

LAKESHORE REGIONAL ENTITY

Meeting Minutes
BOARD OF DIRECTORS
Lakeshore Regional Entity
December 18, 2024 – 1:00 PM
GVSU Muskegon Innovation Hub, 200 Viridian Dr, Muskegon, MI 49440

WELCOME AND INTRODUCTIONS – Ms. Gardner
Ms. Gardner called the December 18, 2024, LRE Board meeting to order at 1:01 PM.

ROLL CALL/CONFLICT OF INTEREST QUESTION – Ms. Gardner
In Attendance: Ron Bacon, Jon Campbell, Patricia Gardner, Janice Hilleary, Sara Hogan, Alice Kelsey, O'Nealya Gronstal, Dave Parnin, Stan Stek, Jim Storey, Janet Thomas, Craig Van Beek

Online: Richard Kanten
Absent: Linda Dunmore, Andrew Sebolt

PUBLIC COMMENT

CONSENT ITEMS:
LRE 24-53 Motion: To approve by consent the following items.
- December 18, 2024, Board of Directors meeting agenda
- November 20, 2024, Board of Directors meeting minutes

Moved: Ron Bacon Support: Janice Hilleary
MOTION CARRIED

COMMUNITY ADVISORY PANEL
Minutes are included in the packet for information.

MDHHS/PIHP CONTRACT DISCUSSION
LRE 24-54 Motion: To approve entering into closed session to discuss two confidential written legal opinions prepared by counsel that are subject to the attorney client privilege and relate to the litigation pending in the Court of Claims, Case No. 24-000198-MZ as well as issues related to a dispute with MDHHS involving historic cost settlement.

Mr. Stek clarifies pursuant to the applicable case that any discussion in closed session must be specifically limited to discussion of attorney client privilege.

Moved: Janet Thomas Support: Ron Bacon

ROLL CALL VOTE
MOTION CARRIED

LRE 24-55 Motion: To approve moving out of closed session
Moved: Craig Van Beek Support: Stan Stek
ROLL CALL VOTE
MOTION CARRIED

Mr. Stek would request before the Board considers potential retention of counsel that counsel submit a statement of potential conflict, how any potential conflict will be addressed and a request, if necessary, for a waiver of conflict. If the Board moves forward, retaining Taft (Greg Moore) a fee allocation agreement should also be provided. When counsel represents multiple parties, this will clarify what will happen if parties do not agree. Ms. Gardner, as Chairperson, agrees with Mr. Stek and requests that information be provided in writing for the LRE Board to review and consider during the January 22, 2025, meeting.

The purpose of this information is beneficial when counsel represents multiple plaintiffs in one litigation. There is a possibility that the interest of one plaintiff does not align entirely with the interest of another plaintiff. It is difficult knowing this going into litigation but is important for representing counsel to assess the potential of this happening prior to litigation, what is the risk and how to address. This is standard in multiple plaintiff litigations.

LEADERSHIP BOARD REPORTS

a. CEO Report – Ms. Marlatt-Dumas
   The CEO report is included in the Board packet for information.
   - Congratulations to Jordan Siemon on winning the Nick Filonow Award of Excellence.
   - All 5 CMHs have signed the PIHP/CMHSP contract. The risk language will continue to be worked on.
   - LRE/N180 have signed a contract with CHRT to analyze Utilization Management.
   - MDHHS continues to limit the number of HAB Waiver packets (5) allowed to be submitted at one time. We are pushing back as this may cause us to lose revenue in the future.
   - LRE has received the final report for the Waiver audit. LRE did well and on repeat citations performance scores are higher.
   - LRE is working within the region to develop a policy around AI.
   - LRE Lawsuit/Cost Settlement – If the region does not move on the suite there is concern that if the region must pay back the $13.7 million along with the current deficit that will have to be addressed, reserve funds will be depleted. If the funds

are depleted this year LRE will be unable to pay down CMH deficits in the upcoming fiscal year if spending plans do not come in line. The LRE CEO will move in the direction that the Board directs.

- PIHP lawsuit – spoke with the CMH CEOs and they do not believe signing the contract is in the best interest of the region. The PIHPs continue to ask MDHHS to come back to the table for further negotiations.

b. LRE Leadership Report – Ione Myers
    - Included in the packet for information.

CHAIRPERSON'S REPORT

December 11, 2024, Executive Committee meeting minutes are included in the packet for information.

- Ms. Gardner reports that the primary discussion was regarding the lawsuits and what should be the recommendation moving forward. The consensus was to have Ms. Marlatt-Dumas continue negotiations with the state. The Executive Committee would like to thank Ms. Marlatt-Dumas for continuing the negotiations with MDHHS and fostering a good relationship with Ms. Kristen Jordan.
- The LRE legal counsel recommendation is to move forward with the lawsuits, but the LRE Board Chair is recommending prior to considering joining we review a resolution of conflict from legal as earlier recommended by Mr. Stek. At present there does not seem to be any benefit for our region to join the lawsuit. Ms. Gardner comments that there is strength in having three in the lawsuit with two not having joined as this enables negotiations with the state without prejudice of being part of the suit. Mr. Bill Ward (CEO, N180) and Mr. Stek are meeting with Winnie Brinks to discuss this issue and will request that the senate majority leader discuss with Ms. Hertel, MDHHS to come back to the table for further negotiations. The position of Ms. Gardner and the Executive Committee are to stay the course and continue negotiations.
- On the issue of the LRE suing the state due to the $13.7 million, Ms. Gardner recommends that the strongest position would be to wait to see if the state moves forward after which the LRE Board can meet either at a special meeting or the next scheduled meeting to approve moving forward with a TRO.

CEO EVALUTION TIMELINE

The timeline is attached for information.

ACTION ITEMS

LRE 24-56 Motion: To approve the FY 2025 contract with ReFocus LLC.

Moved: Ron Bacon Support: Janice Hilleary
MOTION CARRIED

FINANCIAL REPORT AND FUNDING DISTRIBUTION
CFO Report is included in the Board packet for information.
FY2025 November Funds Distribution
LRE 24-57 Motion: To approve the FY2025, November Funds Distribution as presented.

Moved: Jon Campbell Support: Ron Bacon
MOTION CARRIED

Statement of Activities as of 10/31/2024 with Variance Report-
Included in the Board packet for information.

- This is the first month of the new fiscal year so will not be an accurate indicator of the year. There will be an amendment adjusting revenue amounts because these are based on our preliminary amounts prior to receiving the MDHHS' final rates.

Monthly FSR-
Included in the Board packet for information.

BOARD MEMBER COMMENTS

- Mr. Campbell asks what is the process if the state recoups the $13.7 million back?
    - Historically the state has withheld from a payment but does not necessarily tell us when or how they will withhold the funds. Currently, MDHHS has not communicated how those funds will be taken back. LRE did ask legal if we should ask for clarification of the recoupment process. Ms. Chick recommends asking the state for clarification, so we have it in writing. So far MDHHS have not been very responsive to questions.

  Mr. Campbell agrees with the recommendation to speak with the senate majority leader and also supports coordinating a meeting with the Executive Committee and legislators from all the counties as there is strength in numbers to apply political pressure.

- Ms. Gronstal asks if the legislatures are aware of the situation.
    - Unsure but the probability is more than likely no.

- Ms. Gardner would like to thank the Board members as they could focus on other activities but are faithful to coming to the Board meetings and advocacy for individuals and wishes the best for the holiday season.

- Mr. Storey concurs with Mr. Campbells statements. Would like to note that this is appropriate and would hope that it is effective to meet with the senate majority leader there will be new leadership in the house beginning January 1, 2025.

- Ms. Hogan encourages people to ask questions about the stability of the provider network and that the risk is not transferred down to the providers.

UPCOMING LRE MEETINGS

- January 15, 2025 – Executive Committee, 1:00PM
- January 22,2025 – LRE Executive Board Work Session, 11:00 AM
  GVSU, Muskegon Innovation Hub, 200 Viridian Dr, Muskegon, MI 49440
- January 22, 2025 – LRE Executive Board Meeting, 1:00 PM
  GVSU, Muskegon Innovation Hub, 200 Viridian Dr, Muskegon, MI 49440

ADJOURN

Ms. Gardner adjourned the December 18, 2024, LRE Board of Directors meeting at 2:43 PM.

_____ _____

Ron Bacon, Board Secretary

Minutes respectfully submitted by:
Marion Moran, Executive Assistant

LAKESHORE REGIONAL ENTITY

CEO Report
January 21st, 2025

Every day is a good day, but today is a Great Day to be a part of the Lakeshore Regional Entity!

1. PIHP/REGIONAL UPDATE

- The January 8, 2025, Oversight Policy Board Meeting Minutes are attached for information.

- The LRE Veteran Navigator Q1 Report is attached presenting the activities and outreach in this region for veterans.

2. STATE OF MICHIGAN/STATEWIDE ACTIVITIES

- MDHHS/PIHP FY25 contract discussion to include the documents below (attached to the end of this report)
  i. Proposed Common Interest and Confidentiality Agreement
  ii. Analysis of Pro/Cons of lawsuit
  iii. American Bar Association

  Not included in your packet however available if requested:
  i. Filed First Amended Complain without Exhibits
  ii. 20241223 Order Regarding Initial Pleadings and Injunction

- Medicaid Rate Adjustment Letter
  A letter was written (attached to the end of this report) from Health Plans to legislators requesting action to approve supplemental funding recommended by MDHHS and SBO to correct the funding gap for Medicaid enrollees.

Legislative Update:

Details can be found in the Legislative Update attached to this report.

Report by Mary Marlatt-Dumas, CEO, Lakeshore Regional Entity

Meeting Minutes (proposed)

SUD OVERSIGHT POLICY BOARD

Wednesday, January 8, 2025 4:00 PM

Board Room - Community Mental Health of Ottawa County

12265 James Street, Holland, MI 49424

CALL TO ORDER

Mr. Patrick Sweeney, LRE Oversight Policy Board Chair, called the January 8, 2025, meeting of the Lakeshore Regional Entity Oversight Policy Board to order at 4:30 PM.

ROLL CALL

MEMBER	P	A		MEMBER	P	A
Zee Bankhead		x		Sarah Sobel	x	
Louis Churchwell		x		Stan Stek		x
Shelly Cole-Mickens	x			James Storey	x	
Mark DeYoung	x			Joe Stone	x	
Kristine Huston	x			Patrick Sweeney	x	
Rebecca Lange		x		Robert Walker	x	
Richard Kanten		x		Clyde Welford	x	
David Parnin	x					

PUBLIC COMMENT

No public comments offered.

Mr. Welford reported that he will no longer be a member of the OPB as the Lake County Commission has made another appointment.

CONFLICT OF INTEREST

Mr. Sweeney will not participate in N180 action items due to a professional conflict.

REVIEW/APPROVAL OF AGENDA

Review/Approval of Agenda-Chair

LRE OPB 25-001 Motion: To approve the January 8, 2025, LRE Oversight Policy Board meeting agenda as presented.

Moved by: Stone Support: Welford

MOTION CARRIED

Review/Approval of Minutes-Chair

LRE OPB 25-002 Motion: To approve the September 4, 2024 LRE Oversight Policy Board meeting minutes as presented.

Moved by: Storey Support: Walker

MOTION CARRIED

OLD BUSINESS

No Old Business

NEW BUSINESS

Finance Report (Maxine Coleman)

i. Statement of Activities (through November 30). Ms. Coleman reviewed details from the Finance report and provided updates. SUD Block Grant expenditure and revenue are currently under projections. There are no areas of concern; requests have been made to the state for any additional funds that may be available. Unallocated prevention funds for women's specialty services will be reallocated to treatment to avoid lapsing funds. This will be reflected in the next budget amendment. To date, no PA2 funds have been received as those PA2 funds are not distributed until the second quarter of the current fiscal year.

   SUD Medicaid/Healthy Michigan – expenditures are under projected budget, but no concerns were noted.

FY25 Budget Amendment #1

The initial budget reflected projections that were requested by providers in July, 2024. Providers have since been given an opportunity to request any changes and those requests are reflected in the budget adjustment. Medicaid/Healthy Michigan SUD revenue projections have been updated and additional PA2 funds are reflected in the budget adjustment.

LRE OPB 25-003 Motion: To approve Amendment #1 to the allocation of FY25 PA2 funds for the LRE SUD Budget as presented and to advise and recommend that the LRE Board approve the amended FY25 non-PA2 fund budgets for SUD services as presented.

Moved by: Parnin Support: Walker
MOTION CARRIED

Community Mental Health of Ottawa County PA2 Funding -Special Project Requests

Joel Ebbers, CMHOC SUD Program Supervisor, discussed the MAT program. These funds will supplement SOR funding for the cost of medications in the jail. CMHOC works with their in-house pharmacy to provide the medications. Individuals that come into the jail are assessed. Anyone determined to be high risk meets with a recovery coach. Individual and group therapy is also available. CMHOC works with community providers to enroll individuals into treatment after they are released from jail. Medical services are provided through the jail medical staff; CMHOC staff coordinate with the prescriber.

LRE OPB 25-004 Motion: To approve Community Mental Health of Ottawa County's request to use reserve Ottawa County PA2 funds in the amount of $12,000 to supplement grant funding to provide MAT medications within Ottawa County Jail.

Moved by: Welford Support: Parnin
MOTION CARRIED

LRE OPB 25-005 Motion: To approve Community Mental Health of Ottawa County's request to use reserve Ottawa County PA2 funds in the amount $16,382 to fund a portion of a prevention specialist position to conduct prevention related activities to decrease stigma, prevent prescription drug misuse, and promote overdose prevention. Funding will also be used to support Ottawa County's Recovery Fest celebration.

Moved by: Walker Support: Welford
MOTION CARRIED

N180 PA2 Funding – FY25 Special Project

The project was initiated in a partnership with Kent County, City of Grand Rapids, and community providers. The community is working to provide housing to 100 chronically homeless individuals in 100 days. N180 will provide case managers to be available to support individuals involved in the program who are ready to start or continue recovery.

LRE OPB 25-006 Motion: To approve Network180's request to use reserve Kent County PA2 funds in the amount of $294,060 to fund the 100 in 100 initiative.
Moved by: Stone Support: Cole-Mickens
MOTION CARRIED

N180 Request for Additional PA2 Funding (FY24)

Family Engagement Team services are designed to engage individuals and keep kids in their home when there is risk of removal due to parental substance use issues. Network180 is investigating how these services might fit into the CCBHC program and funding, but currently PA2 funds are the most appropriate for these programs at this time. These funds will be used to reduce N180's projected Medicaid deficit.

LRE OPB 25-007 Motion: To approve the transfer of Kent County Reserve PA2 funds in the total amount of $1,256,139.47 ($345,112.89 for Recovery Management Services; 911,026.58 for Family Engagement Team (FET) services) to offset budget shortfalls for FY 2024.
Moved by: Welford Support: Huston
One opposed: Storey
MOTION CARRIED

2025 Oversight Policy Board Meeting Schedule

The June meeting will be scheduled for June 18. Meeting invitations will be distributed.

LRE OPB 25-008 Motion: To approve the 2025 Oversight Policy Board Meeting Schedule as amended.
Moved by: Storey Support: Stone
MOTION CARRIED

Review PA2 Policy and Procedure (12.4, 12.4a, 12.4b)
LRE Policies are reviewed annually. Minor changes to language for policies and procedures.

LRE OPB 25-009 Motion: To approve revisions to LRE Policy 12.4 and LRE Procedures 12.4a and 12.4B as presented.
Moved by: Storey Support: Parnin
MOTION CARRIED

STATE/REGIONAL UPDATES

Contracts

i. FY25 PIHP/CMHSP Contract – LRE has been working with Member CMHSPs to develop the sub-contract. The contract has been executed with all five members.
ii. MDHHS/PIHP Contract – FY25 contract contained language that was concerning for many of the PIHPs. Five of the PIHPs in the state have determined that they will not sign the contract until these issues are resolved. Four of those PIHPs have entered into litigation; LRE Board will make a determination on next steps during the January meeting.

Grant Updates - Amanda Tarantowski

i. Section 250 Funds - $1 million dollars in Opiate Settlement Funds have been allocated and must be spent by the end of September. Proposed projects and budgets have been submitted to the state.
ii. ARPA – WSS – WMCMH counties do not have a dedicated WSS provider within their counties. LRE has been in discussion with DHD 10, who will use ARPA funds toward development of WSS services in the WM area.

Prevention/Treatment Updates – Stephanie VanDerKooi/Amanda Tarantowski

Prevention – Stephanie VanDerKooi

i. No Cigs for Our Kids Report – LRE is responsible for ensuring that retailers do not sell tobacco products to minors. The report is available in the meeting packet.
ii. FY24 Prevention Summary of Activities – The report available in the meeting packet and provides an overview of prevention activities in 2024.

Treatment

i. FY24-Q3 Treatment Evaluation Update – report is available in the meeting packet.
ii. Priority Populations – report deferred to a future meeting
iii. MI/SUD Locator - MiRecovery tool is available on the LRE Website. MDHHS has developed their own tool that is available.

ROUND TABLE

Opiate Settlement Updates

- Oceana County is preparing to appoint a community committee.

Mr. Sweeney commented on the role and function of the Oversight Policy Board. The primary function of the OPB is allocating and safeguarding PA2 funds, which are at risk of being used to cover budgetary shortfalls. He expressed concerns about any provider treating PA2 funds as a cash reserve when that provider is unable to stay within budget. PA2 funds are for all providers, not just the CMHSPs. Reserve funds are not a stopgap for providers who do not accurately submit their budgets. Providing reserve funds to address budget shortfalls send a message that providers do not need to stay within their approved budgets. The LRE Board has not shown a willingness to take action against providers who do not stay within their budget.

NEXT MEETING

March 12, 2025 – 4:00 PM
CMHOC Board Room

ADJOURNMENT

LRE OPB 25-009 Motion: To adjourn the January 8, 2025, LRE Oversight Policy Board meeting.
Moved by: Parnin Support: Welford
MOTION CARRIED

Mr. Sweeney adjourned the January 8, 2025, LRE Oversight Policy Board meeting at 5:35 p.m.

Veteran Navigator Program
Quarterly Board Report

Submitted by: Autumn Hartpence
231-260-0721
autumnh@lsre.org

Year: *2025*
Quarter: *Q1*

The Veteran Navigator (VN) role was created to assist veterans and military families of all branches, eras, and discharge types. The VN works to connect veterans and their families to federal, state, and local resources to offer support for issues regarding mental health, substance use disorders, housing, and other unique circumstances that may impact veterans.

Outreach:

Identify and engage veterans and their families.

Throughout Q1, the VN participated in outreach events like the Wyoming Veteran Affairs Clinic 10 year Anniversary and Allegan County Veteran Stand Down Event, where she connected with veterans to share her work and connect them to resources. The VN has participated in multiple planning groups for veteran events to increase participation and extend the knowledge of resources throughout Region 3.

Veteran/Military Families Reached:
253

Support:

Work with individual veterans to assess their needs, connect to services, and address challenges that negatively affect their health and well-being.

Throughout Q1, the VN provided support throughout the region in several ways, including:

- Helped a homeless veteran get connected with mental health services, peer support and a veteran service officer after escaping a domestic violence situation with her five children.
- Assisted a homeless veteran with resources to find a job, transportation to that job, and peer support.
- Coordinated with a homeless veteran to achieve a better paying job and resources to achieve permanent residence.

New veterans Served:
18

Total Service Contacts:
29

Referrals:

Establish a robust referral network to assist veterans in accessing services and support to meet their needs.

Throughout Q1, the VN strengthened partnerships and referral sources in the following ways:

- VN connected five organizations with similar missions to work together to accomplish their goals and serve more veterans.
- Met with Region 3 county Veteran Service Directors, connecting veterans with county Veteran Service Officers to apply for their benefits and county resources to achieve a better quality of life.

Stakeholder Collaborations these quarters:
80

LAKESHORE REGIONAL ENTITY

Veteran Navigator Program
Quarterly Board Report

Expertise:	Training and assistance for local organizations and groups to effectively engage and support veterans.	# of trainings/ consults provided these quarters: *4*

Throughout Q1, the VN was asked to provide their expertise in the following ways:

- The VN meets quarterly with Michigan Veteran Affairs Healthcare representatives to provide feedback on process improvement practices to supply more efficient service for the veteran community.
- The VN is on multiple planning committees, contributing ideas and experience to increase the potential attendance turnout from veterans, vendors, and amenities at veteran-themed events.
- The VN attends monthly meetings with community partners to provide expertise on communicating with veterans in community mental and behavioral health facilities to provide a better quality of service to veteran-specific issues.

COMMON INTEREST
AND CONFIDENTIALITY AGREEMENT

This Common Interest and Confidentiality Agreement (the "Agreement") memorializes the agreements and understanding reached by and between NorthCare Network Mental Health Care Entity, Northern Michigan Regional Entity, Lakeshore Regional Entity, Community Mental Health Partnership of Southeast Michigan, Oakland Community Health Network, Macomb County Community Mental Health, Region 10 PIHP, and any other individual or entity who agrees to be bound by this Agreement (each a "Party" and collectively the "Parties").

RECITALS

A. The Parties are investigating with the intent to pursue a lawsuit against the State of Michigan, the State of Michigan Department of Health and Human Services, and related parties (the "Lawsuit") related to: (1) limits the State/MDHHS seeks to impose on a Prepaid Inpatient Health Plan's ("PIHP's") Internal Service Fund ("ISF"), (2) the State/MDHHS requiring PIHPs to comply with the terms of a proposed settlement in *Waskul et al v MDHHS et al*, Eastern District of Michigan Case No. 2:16-cv-10936, (3) responsibilities imposed by the State/MDHHS related to operating of Certified Community Behavioral Health Clinics ("CCBHCs"), (4) whether the State/MDHHS must continue to fund PIHPs in the absence of signing a contract for FY25, (5) sufficiency/adequacy of capitated rates and other payments, and (6) potential other issues.

B. The Lawsuit involves issues common to the Parties and create a common and mutual interest among the Parties. The Parties have concluded that it is in each of the Parties' individual and mutual best interests for them and their counsel to share information, including, but not limited to, documents, factual materials, mental impressions, memoranda, legal strategies, and other information related to the Lawsuit, as set forth below (collectively, "Common Interest Materials," as further defined below), and that the sharing, directly or through counsel, does not waive or diminish in any way the privilege or confidentiality of such information or its continued protection from disclosure to third parties based on one or more of the attorney-client privilege, the work product doctrine, the commonality of interest privilege, the joint defense privilege, the joint prosecution privilege, or other applicable privileges or protections.

C. The Parties and their individual and joint counsel have undertaken activities to pursue, preserve and maintain their common interests arising out of, relating to, and in connection with the Lawsuit.

D. The Parties are represented jointly in the lawsuit by Taft, Stettinius & Hollister, LLP ("Litigation Counsel"), but may also have separate counsel. The Parties have preserved the attorney-client and attorney work product privileges by virtue of the common interest doctrine and/or applicable privileges. The Parties agree that communications and disclosures between them and their counsel on matters of common concern are essential to the effective representation of the Parties.

E. The Parties desire to memorialize in writing the common interest agreement that exists between and among them.

F. The purpose of this Agreement is to memorialize the intentions and undertakings to preserve and ensure that any and all exchanges and/or disclosures of confidential, privileged, and/or otherwise protected information by one Party or its counsel to another Party or its counsel, in circumstances where such exchange or disclosure is in connection with the Lawsuit, and related proceedings on matters of common interest, is not interpreted as, and will not be deemed, a waiver of the confidential or privileged nature of this information or material, or any other protection to which this information or material is subject.

THEREFORE, in consideration of the mutual promises and agreements, the Parties hereby agree as follows:

1. **Confidentiality of Common Interest Materials.**

a. Oral communications: It is agreed that past and future oral communications by (a) the Parties' counsel; (b) Litigation Counsel; (c) agents or designees of counsel acting at counsel's direction or under counsel's supervision; and (d) the Parties or representatives of the Parties, related to the Lawsuit or issues contemplated in the Lawsuit, are all Common Interest Materials and are protected from discovery and from disclosure to any third party by the Parties' respective attorney-client privileges and attorney work product protections and pursuant to the common interest doctrine, common interest privilege, and any other applicable privilege.

b. Written communications. It is further agreed that all information, documents, materials, technical reports and analyses, client and witness statements, interviews, memoranda of law, factual summaries, transcript digests, draft pleadings, draft motions, document indices and such other material and information, recorded in whatever media, that is otherwise protected from discovery and disclosure to third parties, may be exchanged between the Parties, their counsel, and Litigation Counsel in connection with the Lawsuit or any related proceedings, and shall constitute Common Interest Materials, and will remain protected from discovery and disclosure to any third party by the Parties' respective attorney-client privileges and work product protections and pursuant to the common interest doctrine, common interest privilege, and any other applicable privilege.

c. Designation. Common Interest Materials are Common Interest Materials whether or not they are specifically designated as such.

2. **Non-Disclosure.** No Common Interest Material referred to in Paragraph 1 above shall be disclosed to any third party without the prior consent of the Party that made the information available in the first instance, or by order of court. Moreover, none of the Parties may disclose the existence of this Agreement or its contents to anyone not a party to this Agreement without prior approval of all Parties, unless required to do so by order of a court. Litigation Counsel may disclose this Agreement if deemed to be in the best interest of the Parties to do so. This non-disclosure provision also does not prevent or prohibit any Party or its counsel from asserting the common interest doctrine or common interest privilege in support of any objection in any filing, discovery

response, proceeding, or deposition. No Common Interest Material may be used for any purpose other than the Lawsuit by the non-disclosing party without prior written consent of the disclosing party.

In the event that a Party or its counsel is served with a subpoena, discovery request or other form of compulsory process seeking disclosure of information obtained pursuant to this Agreement or the existence of this Agreement, that Party or attorney shall promptly notify the other Party so as to afford them the opportunity to seek appropriate protection from disclosure of such information.

3. **Waiver.** No Party shall have the authority to waive any applicable privilege on behalf of any other Party, nor shall the conduct of any Party deemed to constitute a waiver of a privilege be imputed to any other Party.

4. **Withdrawal.** Any Party to this Agreement is free to withdraw upon fourteen (14) days' prior written notice to all other signatories, in which case this Agreement shall no longer apply to the withdrawing Party but shall continue to protect all Common Interest Materials disclosed to the withdrawing Party or its counsel prior to their withdrawal. A withdrawing Party and its counsel shall immediately return all copies of all written Common Interest Materials, and all other common interest materials and copies thereof received from any other Party to this Agreement. A withdrawing Party and its counsel shall continue to protect all Common Interest Materials and other information disclosed to them or otherwise learned or obtained by them prior to withdrawal, and shall be bound by this Agreement in all other respects.

5. **Disputes Among Parties.** Nothing in this Agreement shall affect any future claims or defenses that may be asserted by one Party to this Agreement against any other Party.

6. **Admissibility of Common Interest Materials and Derivative Information.** No oral or written Common Interest Materials not otherwise obtainable or discoverable except by virtue of this Agreement shall be admissible in evidence in any proceeding arising from a claim made by one Party against the other Party. The Party which disclosed any such Common Interest Materials in the first instance to the other Party shall bear the burden of proving that the proffered evidence would not have been obtained except as a result of the disclosure of Common Interest Materials.

7. **Independently Obtained Information/No Obligation to Share Information**. Nothing in this Agreement limits the right of any Party to use documents or information it later independently obtained, obtains through discovery, or that the Party or its counsel generated. Nothing in this Agreement limits the right of any Party to disclose documents simply because it produced those documents pursuant to this Agreement. Nothing in this Agreement obligates any Party to disclose or share information with any other Party.

8. **No Conflict of Interest.** Nothing contained in this Agreement, including the sharing of information or materials contemplated by this Agreement, shall be the basis of a claim of conflict of interest asserted by any of the Parties against counsel for any other Party so long as such counsel is acting in the course of his/her representation of his/her client Party.

9. **Advice of Counsel.** The Parties agree and acknowledge that the decision to enter into this Agreement and to participate in the activities contemplated by this Agreement are based upon the exercise of the independent judgment of each of the Parties after opportunity for consultation with their respective counsel.

10. **Binding Agreement/Supplement to Common Law.** This Agreement shall be binding upon the Parties and their respective successors, assigns, agents, affiliates and representatives. This Agreement is intended to supplement but in no way diminish any Party's common law rights and privileges.

11. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall constitute an integrated and enforceable whole. Electronic signatures shall be deemed original signatures.

12. **Term.** This Agreement is effective as of November 11, 2024, but applies to all Common Interest Materials disclosed at any time, including prior to the effective date of this Agreement. This Agreement shall terminate for a Party upon such Party's withdrawal from this Agreement. This Agreement shall otherwise remain in effect until 60 days after the final, non-appealable judicial decision in connection with the Lawsuit. Parties and their counsel shall continue to protect all Common Interest Materials and other information disclosed to them or otherwise learned or obtained by them prior to withdrawal or the expiration of this Agreement.

13. **Additional Parties**. In the event that third parties elect to, or wish to investigate whether to, join the Lawsuit, those third Parties may join this Agreement by agreeing to be bound by its provisions. The ability of a third party to join this Agreement is subject to approval by Litigation Counsel.

By execution of this Agreement, each of the undersigned agrees to be bound and abide by the understandings reflected herein, and certifies he/she has authority to bind the entity for whom he/she signs.

Remainder of Page Intentionally Blank – Signature Page Follows

NORTHCARE NETWORK MENTAL HEALTH CARE ENTITY

By:_____

NORTHERN MICHIGAN REGIONAL ENTITY

By:_____

LAKESHORE REGIONAL ENTITY

By:_____

COMMUNITY MENTAL HEALTH PARTNERSHIP OF SOUTHEAST MICHIGAN

By:_____

OAKLAND COMMUNITY HEALTH NETWORK

By:_____

MACOMB COUNTY COMMUNITY MENTAL HEALTH

By:_____

REGION 10 PIHP

By:_____

Michigan PIHPs v MDHHS – Pros and Cons			
PROS for LRE Joining		**CONS for LRE Joining**	
1.	Reap the benefits of the injunction, which requires the State to continue funding the SUDHH program. Without the injunction, the State does not have to provide SUDHH funding to LRE. Whether it will do so or not is an open question.	1.	Apportionment of legal fees.
2.	Receive the benefit of the negotiations with the State, which resulted in assurances that the State will not expedite any cost settlement during the pendency of the case. The State can choose to cost settle FY22, FY23, and FY24 whenever it chooses. The State knows and understands that, if they attempted to cost settle during the pendency of the lawsuit in a way that implicates the 7.5% issue or involved a lapse, we would move for a preliminary injunction to prevent it.	2.	Potential for retaliation by the State, although being a party gives us an avenue to address retaliation with the Court.
3.	Receive certainty and clarity on the legality of the various issues raised in the lawsuit. As it stands, it is unclear whether LRE would receive the benefit of any favorable ruling. Whether it will or will not depends on how the Court eventually rules on the issues.	3.	LRE will be bound by the result of the lawsuit, whether favorable or unfavorable.
4.	Show solidarity and a unified front among the non-signing PIHPs to MDHHS. LRE is the only non-signing PIHP (out of 5) that did not authorize joining the lawsuit, which MDHHS may interpret as an unwillingness to take action to protect its rights, or a willingness to		

	abide by whatever transition plan MDHHS concocts. Joining conveys to MDHHS that LRE will take necessary action to protect its rights under state and federal law.		
5.	Receive the benefit of the open line of communication that we have established with the Attorney General's office. We have used this to receive clarification on several issues including the cost settlement referenced above as well as related to the FSR issue that came up a few weeks ago.		
6.	Receive the benefit of having an open case within which LRE can move for preliminary injunction if MDHHS attempts any further retaliation.		

AMERICAN BAR ASSOCIATION
STANDING COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY

Formal Opinion 514 **January 8, 2025**

A Lawyer's Obligations When Advising an Organization About Conduct that May Create Legal Risks for the Organization's Constituents

When advising an organization, lawyers necessarily provide their legal advice through constituents such as employees, officers, or board members. At times, the organization's decisions may have legal implications for its constituents who will be acting on the organization's behalf, including the constituents through whom the lawyer conveys advice. This situation implicates both the lawyer's duties to the organization client and the lawyer's professional obligations in interacting with the nonclient constituents of the organization.

The Model Rules of Professional Conduct set forth a general standard of competent representation under Rule 1.1, necessary communication under Rule 1.4, and candid advice under Rule 2.1. Where a lawyer—in-house or outside counsel—is giving advice to an organization client about future action of the organization, these provisions may require the lawyer to advise the organization when its actions pose a legal risk to the organization's constituents.

When an organization's lawyer provides advice to the organization about proposed conduct that may have legal implications for individual constituents, the constituents through whom the lawyer conveys advice may misperceive the lawyer's role and mistakenly believe that they can rely personally on the lawyer's advice. Rules 4.1, 4.3, and 1.13(f) require an organization's lawyer to take reasonable measures to avoid or dispel constituents' misunderstandings about the lawyer's role.

An organization's lawyer may want to instruct or remind an organization's constituents about the lawyer's role early and often during the relationship, not only at times when constituents might rely to their detriment on a misunderstanding of the lawyers' role. Educating an organization's constituents who may receive the lawyer's advice in the future will lay the groundwork for later situations where lawyers may be advising the organization on matters with legal implications for the organization's constituents.

I. Introduction

Lawyers provide legal advice to organization clients[1] on a number of aspects of the organization's operations. For example, both in-house counsel and outside counsel advise

[1] As used in Rule 1.13 and this opinion, an organization is a legal entity that includes but is not limited to corporations, governmental organizations, unincorporated associations (such as limited liability companies), and other types of associations. MODEL RULES OF PROF'L CONDUCT R. 1.13 cmt. [1] & [9]. Depending on the jurisdiction, it may also include partnerships. *See*, *e.g.*, ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 91-361, at 1 (1991) ("A partnership is an organization within the meaning of Rule 1.13. Generally, a lawyer who represents a partnership represents the entity rather than the individual partners. Confidential information received by the lawyer while representing the partnership is 'information relating to the representation' of the partnership that

organization clients about contracts and contractual negotiations, regulatory requirements and other legal requirements, litigation and disputes with third parties generally, and a host of other matters. Because organizations act through individual constituents, such as board members, officers, and employees, lawyers give advice to those organizations directly through individuals, including those individuals who are authorized to act on the organization's behalf.

Although an organization's lawyers convey their advice to individuals who are likely to act on the basis of the lawyers' advice, in this scenario, the actual client is the organization itself, not any individual constituent, except when the individual becomes a co-client. Model Rule 1.13(a) explains that the organization is "acting through its duly authorized constituents." Therefore, when the organization's lawyer communicates information and advice to those constituents, it is the organization the lawyer is advising through individuals who are duly authorized to communicate with the lawyer and to act on the organization's behalf. However, as discussed below, individual recipients of the lawyer's advice may not always understand that the advice is intended solely for the organization's benefit and is based solely on consideration of the organization's interests, and that the advice is not intended for the individual constituent's own personal benefit or formulated out of concern for the constituent's personal interests. The individuals' lack of an adequate understanding is particularly significant when lawyers are advising about decisions and actions that have legal implications not only for the organization clients but also for the nonclient individual constituents personally. Although any misunderstanding on the part of the organization's constituents may arise out of the complexity of the situation itself, and not because the lawyer is intentionally misleading, the lawyer may have an obligation under the circumstances to attempt to prevent or rectify the constituents' misunderstanding.

This opinion focuses on situations where (1) a lawyer—in-house or outside counsel—is giving advice to an organization client through a constituent about future action the organization may choose to take; (2) the lawyer knows or reasonably should know that the constituents are likely to have their own legal interests at stake – for example, where the lawyer is advising the organization about possible future conduct for which the constituents may be subject to personal civil or criminal liability; and (3) the lawyer does not intend to create a client-lawyer relationship with the constituent or otherwise to assume fiduciary or contractual duties to the constituent.[2]

The questions in this situation are two-fold. First, whether and when the duty to competently advise the organization under Model Rules 1.1, 1.4, and 2.1 includes a duty to advise the organization about the legal implications of its proposed conduct for its constituents. Second, whether and when the Rules regulating lawyers' dealings with nonclients, specifically Model Rules 4.1, 4.3, and 1.13(f), require an organization's lawyer to take measures designed to avoid or correct

normally may not be withheld from the individual partners."). This opinion's guidance may also have relevance in some situations to certain government lawyers. *See* MODEL RULES OF PROF'L CONDUCT R. 1.13 cmt. [9].

[2] This opinion addresses a lawyer's advice to an organization regarding future conduct. It does not address a host of other situations in which counsel for an organization interacts with organization constituents. Among other things, the opinion does not address when a lawyer speaks with an organization constituent in the course of conducting an internal investigation of alleged misconduct on the part of the organization or in the course of other fact gathering. Nor does the opinion address when an organization's counsel attends a deposition of an organization's constituent and counsel represents only the organization or counsel represents the organization and the constituent. Nor does the opinion address the possibility that an organization's lawyer might give a legal opinion to a nonclient constituent of the organization. *See* note 12, *infra*.

the constituent's misunderstanding of the lawyer's role or mistaken belief that the lawyer is protecting the constituent's personal interests.

II. Preliminary observations

The situation addressed in this opinion is unique and challenging. Other than when a lawyer represents an organization client, or otherwise communicates through a client's agent, it is unusual for lawyers to convey or communicate extensive advice to individuals who are not their clients, and even more unusual to convey advice that has legal implications for the nonclients. Prudent lawyers refrain from giving legal advice to nonclients about their conduct,[3] because doing so risks inadvertently creating a client-lawyer relationship. Although the lawyer will be acting with undivided loyalty to the lawyer's intended client, recipients of the lawyer's advice may end up relying on it to their detriment, mistakenly believing that the lawyer is acting in their best interest.

Lawyers who give advice intended for the organization's benefit cannot avoid communicating that advice for the organization client through individuals who are not clients, but who are constituents of the organization. There is no way to advise the organization client other than by conveying that advice through individuals who are constituents or representatives of the organization. At least from these individuals' perspective, this unavoidable situation may create uncertainty as to the lawyer's role and/or about the significance and application of the lawyer's advice.

The same ambiguity about the lawyer's role does not inhere in all interactions between organization lawyers and organization constituents. Lawyers representing organizations who are interacting with the organization's constituents do not always communicate advice to these constituents about their conduct on behalf of the organization. For example, the organization's lawyer does not give legal advice to organization constituents in the situation typified by *Upjohn v United States*,[4] where an organization's lawyer conducts an internal investigation to obtain information needed to advise organization decision makers about how to deal with allegations of entity misconduct. The lawyer's role is not to give advice to the constituent but simply to obtain information from the individual constituent to conduct litigation on behalf of the organization or to enable the lawyer to later convey advice to some other representatives of the organization.[5]

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[3] *See, e.g.*, Ky. Bar Ass'n Formal Ethics Op. KBA E-450 (2020), addressing under Rule 4.3 the difference between providing legal advice to a nonclient as opposed to the permissible truthful explaining to a nonclient the meaning of a document the lawyer has prepared for the lawyer's client. *See also* Tex. Disciplinary Rule of Professional Conduct R. 4.03 cmt. 3 (effective October 1, 2024), a non-conforming addition to the comment to the Texas equivalent of Rule 4.3, stating: "[t]his Rule maintains the traditional distinction between "legal advice" and "legal information" and does not restrict the latter. "Legal information" includes providing information about court rules, court terminology, and court procedure; directing to legal resources, forms, and referrals; offering educational classes and informational materials; recording on forms verbatim; reviewing forms and other documents for completeness and, if incomplete, stating why the form or document is incomplete; and explaining how to navigate a courthouse, including providing information about security requirements and directional information and explaining how to obtain access to a suit file or request an interpreter." This opinion does not attempt to address this distinction.

[4] 449 U.S. 383 (1981).

[5] Even in this different situation, however, there may be ambiguities for lawyers to address. The organization's lawyers interview constituents to gather facts from them, not to advise them. Even so, prudent lawyers are careful at the outset of these interviews to avoid misunderstandings about their role. Courts have recognized the importance of so-called "Upjohn warnings" to avoid inadvertently misleading individuals who are questioned and to avoid

In the context of a formal internal investigation of alleged wrongdoing, the divergence of the organization's interests and those of the individual constituents who are suspected of wrongdoing should ordinarily be clear. However, such divergence of interest in other contexts may often be less clear. The individual constituent's obligation is to act in the best interest of the organization, and the individual solicits or accepts the lawyer's advice with that objective in mind. To the extent that the individual has personal legal interests at stake, they may be largely aligned with those of the organization. For example, a constituent who is making representations on behalf of the organization to the government or to a private party may face civil liability or even criminal liability if the representations are false or misleading, and therefore the individual will have an interest in avoiding such misrepresentations. In most cases, the organization will have similar interests in avoiding civil or criminal liability based on misrepresentations made on its behalf.

However, even if the interests of the organization and the individual are generally aligned, they are not necessarily identical in situations where the individual has legal interests at stake. There is particularly likely to be a divergence of interests in situations where the lawyer's advice on actions the organization could take in the future may expose the individual constituent to legal risk. For example, when a lawyer advises a constituent regarding what representations to make on the organization's behalf in a government filing or in a transactional document, the individual may have an interest in proceeding carefully, because the personal cost of being accused of misconduct will be high. Taking a less cautious or more aggressive approach may be in the interest of the organization but such an interest may not be shared by the individual signing his or her name to the disclosure, because the benefits and risks of an aggressive approach may be different for the individual. The organization's decision makers may sympathize with the individual's interests out of general concern for its constituents' welfare or because protecting the constituents is important to the effective operation of its business or avoiding civil or criminal liability. But the organization's decision makers may also strike a different balance between promoting the organization's interests and protecting its constituents, and this may lead the organization, acting through its decision makers, to tolerate greater risk than the individual constituent.

III. Lawyers' duty to give competent advice to the organization clients about constituents' legal interests

To a large extent, the Rules of Professional Conduct establish duties to clients, not to individuals whom the lawyer does not represent. For example, a lawyer owes a client the duties of competence and confidentiality, and a duty to avoid conflicts of interest, which are codified in the professional conduct rules. *See, e.g.,* Model Rules 1.1, 1.6 & 1.7. But lawyers generally do not owe these duties to nonclients.

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unintentionally establishing a client-lawyer relationship with them. *See, e.g.*, Under Seal v. United States (*In re* Grand Jury Subpoena: Under Seal), 415 F.3d 333, 340 (4th Cir. 2005); *see also* Sehyung Daniel Lee, *The Benefits of a Miranda-Type Approach to Upjohn Warnings*, 13 COMM. & BUS. LIT. 12 ("According to the American Bar Association, it is recommended that counsel give the Upjohn warnings at the outset of the employee interview, with the minimum warnings that (1) counsel is retained by the company, not the employee; (2) the attorney-client privilege is in effect; and (3) the privilege is held by the company, which alone can decide to waive it.") (citing ABA WCCC WORKING GROUP, UPJOHN WARNINGS: RECOMMENDED BEST PRACTICES WHEN CORPORATE COUNSEL INTERACTS WITH CORPORATE EMPLOYEES (July 17, 2009), *available at* https://www.crowell.com/a/web/4TMx7dpADUfammfw6nzEZX/abaupjohntaskforcereport.pdf).

An organization's lawyer does not owe the organization's constituents a duty of competence or other duties established by a client-lawyer relationship unless the lawyer also represents a constituent as a client.[6] The Model Rules emphasize that lawyers representing an organization do not owe the obligations of the client-lawyer relationship to the organization's constituents simply by virtue of the lawyers' interaction with such constituents. As previously noted, Rule 1.13(a) explains that "[a] lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents." Although Model Rule 1.13(g) acknowledges that an organization's lawyer is permitted to also represent one of the organization's constituents, subject to the provisions of Model Rule 1.7, the conflict-of-interest rule governing dual representations, the organization's lawyer does not owe duties of loyalty and confidentiality to an individual constituent in the absence of a client-lawyer relationship with that individual. Indeed, Rule 1.13(g) drives home the understanding that, absent steps taken to establish a dual representation of both the organization and one or more of the organization's constituents, the only client is the organization itself.

The question we address here is whether the professional responsibilities of a lawyer representing *the organization* require the lawyer to inform the organization when proposed future conduct may pose legal risk for the organization's constituents. In addition to Model Rule 1.1, which requires a lawyer to "provide competent representation to a client," other provisions specifically address a lawyer's advisory role. First, Model Rule 1.4(b) requires a lawyer to "explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation." Additionally, Model Rule 2.1 provides: "In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation."

Previously issued formal ethics opinions have addressed a lawyer's role as an advisor in various contexts. They have recognized that an essential aspect of a legal advisor's role is to assist clients in conforming to the requirements of civil and criminal law, which in turn entails assisting clients in recognizing and responding to the risk that their conduct may run afoul of the law. ABA Formal Ethics Opinion 491 explained that "[i]n general, assisting in a suspicious transaction is not competent where a reasonable lawyer prompted by serious doubts would have refrained from providing assistance or would have investigated to allay suspicions before rendering or continuing to render legal assistance."[7] However, competent lawyers and their clients are not obligated to avoid all legal risk. A lawyer providing competent advice may identify a course of conduct that presents some legal uncertainty and so advise the client so that the client is fully informed, and the

[6] An organization's lawyer may enter into a client-lawyer relationship with an organization constituent inadvertently or by implication, but such a relationship is not established simply by virtue of representing the organization and communicating with the constituent. *See generally* RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS § 14 cmt. f, at 131 ("An implication that such a [personal client-lawyer relationship with a constituent] exists is more likely to be found when the lawyer performs personal legal services for an individual as well or where the organization is small and characterized by extensive common ownership and management. But the lawyer does not enter into a client-lawyer relationship with a person associated with an organization client solely because the person communicates with the lawyer on matters relevant to the organization that are also relevant to the personal situation of the person.").

[7] ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 491 (2020) (quoting N.Y. City Bar Ass'n Prof'l Ethics Comm. Formal Op. 2018-4 (2018)).

competently advised client may decide to engage in conduct where the legal implications are unclear.[8] For example, ABA Formal Ethics Opinion 85-352 (1985) noted that "a lawyer, in representing a client in the course of the preparation of the client's tax return, may advise the statement of positions most favorable to the client if the lawyer has a good faith belief that those positions are warranted in existing law or can be supported by a good faith argument for an extension, modification or reversal of existing law."

When an organization's lawyer advises an organization about whether to engage in future conduct, the lawyer should generally advise the organization about legal considerations that are important to the organization's decision. As we recently noted in ABA Formal Ethics Opinion 512 (2024), "Model Rule 1.4, which addresses lawyers' duty to communicate with their clients, builds on lawyers' legal obligations as fiduciaries, which include 'the duty of an attorney to advise the client promptly whenever he has any information to give which it is important the client should receive.'" Further, "Comment [5] to Rule 1.4 explains, 'the lawyer should fulfill reasonable client expectations for information consistent with the duty to act in the client's best interests, and the client's overall requirements as to the character of representation.'"

When giving advice in areas of legal uncertainty, it may be important for a lawyer to both identify legally relevant considerations and to assist a client in identifying other relevant considerations. *See* Model Rule 2.1. At the same time, the lawyer may not be presented with the entire picture when providing legal advice and, consequently, may not be in a position to provide an exhaustive analysis of all of the possible ramifications of a particular course of action. In the end, similar clients, although equally well-advised, may choose different paths, whether because they have different tolerance for legal risk or because they weigh other relevant considerations differently.

It may be important to an organization client to know not only when potential future conduct creates legal risk to the organization but also when the conduct creates legal risk to the organization's constituents, such as employees, officers, or board members, who will be acting on the organization's behalf. Whether this information or any other information *must* be provided to an organization's decision maker under the Rules will be a fact-based determination. The Rules do not specify in detail what must be disclosed as a matter of competent, necessary, or candid advice; the Rules set forth only a general standard. Whether an organization must be advised of how its proposed conduct will legally affect organization constituents may turn, in part, on the extent and gravity of the legal risk to the constituents. An organization's lawyer may know from past experience whether the organization's decision makers would want or expect to be told when proposed conduct has significant legal implications for the organization's constituents. If the

[8] *See, e.g.*, William H. Horton, *A Transactional Lawyer's Perspective on the Attorney-Client Privilege: A Jeremiad for Upjohn*, 61 BUS. L. 95, at 107-108 (2005) ("Given the complexity of the modern regulatory environment, and the fine distinctions upon which the legality of a particular course of conduct may turn, the waters that transactional lawyers help their clients navigate are frequently dark and murky indeed. . . .[For example], when a healthcare client turns to a transactional lawyer for advice about structuring a transaction with a referral source, it is highly unlikely that the lawyer will be able to say, "Yes, what you want to do is absolutely, without question, okay," and not much more likely that the lawyer will be able to say, "No, if you do that you're going to jail." Instead, what the lawyer must do is obtain as much information as possible, evaluate the facts and circumstances, and advise the client as to ways in which a legitimate transaction might be structured to minimize the risk of a violation and as to factors which would be more or less likely to cause the transaction to be perceived as illegitimate.")

lawyer does not definitively know, the lawyer can discuss with the relevant organization decision makers whether the organization would want to know of significant legal risks to its constituents. A lawyer should not assume without any basis that an organization's decision makers are or are not indifferent to legal risks to its constituents. Many organizations' decision makers have an interest in the constituents' welfare and seek to treat the constituents fairly. Many would want to take account of the potential costs and disruption if its constituents encountered legal problems because of their work for the organization.[9] Moreover, particularly if the client is an organization of a sufficiently large size, the organization may have contractual duties of indemnification in place as to the constituents impacted that could both reduce the costs or disruption for those constituents and be directly relevant to the risk to the organization itself.

Wholly apart from whether the lawyer's advice will fall below the standard of minimally competent representation under Rule 1.1, necessary communication under Rule 1.4, or candid advice under Rule 2.1, a lawyer may often include the legal risks to nonclient constituents among the subjects of discussion. In certain circumstances, even if the importance of this information is uncertain, the organization's lawyer may conclude as a matter of professional judgment that the organization is best served by being advised, through its duly authorized decision makers, when a proposed course of conduct poses a significant legal risk to constituents; to make a well-informed decision, the decision makers might want to have the opportunity to consider that they are putting individual constituents at legal risk, and the nature and extent of the risk. In such cases, the decision makers ultimately may or may not take account of the risk to individual constituents in making the decision, but the decision may not be as well-informed if is the decision makers are not at least made aware of the risk.[10] Of course, the duties of the decision makers to determine whether the

[9] Pursuant to Rule 1.2(b), a lawyer "may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent." Depending on the circumstances, it might be reasonable for the lawyer and the organization to agree that the scope of the representation will not include advising the organization about the potential legal liability of the organization's constituents. For example, a closely held corporation that is evaluating a potential sale of the business might agree that the lawyer representing it in that transaction is not obligated to advise it of potential tax liabilities that could result from the transaction for employees and officers of the corporation who hold stock in the corporation. In some instances, evaluating the potential liability of an organization's constituents could require the lawyer to undertake factual investigation, conduct legal research, or complete other tasks that otherwise would not be required to advise the organization. The organization should not be obligated to incur the legal fees for that work and should have the option to avoid that expense by limiting the scope of the representation. In other instances, the organization constituents who would face potential liability arising from the organization's action might be represented by their own counsel, which may also make it reasonable for the organization to exclude advice about their liability from the scope of the work to be performed by the organization's lawyer. In these and other circumstances, any limitation on the scope of the lawyer's representation must comply with the professional responsibility rules, including Rules 1.1 and 1.2(c), and with other law. To satisfy the requirement of informed consent, the lawyer must explain the material risks of excluding particular advice from the representation and ensure that the organization client consents to limiting the scope of the lawyer's advice with an understanding of those risks. *See* Rule 1.0(d) (defining "informed consent").

[10] An organization's lawyer may not always be presented with all of the material facts for a determination of whether there are or might be personal risks facing a nonclient constituent through whom the lawyer is providing the organization client with legal advice. As explained in paragraph [19] of the Scope section and reiterated in ABA Formal Ethics Opinions, a lawyer's decisions should not be judged in hindsight but rather with information known or readily available at the time and, likewise, a lawyer should not be subject to discipline "because of a course of action, objectively reasonable at the time it was chosen, turned out to be wrong in hindsight." *See* ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 513 (2024) at 8, n. 23, quoting ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 491 (2020), at 9.

organization wishes to engage the lawyer to analyze the legal risk to constituents is governed by organization law rather than the Rules of Professional Conduct.[11]

IV. Lawyers' responsibility to nonclient constituents when giving legal advice to the organization

When a lawyer's advice about an organization's conduct implicates the legal liability of individual constituents, the individuals through whom the lawyer gives advice to the organization will often be the very ones who will be undertaking, directing, or assisting the action in question and who may therefore have personal risk of civil or criminal liability. As discussed, that individual is not a client (unless the lawyer intentionally or inadvertently establishes a client-lawyer relationship), and therefore, the organization's lawyer will not owe that individual the ethical duties that lawyers owe to clients. Nevertheless, lawyers representing organizations may have obligations or restrictions when giving advice to the organizations they represent through nonclient constituents, as lawyers sometimes do in interacting with other nonclients in the course of a representation.

Lawyers are "officer[s] of the legal system," not just "representative[s] of clients." Model Rules, Preamble, para. [8]. Consequently, they are subject to requirements and restrictions when dealing with others on a client's behalf, including, most obviously, a "require[ment] to be truthful." Model Rule 4.1, cmt. [1]. Other Rules require lawyers, in certain situations, to avoid misleading a nonclient or exploiting a nonclient's misunderstanding about the lawyer's role. The most generally relevant of these is Model Rule 4.3, which forbids a lawyer from giving "legal advice to an unrepresented person, other than the advice to secure counsel, if the lawyer knows or reasonably should know that the interests of such person are or have a reasonable possibility of being in conflict with the interests of the client."[12] When the lawyer is representing a client in a matter with an unrepresented person, Comment [1] to Rule 4.3 advises:

> An unrepresented person, particularly one not experienced in dealing with legal matters, might assume that a lawyer is disinterested in loyalties or is a disinterested

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[11] *See* MODEL RULES OF PROF'L CONDUCT R. 1.2(a) & cmt. [1] ("[Rule 1.2(a)] confers upon the client the ultimate authority to determine the purposes to be served by legal representation, within the limits imposed by law and the lawyer's professional obligations.").

[12] This opinion addresses circumstances in which the lawyer knows or reasonably should know that the organization's constituent is likely to have legal interests at stake if the individual acts on the lawyer's advice. Although the interests of the organization and its constituent differ in this situation, Rule 1.7, which addresses concurrent conflicts of interest, may nevertheless allow the organization's lawyer to provide personal legal advice to the constituent as the organization's co-client, with the respective clients' informed consent. *See* Rule 1.7(b). If the lawyer does jointly represent both the organization and its constituent, the constituent is entitled to all of the rights of a client under the Rules of Professional Conduct. A lawyer who provides personal legal advice to the organization's constituent, where forbidden by Rule 1.7 or without complying with the rule's requirement of informed consent, may also create a client-lawyer relationship inadvertently. *See* RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS § 14 (discussing client-lawyer relationship formation when the lawyer fails to "manifest lack of consent" to forming the relationship). Additionally, Rule 2.3 permits a lawyer to "provide an evaluation of a matter," *i.e.*, a legal opinion as distinguished from legal advice to "someone other than the client" in certain circumstances. This opinion does not address whether, and, if so, in what circumstances, an organization's lawyer may provide a legal evaluation or opinion to a nonclient constituent of the organization regarding the law relating to that constituent's legal liability.

> authority on the law even when the lawyer represents a client. In order to avoid a misunderstanding, a lawyer will typically need to identify the lawyer's client and, where necessary, explain that the client has interests opposed to those of the unrepresented person. For misunderstandings that sometimes arise when a lawyer for an organization deals with an unrepresented constituent, see Rule 1.13(f).

Other Model Rules address specific situations where a nonclient may misunderstand the lawyer's role. Model Rule 1.13(f) specifically addresses the lawyer representing an organization in interactions with nonclient constituents, providing: "In dealing with an organization's directors, officers, employees, members, shareholders or other constituents, a lawyer shall explain the identity of the client when the lawyer knows or reasonably should know that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing." The accompanying Comments [10] and [11] explain:

> There are times when the organization's interest may be or become adverse to those of one or more of its constituents. In such circumstances the lawyer should advise any constituent, whose interest the lawyer finds adverse to that of the organization of the conflict or potential conflict of interest, that the lawyer cannot represent such constituent, and that such person may wish to obtain independent representation. Care must be taken to assure that the individual understands that, when there is such adversity of interest, the lawyer for the organization cannot provide legal representation for that constituent individual, and that discussions between the lawyer for the organization and the individual may not be privileged.
>
> Whether such a warning should be given by the lawyer for the organization to any constituent individual may turn on the facts of each case.

The concerns underlying Rules 4.1, 4.3, and 1.13(f) are implicated when a lawyer for an organization conveys legal information to nonclient constituents about proposed conduct by that individual on behalf of the organization and the lawyer knows or reasonably should know that the constituent is likely to have legal interests at stake.[13] The situation may give rise to any number of misunderstandings or erroneous assumptions regarding the lawyer's role.[14]

Individual constituents may or may not be aware that they have their own legal interests at stake. They might erroneously assume that they have no personal legal risks, because they may think that if they did, the lawyer would tell them. Or, if the individuals understand that they have legal risks along with the organization, they might assume that they can rely personally on the

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[13] Both "knows" and "reasonably should know" are defined terms in the ABA Model Rules of Professional Conduct. Knows "denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances." Reasonably should know "denotes that a lawyer of reasonable prudence and competence would ascertain the matter in question." ABA MODEL RULES OF PROF'L CONDUCT R. 1.0(f) & (j). Paragraph [19] of the Scope section of the Model Rules explains, "[t]he Rules presuppose that disciplinary assessment of a lawyer's conduct will be made on the basis of the facts and circumstances as they existed at the time of the conduct in question and in recognition of the fact that a lawyer often has to act upon uncertain or incomplete evidence of the situation."

[14] For a prior writing calling attention to this issue, see Melissa E. Romanovich, Note, *Corporate Law's Forgotten Constituents: Reimagining Corporate Lawyering in Routine Business Contexts*, 90 FORDHAM L. REV. 301 (2021).

lawyer's advice and that they therefore have no need for separate counsel. Although the organization's lawyer may not intend to foster these misunderstandings, such misunderstandings may be difficult to avoid when the lawyer is advising constituents about how they should act on behalf of the organization. Some constituents who are experienced in interacting with the organization's lawyers will instinctively and correctly understand that the organization's lawyer does not represent them personally and recognize the possible need for independent counsel, if they have concerns about their own liability. But others, without being told otherwise, may not understand this without an adequate explanation that their actions on behalf of the organization may have personal consequences, especially if they are not experienced in interacting with the organization's lawyers.[15]

Individual constituents' misunderstandings may be harmful to them because, when the interests of the organization and individual constituents diverge, the constituents cannot rely on the organization's lawyer's advice to protect their interests. For example, it may be reasonable for an organization to engage in conduct that poses legal risks for both the organization and its constituents. In the same situation, however, individuals might act more cautiously in light of the legal and other risks to themselves. One reason is that the organization may have defenses—such as an advice-of-counsel defense—that are unavailable to the unrepresented individual constituent.[16] Another is that the consequences of acting aggressively in the face of risks may be less significant for the organization than for the individual, or that the organization will derive greater benefit from acting aggressively.

In this situation, the Model Rules require an organization's lawyer to take reasonable measures to avoid or dispel constituents' misunderstandings about the lawyers' role.[17] This is not because the organization's lawyer is intentionally misleading the constituents or otherwise acting wrongfully. It is because, for many organization constituents who receive and act on the lawyer's advice to the lawyer's organization client, the situation may be confusing or misleading with regard to the lawyer's role absent reasonable efforts by the lawyer to correct that misunderstanding.[18]

The Model Rules do not provide any particular formula for avoiding or dispelling constituents' possible misunderstandings. Under the circumstances, the lawyer may need to discuss with the nonclient constituent that: the lawyer represents only the organization, and not the constituents; the constituents may have a personal legal risk if the constituents act on behalf of the organization in the matter under discussion; the lawyer is rendering advice to the organization *through* the individual constituents, not to, or for the benefit of, the individual constituents; in

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[15] The latter is more likely to occur in the case of closely held corporations.

[16] *See, e.g.*, United States v. Wells Fargo Bank N.A., 12-CV-7527, 2015 WL 3999074, 2015 U.S. Dist. LEXIS 84602, at *8-9 (S.D.N.Y. 2015) ("Allowing any employee to waive the [corporation's] privilege by asserting an advice-of-counsel defense could also create an incentive for plaintiffs to pursue claims against individual employees in the hopes of forcing a waiver of the corporation's privilege.").

[17] This is wholly apart from whatever duty the lawyer may owe to the organization client, as a matter of competence, to avoid or rectify this sort of confusion or ambiguity in dealing with constituents of the organization.

[18] In this regard, an organization's lawyer should recognize that the nonclient constituents who may be acting on the lawyer's advice to the organization, potentially to their personal detriment, may not be limited to constituents, such as officers or directors, who may be more familiar with the organization's lawyer's role. To the extent the lawyer is conveying legal advice on behalf of the organization client through those constituents who have fewer interactions with the lawyer, there may be a greater likelihood that such a nonclient constituent may misperceive the organization lawyer's role.

giving advice to the organization, the lawyer is taking account of the interests of the organization, not necessarily those of the individuals; and if individual constituents want legal advice about how a proposed course of conduct will affect their personal legal interests, the constituents must seek that advice from their own counsel, not from the organization's lawyer.[19]

The objective is not to advise constituents about how to act in light of personal legal risks but simply to give them information to prevent them from erroneously relying on misunderstandings of the lawyer's role. Indeed, as Rule 4.3 makes clear, the lawyer shall not provide legal advice to the nonclient other than to advise the nonclient to secure independent counsel. As the comments to Rules 4.3 and 1.13 reflect, an organization's lawyer is not providing legal advice when informing the constituents, in a way adequate for them to understand, that their interests may differ from those of the organization and that "the lawyer represents only the organization, not them." At the same time, these comments do not limit or specify what information may or must be provided in any given situation to avoid or dispel misunderstandings. With this objective in mind and depending on the circumstances, a more in-depth conversation may be necessary to satisfy the lawyer's duty to undertake "reasonable efforts to correct" a constituent's misunderstanding of the lawyer's role as lawyer to the organization.[20]

As discussed above, in providing advice to the organization, the lawyer will sometimes explain that when individual constituents act on behalf of the organization, their acts may have legal implications for them as well as for the organization. When this is so, it is especially important for the lawyer to avoid certain misunderstandings and make reasonable efforts to rectify them. For example, when addressing the legal implications of the organization's acts for its constituents, the lawyer may emphasize that the lawyer is taking into account only the organization's interests; that is, the lawyer is giving advice only with the organization's best interest at heart, and that is true even insofar as the lawyer discusses how the organization's acts might affect its individual constituents' interests. Therefore, if constituents want personal legal advice about how their acts will affect their own legal liability, they should speak with their own lawyer, whom the organization may or may not be willing to compensate. Of course, some constituents will already have a clear understanding of the lawyer's role based on prior experience or may need only a reminder, if that. But that cannot be taken for granted in all situations. It is important for organizations' lawyers to be sensitive to ambiguities in their advice-giving role and to approach each situation, in light of the particular circumstances, in a manner that appropriately avoids any obvious or likely confusion on the part of the constituents who receive the lawyers' advice.

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[19] This opinion does not address whether, when, or how an organization's lawyer should explain either the lawyer's obligations to the organization regarding the duty of confidentiality and the attorney-client privilege, or the constituent's obligation to keep their communications confidential in order to protect the organization's attorney-client privilege.

[20] As we previously recognized in a different context, a lawyer's communications are of little value if the person to whom they are directed does not understand them. *See* ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 500 (2021) ("If a lawyer does not communicate with a client in a mutually understood language, it is doubtful that the lawyer is exercising the thoroughness and preparation necessary to provide the client with competent representation."). *See also* MODEL RULES OF PROF'L CONDUCT R. 2.4 cmt. [3] (when a lawyer serves as a third-party neutral, in addition to explaining that the lawyer does not represent the parties to the dispute resolution process, the lawyer may be required to provide additional explanation to unrepresented parties who are not frequent users of dispute-resolution processes, and particularly to first-time users).

This is no easy undertaking. Lawyers seek to develop a relationship of trust and confidence with their clients, so that the clients will understand that their lawyers are seeking to act in their clients' best interest and so that clients will have confidence in their lawyers' advice. In the case of organizations' lawyers, they will be seeking to develop the trust of constituents through whom the lawyers advise the organization and who implement the lawyers' advice. But at the same time, it is important for lawyers to avoid nonclient constituents' misunderstandings regarding the lawyers' role, so that constituents do not regard the lawyers as their own personal lawyer. Particularly given this delicate balance, in applying the Model Rules, organizations' lawyers' interactions with organization constituents should be viewed deferentially based on "the facts and circumstances as they existed at the time of the conduct in question and in recognition of the fact that a lawyer often has to act upon uncertain or incomplete evidence of the situation." Model Rules, Scope ¶ [19].

Finally, although the Model Rules do not require it, the lawyer for an organization would be well advised to instruct constituents about the lawyer's role on other occasions when the lawyer interacts with constituents, and not only at times when constituents might rely to their detriment on a misunderstanding of the lawyer's role. Educating the organization's constituents who may receive the lawyer's advice in the future will lay the groundwork for later situations where the lawyer is advising the organization on matters with legal implications for constituents. Among other things, lawyers for the organization should avoid referring to individual constituents as their clients, and these lawyers should correct individual constituents who refer to the organization's lawyers as the constituent's own lawyers. When an organization's lawyers interact with the organization's decision makers in settings in which the lawyers are not conveying advice, the lawyers can nevertheless take the opportunity to clarify their role, such as by explaining that they represent the organization, not the individual constituents, and that the individuals cannot rely on the lawyers to look out for their individual interests, even when those interests may appear to coincide with those of the organization. These sorts of explanations may help the constituents better understand the lawyer's role later, when the lawyer is advising the organization on matters that have personal legal implications for the nonclient constituents of the organization.[21]

V. Conclusion

When lawyers for an organization advise the organization, the organization's lawyers necessarily provide the advice to the organization through constituents such as employees, officers, or board members. At times, the organization's decision about how to act may have legal implications for the organization's constituents who will be acting on the organization's behalf, including the constituents through whom the lawyer is conveying advice. This situation implicates both the lawyer's duties to the organization client and the lawyer's professional obligations in interacting with the nonclient constituents of the organization.

The Model Rules of Professional Conduct set forth a general standard of competent representation under Rule 1.1, necessary communication under Rule 1.4, and candid advice under

[21] *See*, *e.g.*, Sarah H. Duggin, Shannon "A.J." Singleton & James D. Wing, *The "Cooperation Revolution" and the Professional Ethics of Giving Advice on Executive Protection Issues*, 77 BUS. LAW. 1079, 1101-1102 (Fall 2022) (discussing ways in which in-house counsel can navigate the issue of nonclient constituents misunderstanding the organization lawyer's role).

Rule 2.1. Where a lawyer—in-house or outside counsel—is giving advice to an organization client about future action the organization may choose to take, the Rules may require the lawyer to advise the organization about constituents' potential legal risk. This will be a fact-based determination.

When an organization's lawyer provides advice to the organization about proposed conduct that may have legal implications for individual constituents, the constituents through whom the lawyer conveys advice may misperceive the lawyer's role and mistakenly believe that they can rely personally on the lawyer's advice. When the lawyer knows or reasonably should know that constituents are likely to have their own legal interests at stake, Rules 4.1, 4.3, and 1.13(f) require an organization's lawyer to take reasonable measures to avoid or dispel constituents' misunderstandings about the lawyer's role.

An organization's lawyer would be well advised to instruct organization constituents about the lawyer's role early and often during the relationship, not only at times when constituents might rely to their detriment on a misunderstanding of the lawyers' role. Educating organization constituents who may receive the lawyer's advice in the future will lay the groundwork for later situations where lawyers may be advising the organization on matters with legal implications for the organization's constituents.

AMERICAN BAR ASSOCIATION STANDING COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY

321 N. Clark Street, Chicago, Illinois 60654-4714 Telephone (312) 988-5328

CHAIR: Bruce Green, New York, NY ■ Brian Shannon Faughnan, Memphis, TN ■ Hilary P. Gerzhoy, Washington, D.C. ■ Veronica Root Martinez, Durham, NC ■ Wendy Muchman, Chicago, IL ■ Tim Pierce, Madison, WI ■ Margaret Raymond, Madison, WI ■ Hon. Jennifer A. Rymell, Fort Worth, TX ■ Charles Vigil, Albuquerque, NM ■ Thomas G. Wilkinson, Jr., Philadelphia, PA

CENTER FOR PROFESSIONAL RESPONSIBILITY: Mary McDermott, Lead Senior Counsel

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Dear Members of the Michigan Legislature:

We strongly support fully funding statutorily required, actuarially sound Medicaid rates for Fiscal Year 2024.

Michigan law mandates that Medicaid capitated rates be regularly reviewed to ensure that payments to contracted health plans are viable and financially accurate. Maintaining actuarially sound rates is crucial to ensuring that Medicaid enrollees receive adequate services and that health care providers are reimbursed appropriately.

Unfortunately, as indicated in a recent letter from the Michigan Department of Health and Human Services (MDHHS) to the Centers for Medicare & Medicaid Services (CMS), Medicaid health plans were underfunded by 3.1% last fiscal year. Actuarial analysis conducted by the MDHHS confirms that the actual costs of Medicaid services provided in Fiscal Year 2024 were significantly higher than the capitated rates paid to Medicaid health plans.

If not corrected, this underfunding can negatively impact provider reimbursement levels, restrict access to services for Medicaid enrollees, and limit community reinvestment commitments of Medicaid Health Plans. We urge the Michigan Legislature to adequately fund the Health Plan Services and Healthy Michigan Plan line items to ensure Medicaid capitation rates remain federally compliant and actuarially sound.

The Michigan Department of Health & Human Services (MDHHS) and State Budget Office (SBO) have recommended a supplemental appropriation to correct this funding gap. We fully support this recommendation and respectfully request your action to approve this supplemental funding before year-end, enabling Medicaid to meet its statutory and contractual obligations.

Thank you for your time and attention to this critical issue.

Sincerely,

mahp
Michigan Association of Health Plans

MHA
Michigan Health & Hospital Association

food BANK COUNCIL OF MICHIGAN

mpca
THE VOICE OF COMMUNITY HEALTH CENTERS

Michigan Osteopathic Association

MSMS
MICHIGAN STATE MEDICAL SOCIETY

mda
michigan dental
ASSOCIATION
YOUR CONNECTION TO ORAL HEALTH®

January 2025 Legislative Update - Narrative

This month, in lieu of the legislative grid, the LRE will be providing a narrative summary of notable legislative activities at the State and Federal levels.

The end of 2024 marked the end of the current two-year legislative cycle at both the State and Federal levels, which means after the end of the year, any existing bills that were not approved will have to be reintroduced in the new year if the interested parties would like them to continue.

The State Speaker of the House is now Republican Matt Hall, and the party with control of the Michigan House of Representatives is the Republicans. Democrats remain in control of the State Senate, meaning the State's government will be divided.

At the Federal Level, Republicans now occupy the Executive Office and have majority in both the House and the Senate. Michigan did however elect Democrat Elissa Slotkin to the open Senate seat, replacing Democrat Debbie Stabenow.

The LRE would like to highlight the following update on bills that were being watched at the end of the year:

State Legislation:	Federal Legislation
• HB 6002-6005 • HB 6022 • SB 651 & 654 These bills would create statewide tobacco licensure programs and restore local control on tobacco sales. ***These bills died in the House due to House inaction.**	• HR 7213 – Autism CARES Act of 2024 This bill reauthorizes several programs that support autism education, research, and resources. ***This bill was signed into law by the President on 12/23/24.**

The LRE will be working to create an updated list of state and federal congress members for distribution, along with a new Legislative Update Grid for the new sessions of congress. Expect those to be available in February.

Attachment 4

LAKESHORE REGIONAL ENTITY

Certified Community Behavioral Health Clinic (CCBHC)

Demonstration Year 3 (Fiscal Year 24) Regional Summary of Activities

November 2024

www.lsre.org

Table Of Contents

Italicized = Illustration

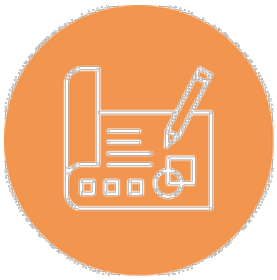
What sets CCBHCs apart from Community Mental Health Centers

Availability and Accessibility of Services – Services delivered at times and locations convenient for those requesting services, timely access to services, addressing barriers to care, outreach and engagement, 24/7 access to crisis services, and acceptance of all patients regardless of ability to pay or place of residence.

Care Coordination – Partnership with providers across the spectrum of health services (physical & behavioral healthcare, social services, housing, schools, criminal justice and other systems) to help clients navigate and access the full array of supports available for whole health wellness and recovery.

Quality and Other Reporting – Collect, report, and track encounter, outcome and quality data. Preventative Care quality measures including screenings for Suicide Risk, Depression, Tobacco, Unhealthy Alcohol Use and Social Drivers of Health. Continuous Quality Improvement plans and monitoring.

Staffing – Staffing plan is driven by a local community needs assessment. Staff are licensed and accredited, adequately trained in evidence-based, recovery-oriented care, person- and family-centered, trauma-informed, and culturally and linguistically competent.



Organizational Authority and Governance – A local government behavioral health authority, non-profit organization or an authority of (or in contract with) the Indian Health Service. Consumer representation in governance. Board Composition with no more than 50% of members with 10% of annual income from the health care industry.

Scope of Services – Nine required services, including services for military members, that are comprehensive, evidenced-based, person centered, family-centered, trauma informed, and recovery-oriented.

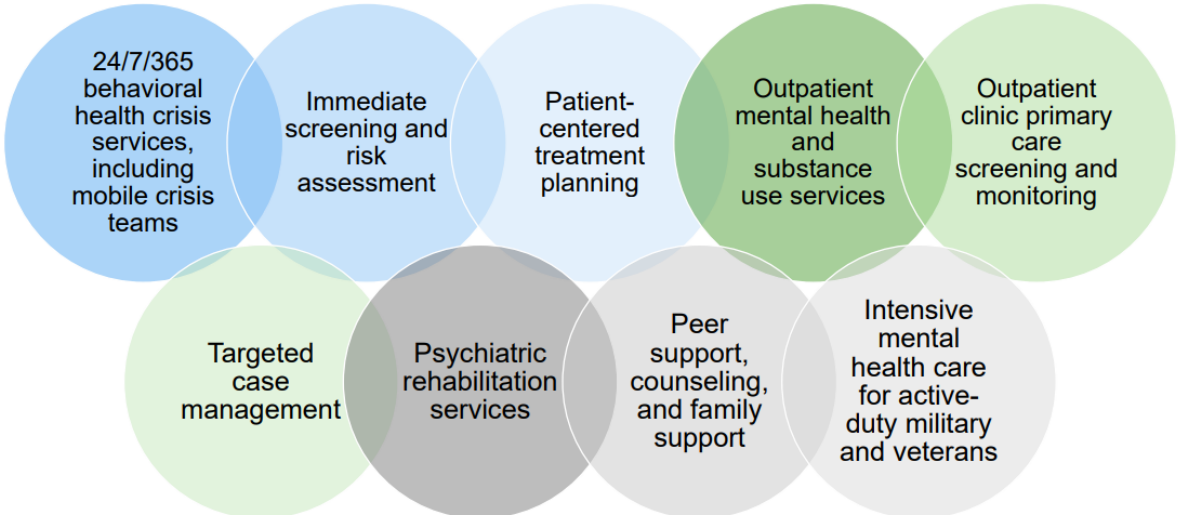
Purpose of this Summary of Activities

A CCBHC, or Certified Community Behavioral Health Clinic, is a type of mental health facility designed to provide comprehensive, community-based mental health and substance use services. These clinics aim to enhance access to care, improve quality, and ensure coordination among various health services. Throughout this report underlined text indicates a hyperlink to additional information. When viewing this report electronically, clicking on the underlined text will direct you to another portion of the report or an external resource for more information.

CCBHC - Certified Community Behavioral Health Clinic | SCCMHA

This summary is focused on how Lakeshore Regional Entity (LRE) performs in its obligations as a Pre-paid Inpatient Health Plan (PIHP), as defined by Michigan Department of Health and Human Services (MDHHS) in the CCBHC Handbook. The year started with version 1.8 and progressed to 1.95. MDHHS has retained responsibility for CCBHC site-level evaluations and certification activities.

9 Core CCBHC Services



The Key Elements along with the 9 Core CCBHC services help support the communities they touch by removing barriers to access; focusing on the needs of the client whether they be physical, emotional, or material needs; and coordinating with other community partners to improve efficiency. These services, below, can be provided directly by the CCBHC or via a contractual relationship with a designated collaborating organization (DCO).

CCBHCs Nationally

The CCBHC model originated from the 2014 Excellence in Mental Health Act in the United States. This legislation established a framework for funding and supporting these clinics to address gaps in mental health services and to promote better outcomes for individuals with behavioral health needs. The model emphasizes person-centered care, integrated services, and a focus on the needs of the community.

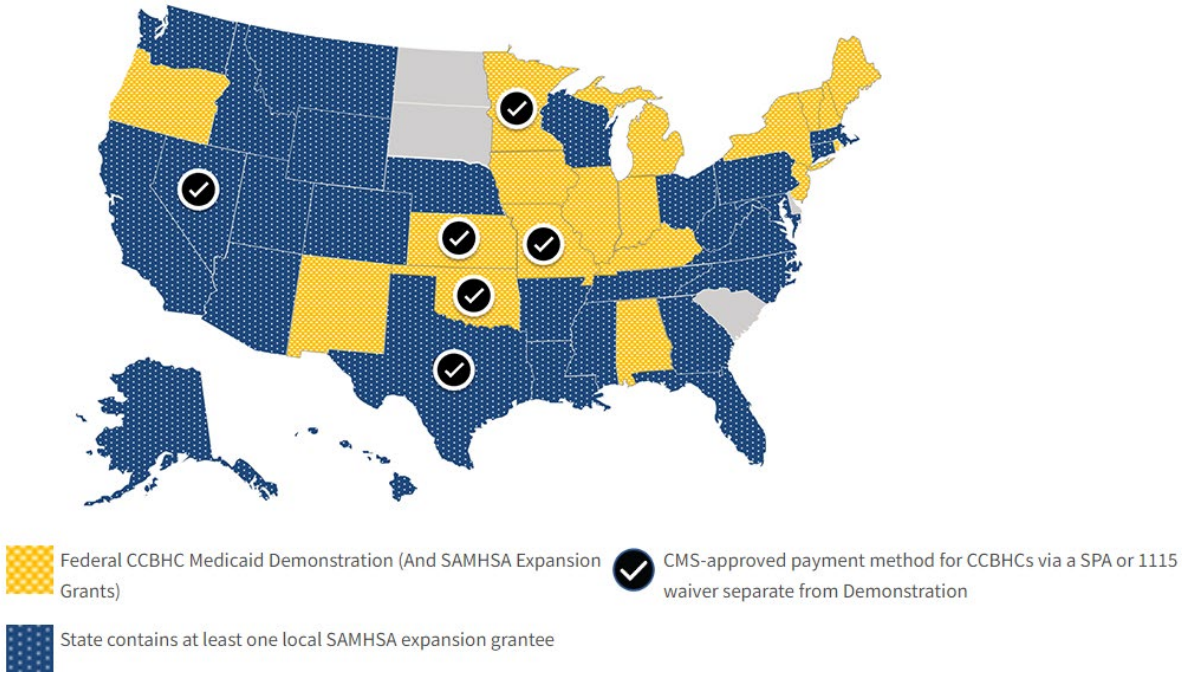
The Nationwide movement toward access to services and behavioral and physical health integration with social determinants of health has been spurred by SAMHSA. While national data tends to be behind, through August of 2022, CCBHC has prompted a 23% increase in clinics when compared to pre-CCBHC numbers. CCBHCs have also increased MAT availability, collaboration with Justice Systems and awareness of health disparities.

CCBHC Demonstration Overview (michigan.gov)

Map of CCBHCs Across the United States*

**Current as of March 6, 2023.*

Currently, there are over 500 CCBHCs operating across the country, as either CCBHC-E grantees, as clinics participating in their states' Medicaid demonstration, or as a part of independent state CCBHC programs.



Section 223 Medicaid CCBHC Demonstration and State Programs | SAMHSA

CCBHCs in Michigan

Michigan, as a state, joined the cause in 2020 with the Coronavirus Aid, Relief, and Economic Security (CARES) Act. MDHHS continues to incorporate and encourage additional CCBHC sites to include non-Community Mental Health Services Programs (CMHSP). MDHHS remains responsible for certifying and monitoring all CCBHC sites.

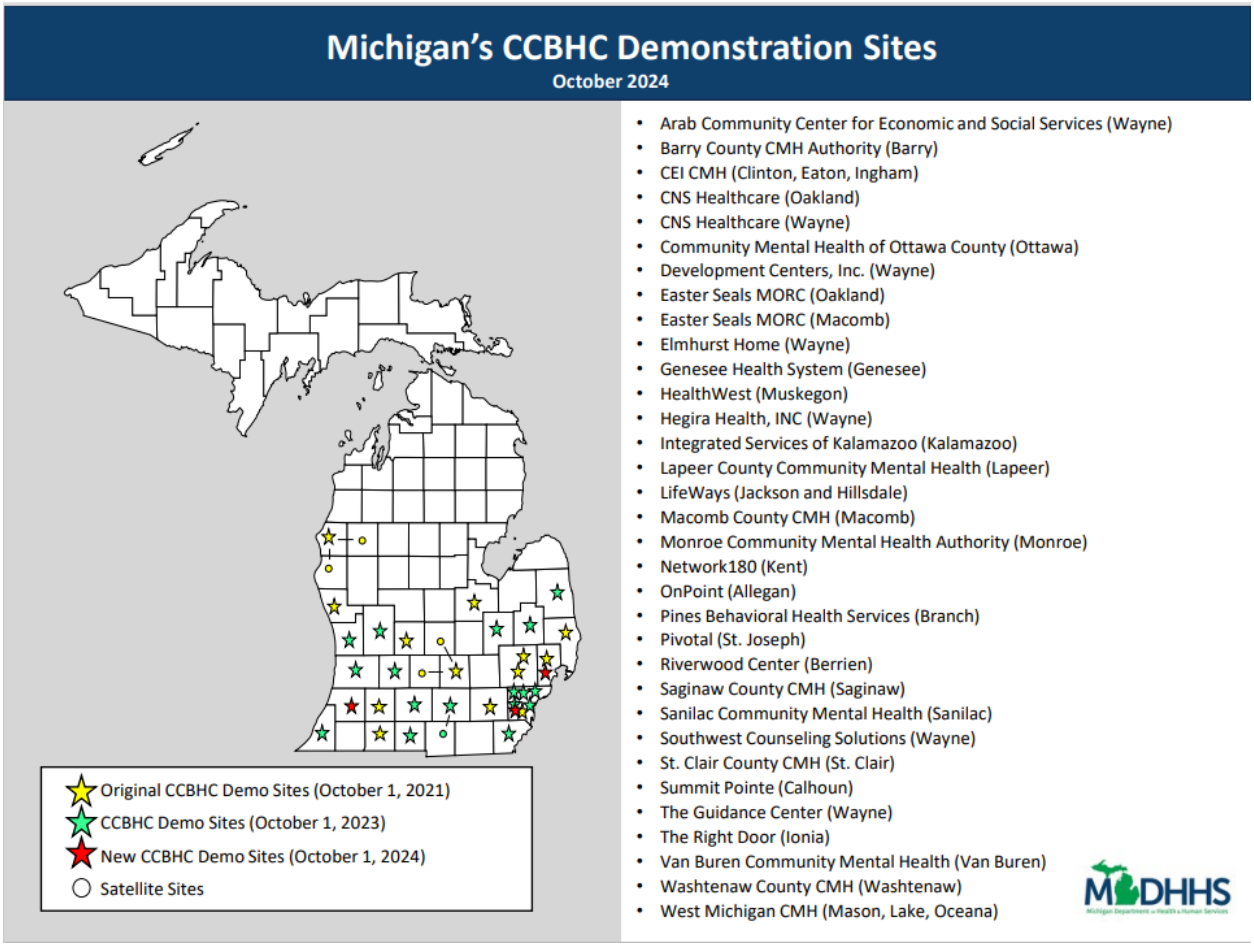
In FY23, 13 Medicaid-funded CCBHCs provided services to approximately 75,000 unique individuals across Michigan. Approximately 30% of individuals served were children and young adults ages 0 to 21 and 70% were adults.

Additional budget recommendations include funding to increase access to behavioral health services through direct program capacity enhancements, a managed care rate increase for behavioral health services, incentives to build a pipeline of qualified providers and ongoing resource support for people experiencing behavioral health crises.

- $36.1 million to increase rates for behavioral health services provided through Medicaid Health Plans (MHP).

- $8.3 million to establish Medicaid reimbursement for peer provided substance use disorder services.
- $7.3 million for the Michigan Crisis and Access Line to ensure structural ongoing support for services currently provided to individuals experiencing behavioral health crises.
- $4 million to enhance gambling prevention and treatment services including residential gambling treatment, recovery support services, youth education and prevention services, research and evaluation, provider training, a media campaign, and the problem gambling hotline.

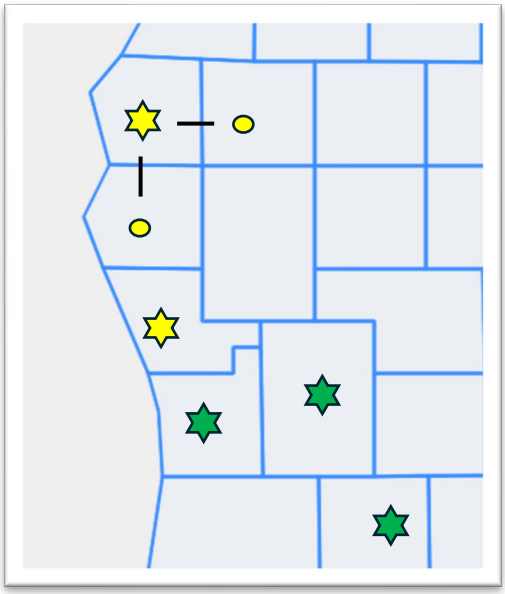
Nearly $250 million included in FY25 budget to expand access to behavioral health services for Michigan families



PowerPoint Presentation

CCBHCs in LRE

PIHPs, like LRE, provide oversight and support for CCBHC sites and are responsible for reconciling funding for each site. LRE is currently the only PIHP in the state to claim all member CMHSPs as CCBHCs. This allows LRE to be a prominent actor in the State's efforts to expand and develop the CCBHC model. As partner demonstration sites, the member CMHSPs can better coordinate service delivery, support model development, and advocate for state policy that maximizes the effectiveness of integrated, whole-person healthcare across the state.



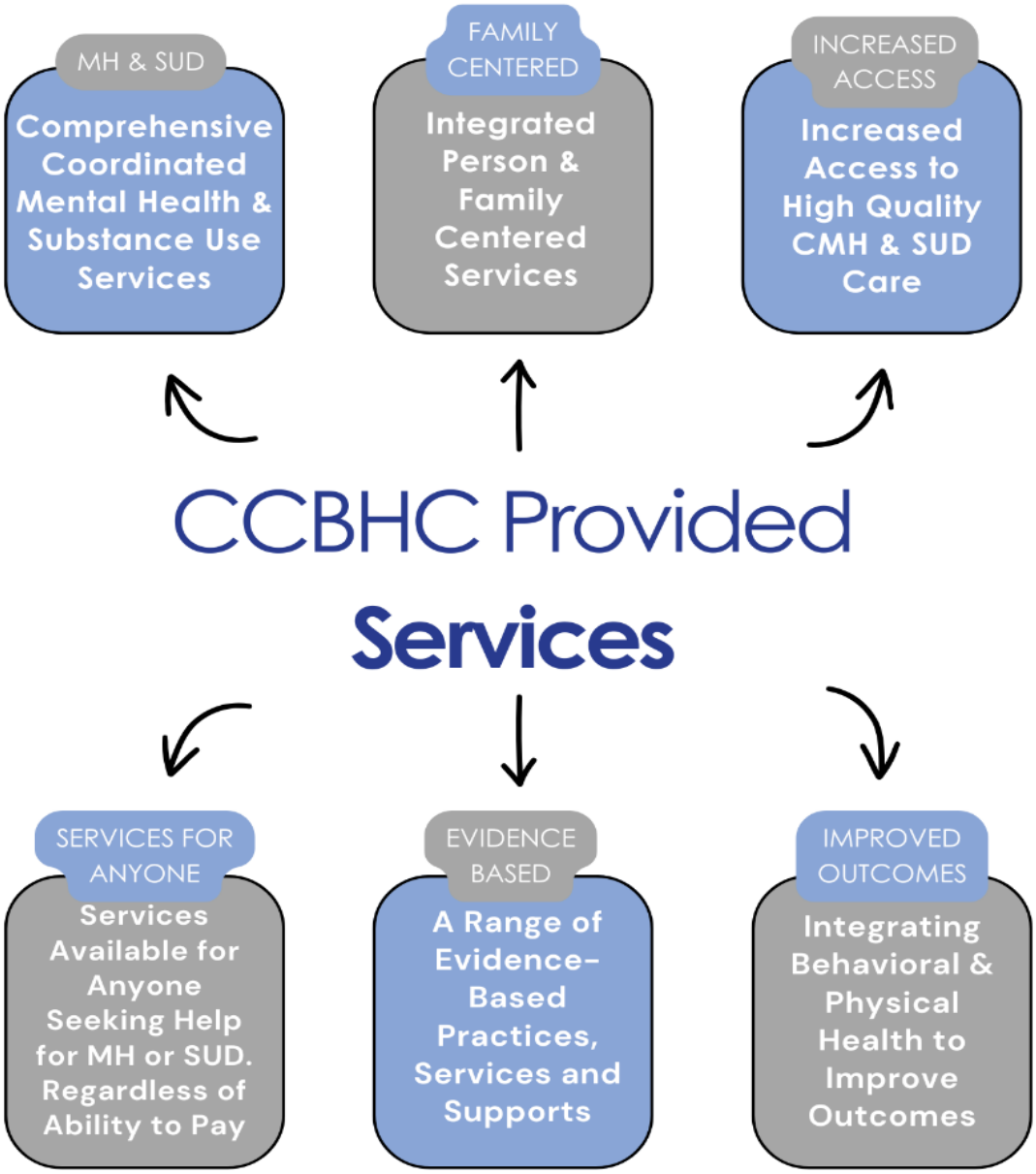
LRE CCBHC Sites

LRE is currently the only PIHP in the state to claim all members as CCBHCs. This allows LRE to be a prominent actor in the state's efforts to expand and develop the CCBHC model. As partner demonstration sites, the member CMHSPs can better coordinate service delivery, support model development, and advocate for state policy that maximizes the effectiveness of integrated, whole-person healthcare across the state.

Yellow stars indicate initial Demonstration sights: HealthWest and West Michigan CMHSP

Green stars are Network180, OnPoint, and Ottawa CMHSP who joined slightly later.

The mission of LRE is to strengthen the public behavioral health system and ensure excellence in services through regional support and leadership for collaboration and innovation. LRE serves 7 counties: Allegan, Kent, Lake, Mason, Muskegon, Oceana and Ottawa counties. There are 5 CMHSP's in total that are all CCBHCS. West Michigan Community Mental Health (WMCMH) serving, Lake, Mason, and Oceana counties were part of the initial demonstration application in FY21. HealthWest (Muskegon) was also part of the initial demonstration that began October 1, 2021. The preliminary demonstration period of two years has since been extended through 2026. In February 2023, the Centers for Medicare and Medicaid (CMS) announced the opportunity for states participating in Section 223 of PAMA to expand demonstration sites. The remaining three community mental health services programs—Community Mental Health of Ottawa County (CMHOC), Network180, and OnPoint—all completed the application and certification process and became Demonstration CCBHCs effective October 1, 2023. During FY2024, LRE assisted the additional 3 SAMHSA grantees with technical assistance (TA) for certification and have aided them along the way.



Michigan is committed to supporting the CCBHC model and measuring its transformative effect on behavioral and physical health care. The model, as shown in the data above, allows Michigan CCBHC demonstration clinics to expand the scope of mental health and substance use services in their community and serve anyone who walks through the door, regardless of their diagnosis or ability to pay.

PIHP Requirements, Cost and Quality Metric Reporting, and Oversight

CCBHC general requirements utilize MDHHS contracts and policy as well as Medicaid statutes, policies, procedures, rules, and regulations to dictate PIHP involvement and oversight. LRE also uses policy and contracts to ensure access and compensation meet requirements. LRE holds contracts with each of the CMHSPs, and therefore CCBHCs. MDHHS manages the certification and start-up training processes for all CCBHCs, however, LRE is notified of their results and will assume responsibilities for training when necessary.

Supporting CCBHCs through information-gathering and sharing is a primary function of LRE using Power-BI and Zenith IDCP data platforms. LRE tracks encounters and daily visits and facilitates regular regional and internal CCBHC meetings, to provide opportunities to share trainings, outcomes, and technical assistance that supports effective delivery of services. The Waiver Supports Application (WSA) is used to identify CCBHC utilizers and facilitate transfers to and from CCHBCs. The WSA is maintained by LRE and is used for the purposes of reporting and payment structures.

LRE has worked with the CMHSPs initially in grant applications for CCBHC and then through Demonstration certification. At the state level, LRE has been advocating for policies to support the development of CCBHCs, including the inclusion of billing codes to enhance integrated practices. In October 2023, LRE began developing new customer satisfaction surveys to meet CCBHC requirements, collaborating with CMHSPs to finalize and implement these surveys. Additionally, LRE has been actively supporting prospective CCBHC sites during the Demonstration expansion application period, providing input and resources.

Noteworthy Accomplishments and Numbers

CCBHCs in the LRE region received approximately $43 million in additional funding through supplemental payments. CCBHC requires services to be provided regardless of insurance status. A little over $500,000 in additional funding was received in FY24 to offset expenses to services provided to approximately 4,350 non-Medicaid individuals.

Over 5,000 individuals identified as having mild to moderate mental health needs received services through CCBHCs. While more than 1,500 individuals served through CCBHC had a social driver of health concern (housing, food, financial instability). By having contact with these individuals, it is hoped that an impact can be made to improve situations.

CCBHC Satisfaction Survey

In October 2023, the LRE initiated the process of determining the appropriate versions of the Mental Health Statistics Improvement Program (MSHIP) and Youth Services Survey (YSS) to use for the new customer satisfaction survey, as required by the CCBHC handbook. LRE confirmed which surveys to adapt and began collaborating with the CMHSPs to develop the 2024 customer satisfaction surveys.

The customer satisfaction survey workgroup, consisting of representatives from each CMHSP in the region, spent the past year assembling the survey demographics and distribution process for both CCBHC and non-CCBHC clients. The final components were completed and approved by the region before being presented to the CMHSP CEOs for final approval.

The LRE's internal Information Technology (IT) team produced a final version of the survey for each CMHSP, creating a survey for CCBHC clients and another for non-CCBHC clients. The workgroup reconvened to review the 30-day release of the CCBHC survey, which will collect, and process samples as specified in the CCBHC handbook.

To streamline data collection, the LRE's IT team developed a system for CMHSPs to enter completed surveys. Additionally, a Power BI dashboard was created to compile and analyze the collected data, providing a breakdown of customer satisfaction categories for final reports.

This collaborative effort required multiple teams to work together to design, distribute, collect, and analyze the customer satisfaction survey, gauging overall service satisfaction. A comprehensive report will be generated, detailing the survey's effectiveness and results from each CMHSP, including a comparison of satisfaction levels between CCBHC and non-CCBHC clients.

Scorecard

LRE collected **795 Customer Satisfaction Surveys** related to CCBHC consumers during 2024. Scores are on a scale of 1-5 with 5 being the best score.

I like the Services that I receive here?

4.44 out of 5

I would recommend this Agency to a friend or family member?

4.37 out of 5

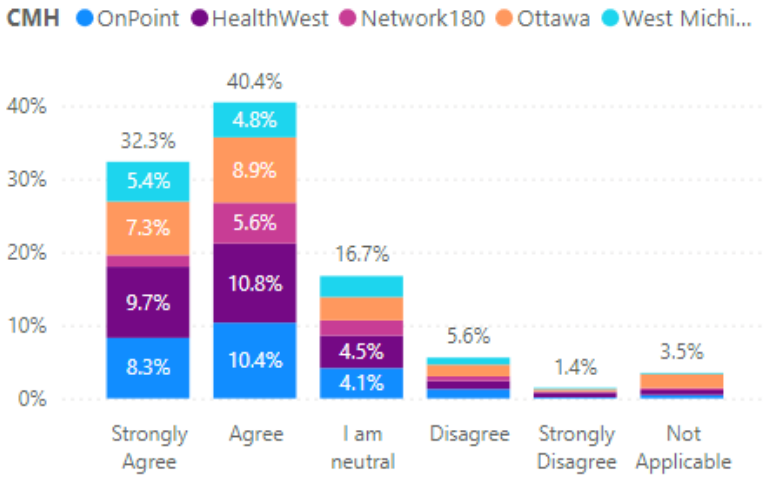
I am better able to control my life?

4.01 out of 5

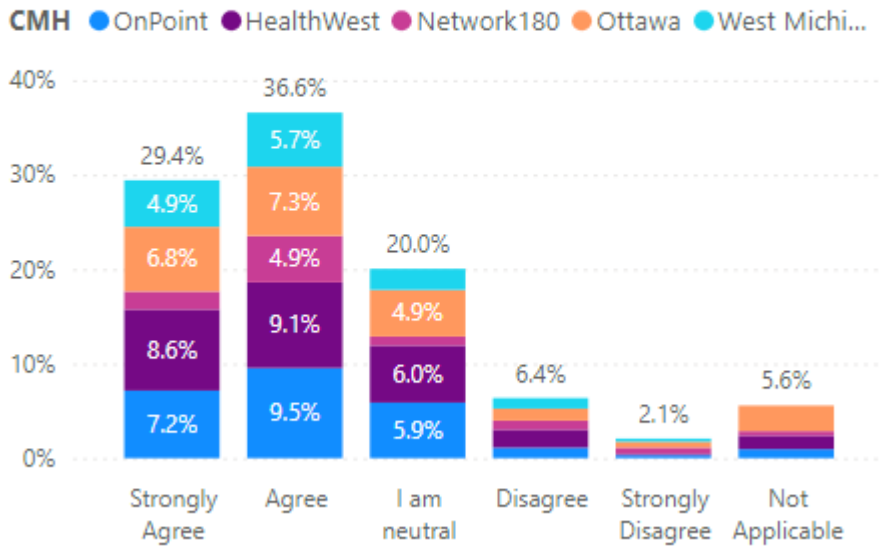
I am getting along better with my family?

3.98 out of 5

I Deal More Effectively With Daily Problems



I Am Better Able To Take Care Of My Needs



Open in Power BI

LRE Customer Satisfaction Surveys FY24

Data as of 12/4/24, 8:31 AM

Filtered by FormNum (is Form 2), ApprovalStatus (is Approved)

CCBHCs impact their community in **unique ways**

LAKESHORE REGIONAL ENTITY

NETWORK180

Network180 has opened a Behavioral Health Urgent Care facility in May of 2024 that is available to the community 24/7. Network180 has also added staff to their Mobile Crisis Response, Targeted Case Management, and Care Coordination teams to increase member access to services.

HEALTHWEST

HealthWest has developed a Medication Assisted Treatment program operated through an on-site primary care clinic. They have two medical providers who are delivering MAT services and the individuals receiving MAT are provided with education and screening for HIV and Hepatitis. These individuals are also offered vaccination when they are due and if clinically appropriate. HealthWest has developed a Comprehensive Assessment Team who completes the Initial Assessment for all incoming individuals to best determine needs and program assignment.

WEST MICHIGAN CMH

WMCMH has significantly increased their capacity to assist those within the older population. They have also moved their Veteran Liaison to full-time and reorganized their "pathways" to services to better accommodate those with mild to moderate needs as well as improve coordination with community providers and resources. Thanks to CCBHC resources, WMCMH has been able to maintain a Naloxone vending machine in their lobby.

OTTAWA COUNTY CMH

CMHOC has added Navigators to provide brief interventions for members with mild to moderate mental health concerns and added medical assistants to improve coordination efforts in the community. They have also partnered with community health and wellness professionals to provide group or one-on-one coaching.

ONPOINT

OnPoint has increased their service array to include additional Youth Peer Support, Outpatient Groups (to include Adolescent SUD CBT, Mindfulness and Seeking Safety), and Primary Care Screening within the intake assessment workflow. They have added a Medical Clinic Care Coordinator and implemented same day access.

Detailed CCBHC Accomplishments

There are six quality metrics that are set by MDHHS as goals for the CCBHCs. Each of these goals has a financial incentive attached to it. WMCMH is the only CCBHC in the region to receive the maximum compensation as they succeeded at reaching all measures. HealthWest and WMCMH earned a total of nearly $2.6 million based on their performance in FY23 and meeting all or partial of the six behavioral healthcare quality measures. The bonus payment schedule is based on a 1-year look back.

Network180

Several key expansions and improvements in services occurred throughout 2024. These include increasing adult outpatient capacity for individuals with mild to moderate needs, developing a specialized Psychiatric Services Only option, and launching a 24/7 Urgent Care (Brief Crisis Intervention) service. Additionally, the Targeted Case Management team was expanded to serve 900 more clients, and the Mobile Crisis Response team increased staffing to operate around the clock beginning in September 2024. The organization also created and hired eight Care Coordinator positions for various clinical programs between Spring and Fall 2024 and added specific training to address social issues facing older adults. Other service expansions include the growth of the Dialectical Behavior Therapy (DBT) program. Moreover, there is a stronger focus on data collection and reporting, with increased use of PowerBI dashboards to track and improve outcomes, a shift that began in Spring 2024.

HealthWest

HealthWest offers a comprehensive range of healthcare and therapeutic services, including a Medication Assisted Treatment (MAT) program, which is central to its services. This program provides education and screening for HIV and Hepatitis, along with vaccination when appropriate. HealthWest has also expanded its service delivery to include Telehealth, allowing clients more flexible options for care alongside in-person services. The outpatient therapy department has grown to support individuals with mild to moderate needs and includes a specialized medication/injection clinic for those in recovery.

A key feature of HealthWest's approach is its Comprehensive Assessment Team, which conducts initial assessments to determine clients' needs and assigns appropriate programs. The organization is also enhancing its multi-disciplinary care teams by redefining roles for various staff members, including case managers, nurses, clinicians, and recovery coaches. Additionally, RNs and medical assistants now have access to hospital records, improving care coordination and client health management.

HealthWest emphasizes health monitoring, with screenings conducted at intake and annually thereafter. Key health indicators are tracked regularly, and the organization has

developed a Community Care Coordination Program to assist individuals with acute symptoms and connect them to necessary resources. The program also ensures follow-up care for clients already engaged with other providers.

To better serve older adults, HealthWest has updated its Person-Centered Planning Policy and is rolling out staff training. The organization has also appointed a dedicated Veterans Navigator to provide tailored support for veterans.

Data collection and performance monitoring are central to HealthWest's operations, with regular tracking of service delivery, client outcomes, and performance indicators. HealthWest adheres to Michigan's Mission-Based Performance Indicator System (MMBPIS) and uses this data to continuously improve the quality of care and ensure accountability.

Overall, HealthWest focuses on expanding access to care, improving service coordination, and utilizing data to assess program effectiveness. The organization is committed to providing personalized care, with particular attention to the unique needs of veterans and older adults.

West Michigan Community Mental Health

In FY24, West Michigan Community Mental Health (WMCMH) expanded its services to better support older adults and veterans, as well as enhance care coordination across its service areas. To address the unique needs of the older population, WMCMH trained three Adult Care Managers in competencies specific to older adults through the Rush Center for Excellence in Aging. This training ensures that consumers over 60 are paired with staff who have the necessary cultural understanding and skills. Additionally, the Clinical Director attended the Michigan Mental Health and Aging conference to further inform the agency's programming strategies.

WMCMH also strengthened its services for veterans by transitioning its part-time Veteran Liaison position to full-time. The Veteran Liaison now provides staff training, coordinates with veteran service organizations, and offers increased outreach and support for veterans across the three-county catchment area.

A major development in FY24 was the launch of WMCMH's in-house Intensive Outpatient Program (IOP) on October 1, 2024, though much of the preparatory work occurred in FY24. WMCMH also created new "Pathway 4" services for individuals with mild to moderate needs, offering support coordination, peer support, and medication management, along with direct referrals to prescribers when clinically appropriate.

WMCMH has expanded its coordination of care by securing new agreements with organizations such as COVE (Domestic Violence Shelter), West Shore ESD, and the Oceana County Department of Veterans Affairs. It also updated existing agreements with local

health departments and family health care services to ensure seamless care across physical health, behavioral health, social services, and other community resources.

The treatment process at WMCMH involves regular updates to person-centered and family-centered diagnostic evaluations, occurring at least every 90 days or sooner if there are significant changes in a person's condition or treatment goals. To ensure quality and timeliness, WMCMH employs multiple monitoring methods, including supervisory oversight, electronic tracking, and reviews by the Continuous Quality Improvement (CQI) team.

WMCMH also tracks a variety of metrics to monitor the effectiveness of its CCBHC activities, including the frequency of evidence-based practices, the use of health information technology, care coordination efforts, and health screenings. In response to updated federal requirements, WMCMH revamped its data collection and reporting systems to align with revised SAMHSA clinic measures.

Community Mental Health of Ottawa County

CMHOC has expanded its service offerings to better support individuals with mild to moderate mental health needs through the introduction of Navigators who provide short, brief interventions. These Navigators assist with warm hand-offs to community agencies, ensuring that individuals are successfully connected to the services they need.

The organization is also working to develop designated collaborating organization (DCO) agreements for Supported Employment services and ASAM 2.1 to further expand its services and improve care for individuals in need. Additionally, CMHOC is focused on enhancing care coordination by embedding Medical Assistants on each treatment team, improving integrated health initiatives and supporting better coordination with community partners and contracted agencies.

In March 2024, CMHOC established a service understanding with the Ottawa County VA to strengthen care coordination and better serve military veterans, active-duty service members, and military families. To further support individuals' overall health and wellness, CMHOC has partnered with a licensed dietitian to offer both group and individual nutrition counseling.

CMHOC continues to prioritize person-centered planning, ensuring that services are tailored to the individual's preferences, goals, and abilities. The organization has successfully implemented the required CCBHC quality measures within its Electronic Medical Record (EMR) system, enabling the collection and reporting of relevant data. Ongoing meetings are held to ensure the accuracy and efficiency of data collection and reporting.

OnPoint

The organization is implementing several key service expansions and improvements. These include increasing adult outpatient capacity for mild to moderate individuals, launching a Psychiatric Services Only option, and introducing a 24/7 Urgent Care (Brief Crisis Intervention) service. The Targeted Case Management team was expanded to support 900 additional clients, and the Mobile Crisis Response team began operating 24/7 in September 2024. The organization also created eight new Care Coordinator positions and offered training to address social issues facing older adults. Additionally, the Dialectical Behavior Therapy (DBT) program was expanded, and there was an increased emphasis on data collection and reporting, including greater use of PowerBI dashboards to improve outcomes.

LRE Through the Process

LRE has provided ongoing technical assistance (TA) to three of the SAMHSA grantees, assisting them with the certification process and supporting their startup efforts throughout the fiscal year. At the state level, LRE has been advocating for policies and practices to promote the CCBHC model, including lobbying for billing codes to support integrated care and fiscal health for CCBHC demonstration sites. LRE is also in collaboration with the Michigan Department of Health and Human Services (MDHHS) to onboard Cherry Health, a prospective non-CMHSP CCBHC provider applicant.

In October 2023, LRE began developing a customer satisfaction survey for CCBHCs to meet the requirements in the CCBHC handbook. The LRE team collaborated with Community Mental Health Service Providers (CMHSPs) to design and finalize the survey, which includes designation of CMH or CCBHC participation. The process involved cross-team efforts to create the survey, distribute it, collect responses, and analyze the data through a Power BI dashboard. This system will enable tracking of customer satisfaction across various service categories.

LRE has also been actively supporting new and prospective CCBHC sites, providing assistance, resources, and input during the application period for the CCBHC Demonstration expansion. Leadership and staff have contributed data and historical insights to help applicant sites gain acceptance into the program, and new sites are being engaged in regional CCBHC meetings to prepare for implementation.

CCBHC DY3 Evaluation

TO ASSESS THE EFFECTIVENESS IN SUPPORTING CCBHC DEMONSTRATION, LRE COMPLETED THE FOLLOWING EVALUATION BASED ON THE RESPONSIBILITIES AND REQUIREMENTS DEFINED IN THE MDHHS CCBHC HANDBOOK.

Status of **PIHP** Requirements

Contract or develop a MOU with all CCBHCs in their region and ensure access to CCBHC services for their enrollees.	
PIHPs must understand the CCBHC certification process and certification requirements.	
Establishing an infrastructure to support CCBHC's in care coordination and providing required services.	
Collecting and sharing member-level information regarding health care utilization and medications with CCBHCs	
Providing implementation and outcome protocols to assess CCBHC effectiveness.	
Developing training and technical assistance activities that will support CCBHC in effective delivery of CCBHC services.	
Establishing an infrastructure to support CCBHC's in care coordination and providing required services.	
PIHPs must distribute data requests from MDHHS to CCBHCs for data collections.	
PIHPs must validate by reviewing for completion, evaluate for reasonability and accuracy of data requests prior to sending to MDHHS.	
PIHPs provide training and technical assistance on certification requirements.	
PIHPs must utilize Michigan claims and encounter data for the CCBHC population.	
PIHPs must use CareConnect360 to analyze health data spanning different settings of care	
PIHPs must provide support to CCBHCs related to Health Information Technology, including WSA, CareConnect360, EHR, and HIEs.	

LAKESHORE REGIONAL ENTITY

CCBHC DY3 Evaluation

TO ASSESS THE EFFECTIVENESS IN SUPPORTING CCBHC DEMONSTRATION, LRE COMPLETED THE FOLLOWING EVALUATION BASED ON THE RESPONSIBILITIES AND REQUIREMENTS DEFINED IN THE MDHHS CCBHC HANDBOOK.

CCBHC Enrollment	PIHP will use the WSA for CCBHC assignment activities and information exchange.	✓
	Verify diagnostic criteria for CCBHC recipients who are not automatically identified & enrolled and non-Medicaid recipients are entered into the WSA.	✓
	Require and monitor the CCBHCs have policies and procedures in place to ensure collection of consent forms.	✓
CCBHC Payments	The PIHP is responsible for reimbursing CCBHCs for each valid CCBHC encounter in a timely manner.	✓
	PIHP's will submit encounters to MDHHS in accordance with Section 5.C.1 of the CCBHC handbook.	✓
Cost & Quality Metric Reporting	Review, audit and submit CCBHC cost and quality metric reports to MDHHS.	✓
	CCBHC & PIHPs must complete and submit reconciliation templates quarterly.	✓
	PIHP's must monitor, collect, and report grievance, appeal, and fair hearing information, with details, by CCBHC to MDHHS.	✓
	PIHP's must submit other MDHHS-required reports such as FSRs pursuant to MDHHS defined instructions and timelines.	✓
Oversight	Monitor CCBHC performance and lead quality improvement efforts.	✓
	Establish a continuous quality improvement program and collect and report on data that permits an evaluation of metrics at the population level.	✓
	Audit for Cost, Quality, Performance and Compliance.	✓
	Compliance with other State and/or Federal requirements	✓

LAKESHORE REGIONAL ENTITY

Next **Steps**

06

- Cherry Health applied to be a CCBHC during year 3. The application was not accepted, however it is anticipated they will reapply. Preparatory conversations and connections are ready and waiting.

Potential for a non-CMH CCBHC Being Added in Our Region

05

- DCO's have been a pain-point as the process is quite prescriptive. Some CCBHCs have been able to enter into agreements with community providers as DCOs while some providers have ended their DCO agreements. LRE continues to provide technical assistance when requested

The Evolution of the DCO Program

04

- Since data from multiple years is now available, LRE will be utilizing Refocus LLC (Jack Calhoon) to begin trend analysis for greater understanding and looking to the future.

Start to Analyze & Trend Data

03

- LRE worked diligently to provide timely and accurate data to MDHHS. LRE participates in statewide workgroups and webinars to ensure the most current needs are understood and to provide input.

Ensure all CCBHCs are Meeting Required Outcomes (per MDHHS)

02

- While much of the CCBHC monitoring is performed by MDHHS, LRE is available to CCBHCs in the region at their request. LRE is continuously exploring ways to assist the region with trainings or other value-add technical assistance.

Continue to Help Provide CCBHCs Technical Assistance They Request

01

- MDHHS has recently released and posted version 2.0 of the CCBHC Handbook. While the changes are not immense, there are several and LRE is committed to understanding the updates as they apply to both LRE oversight and CCBHC adherence to requirements. An implementation plan is now being required. LRE has completed the plan and are awaiting MDHHS' review and outcome.

Ensure Adherence to the Updated Manual

EXECUTIVE COMMITTEE SUMMARY
Wednesday, January 15, 2025, 1:00 PM

Present: Patricia Gardner, Janet Thomas, Richard Kanten, Craig Van Beek, Ron Bacon
LRE: Mary Marlatt-Dumas, Stephanie VanDerKooi, Stacia Chick

WELCOME and INTRODUCTIONS

i. Review of January 15, 2025, Meeting Agenda
ii. Review of December 11, 2024, Meeting Minutes

The January 15, 2025, agenda and the December 11, 2024, meeting minutes are accepted as presented.

FY25 MDHHS/PIHP CONTRACT UPDATE

Legal filed an amended complaint adding Region 6 to the lawsuit. The LRE has not joined the lawsuit and has not signed the contract sent from MDHHS, although we did sign the redline version. Previously, LRE received communications stating we cannot move forward with SUDHH. Chirs Ryan, Taft Law, worked with the AG that allowed for the order to be stipulated therefore allowing LRE and the other PIHPs to continue with the SUDHH. Ottawa County CMH will continue to enroll individuals.

LRE spoke with legal who will draft a pro/con analysis for joining the lawsuit. Currently, there has been no further discussion regarding the redline contract that LRE signed and submitted to MDHHS. Kristen Jordan said during a meeting that they are working on the contract internally. Ms. Dumas comments that Kristen Jordan has continued to be willing to work with the PIHPs.

MDHHS COST SETTLEMENT UPDATE

At this time LRE is unsure if or when MDHHS will recoup the $13.7 million due to the previous cost settlement issue. Ms. Dumas discussed LRE's disagreement with MDHHS methodology used with Kristen Jordan who asked LRE to put that in writing and address it to her. LRE believes we are still aligned with the original order. Ms. Chick will draft a communication stating that we are not in agreement and after legal review will send to MDHHS

Ms. Dumas requested that MDHHS notify LRE in advance of when they are going to recoup the $13.7 million. They agreed that they would but did not respond to the questions of how far in advance. Advance notice will allow the LRE Board time to decide how to move forward.

Mr. Brashears recommends the CMH CEOs draft an impact statement/analysis if the $13.7 million were taken from the system. This could also be brought to legislators explaining the negative impact on the system if MDHHS recoups these funds.

Ms. Gardner recommends Ms. Marlatt-Dumas and Ms. Chick complete the communication to MDHHS regarding disagreement of their methodology and the CMH CEOs draft an impact analysis that will be directly attached to the communication.

Action: LRE will right the communication to MDHHS and will discuss the impact analysis with the CMH CEOS during Operations Committee.

BOARD GOVERNANCE POLICY REVIEW

Governance Policies are reviewed by Ms. Marlatt-Dumas. The EC group would

i. 10.4 Board Governance
   - EC recommends rewriting and condensing the policy.

ii. 10.6 Open Meetings Act
   - EC recommends bringing it to the full Board for approval.

iii. 10.13 Communication and Counsel to the Board of Directors
   - EC recommends bringing it to the full Board for approval.

iv. 10.17 Management Delegation and Executive Limitations
   - EC recommends rewriting and condensing the policy.

BOARD MEETING AGENDA ITEMS

i. Action Items
   a. Governance Policies
      - 10.6 and 10.13 will be brought to the Board for approval.
   b. Budget Amendment #1

BOARD WORK SESSION AGENDA

There will be no work session.

OTHER

Future Work Session Agenda Item: Have the CMH CEOs present a 15-minute presentation on service delivery topics in their counties.

CEO EVALUATION

The Executive Committee met with Ms. Marlatt-Dumas and Human Resources to discuss the results of the CEO evaluation. All other attendees were asked to leave the meeting at this time.

UPCOMING MEETINGS

- January 22, 2025 – LRE Executive Board Work Session, 11:00 AM
  GVSU, Muskegon Innovation Hub, 200 Viridian Dr, Muskegon, MI 49440
- January 22, 2025 – LRE Executive Board Meeting, 1:00 PM
  GVSU, Muskegon Innovation Hub, 200 Viridian Dr, Muskegon, MI 49440
- February 19, 2025 – Executive Committee, 1:00PM
- February 26, 2025 – LRE Executive Board Work Session, 11:00 AM
  GVSU, Muskegon Innovation Hub, 200 Viridian Dr, Muskegon, MI 49440
- February 26, 2025 – LRE Executive Board Meeting, 1:00 PM
  GVSU, Muskegon Innovation Hub, 200 Viridian Dr, Muskegon, MI 49440

ADJOURN

Policy 10.6

POLICY TITLE: **OPEN MEETINGS, FREEDOM OF INFORMATION AND REASONABLE ACCOMMODATION**		**POLICY # 10.6**	
Topic Area: Governance/Management		Page 1 of 4	**REVIEW DATES**
Applies to: LRE Executive Board		**ISSUED BY:** Chief Executive Officer	1/25/23 12/17/24
Developed and Maintained by: LRE Executive Board, LRE CEO		**APPROVED BY:** Board of Directors	
Supersedes: N/A		**Effective Date:** 1/25/2023	**Revised Date:** 12/27/24

I. PURPOSE

To provide the LRE Board specific requirements for operating in compliance with Michigan's Open Meetings Act, 1976 PA 267, the Freedom of Information Act, 1976 PA 422; Title VII of the Civil Rights Act of 1964; Americans with Disabilities Act, and the ADA Amendments Act of 2008

II. POLICY

The Lakeshore Regional Entity Board of Directors members, officers, staff and other employees shall fully comply with all applicable laws, regulations and rules, including without limitation 1976 PA 267 (the "Open Meetings Act"), 1976 PA 422 (the "Freedom of Information Act"), Title VII of the Civil Rights Act of 1964; Americans with Disabilities Act, and the ADA Amendments Act of 2008.

The Regional Entity shall develop such compliance policies and procedures. If any such noncompliance is found, immediate corrective action as defined in the Lakeshore Regional Entity Operating Agreement shall be taken by the appropriate source to ensure compliance. Compliance policies and procedures will be defined in the Operating Agreement.

III. APPLICABILITY AND RESPONSIBILITY

This policy applies to the LRE CEO and Board.

IV. MONITORING AND REVIEW

This policy will be reviewed annually by the LRE CEO

V. DEFINITIONS

Closed Session: A meeting or part of a meeting of a public body that is closed to the public.

Decision: A determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, order, ordinance, bill, or measure on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy

Disability: a mental or physical impairment, or a record or history of such an impairment, that prevents participation in major life activities**.**

Disabled Person: Someone who has a mental or physical impairment, or a record or history of such an impairment, that prevents participation in major life activities.

Public Body: Any state or local legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, that is empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function; a lessee of such a body performing an essential public purpose and function pursuant to the lease agreement; or the board of a nonprofit corporation formed by a city under section 4o of the home rule city act, 1909 PA 279, MCL 117.4o.

Meeting: The convening of a public body at which a quorum is present for the purpose of deliberating toward or rendering a decision on a public policy, or any meeting of the board of a nonprofit corporation formed by a city under section 4o of the home rule city act, 1909 PA 279, MCL 117.4o.

Reasonable Accommodation: A reasonable accommodation is a modification or adjustment to a job, the work environment, or the way things usually are done that enables a qualified individual with a disability to enjoy an equal employment opportunity. An equal employment opportunity means an opportunity to attain the same level of performance or to enjoy equal benefits and privileges of employment as are available to an average similarly situated employee without a disability.

The ADA requires reasonable accommodation in three aspects of employment:

1) to ensure equal opportunity in the application process,
2) to enable a qualified individual with a disability to perform the essential functions of a job, and
3) to enable an employee with a disability to enjoy equal benefits and privileges of employment.

Mental impairment: Any psychological or mental disorder, such as emotional or mental illness, mental retardation, organic brain syndrome, and learning disabilities. These include, but are not limited to:

- Muscular dystrophy

- Orthopedic, speech, and hearing impairments
- Visual impairments
- Hearing impairments
- Heart disease
- Epilepsy
- Cerebral palsy
- Intellectual/Developmental disability
- Drug addiction
- Specific learning disabilities

Physical Impairment: A physiological disorder or condition, anatomical loss, or cosmetic disfigurement that impacts one or more of these body systems:

- Neurological
- Special-sense organs
- Musculoskeletal
- Digestive
- Cardiovascular
- Respiratory
- Reproductive
- Hemic and lymphatic
- Endocrine
- Skin
- Genitourinary

VI. PROCEDURES

LRE shall operate in compliance with the procedures prescribed in Michigan's Open Meetings Act, 1976 PA 247, in Michigan's Freedom of Information Act, 1976 PA 442, Title VII of the Civil Rights Act of 1964; Americans with Disabilities Act, and the ADA Amendments Act of 2008

Board members seeking reasonable accommodations will submit a formal request using the "Reasonable Accommodations Request Form" to the LRE Board Executive Committee. The request will be reviewed by the Executive Committee during the next regularly scheduled Executive Committee meeting and a disposition provided to the requesting Board member within seven (7) days of the date of review.

VII. RELATED POLICIES AND PROCEDURES

- Michigan's Open Meetings Act, 1976 PA 247. http://www.legislature.mi.gov/(S(y0izyfd1uq0jvg2hi5ziwenc))/mileg.aspx?page=GetObject&objectname=mcl-Act-267-of-1976
- Michigan's Freedom of Information Act, 1976 PA 442 http://www.legislature.mi.gov/(S(getco1pddofdrjvliafthpbl))/mileg.aspx?page=GetObject&objectname=mcl-Act-442-of-1976

- Lakeshore Regional Entity Operating Agreement
- Title VII of the Civil Rights Act of 1964;
- Americans with Disabilities Act;
- ADA Amendments Act of 2008
- Michigan Elliott-Larsen Civil Rights Act
- LRE Policy
- LRE Reasonable Request for Accommodation

VIII. CHANGE LOG

Date of Change	Description of Change	Responsible Party
12/27/24	Reviewed – No Changes	CEO

Policy 10.13

POLICY TITLE: **COMMUNICATION AND COUNSEL TO THE BOARD OF DIRECTORS**		**POLICY #: 10.13**	
Topic Area: Executive Responsibility		**Issued By and Approved By:** Board of Directors	**REVIEW DATES**
Applies to: Chief Executive Officer, Chief Compliance Officer, Chief Financial Officer			11/18/21
			1/8/2025
Developed and Maintained by: CEO and Designees			
Supersedes: N/A		**Effective Date:** 9/17/16	**Revised Date:** 1/8/2025

I. PURPOSE

To make appropriate decisions, the Entity Board of Directors must be informed of relevant information by the Entity Executive staff.

II. POLICY

Chief Executive Officer

The Lakeshore Regional Entity (the "Entity") Chief Executive Officer (CEO) shall ensure that the Entity Board of Directors is informed and supported in its work.

The Entity CEO must:

1. Submit monitoring data required by the Entity Board of Directors in a timely, accurate, and understandable fashion, directly addressing provisions of Entity Board of Directors policies being monitored and including the Entity CEO interpretations as well as relevant data.
2. Ensure that the Entity Board of Directors is aware of any noncompliance actual or anticipated of Entity Board of Directors.
3. Ensure that the LRE Board of Directors has adequate information to be aware of relevant trends.
4. Inform the Entity Board of Directors of any significant information on impending media coverage, threatened or pending lawsuits, and material internal and external changes.
5. Ensure that the Entity Board of Directors is aware that, in the Entity CEO's opinion, the Entity Board of Directors is not in compliance with its own policies, particularly in the case of the Entity Board of Directors behavior that is detrimental to the work relationship between the Entity Board of Directors and the Entity CEO.
6. Refrain from presenting information in unnecessarily complex or lengthy form or in a form that fails to differentiate among information of three types: monitoring, decision preparation, and other.
7. Ensure that the Entity Board of Directors will have a workable mechanism for official Entity Board of Directors, officers, or committee's communications.

8. Not deal with individual Entity Board of Directors in a way that favors or privileges certain the Entity Board of Directors members over others, except when fulfilling individual requests for information or responding to officers or committees duly charged by the Entity Board of Directors.
9. Submit to the Entity Board of Directors a consent agenda containing items delegated to the Entity CEO required by law, regulation, or contract to be approved by the Entity Board of Directors, along with applicable monitoring information.

Chief Financial Officer and Chief Compliance Officer

The Financial Officer and Chief Compliance Officer shall have direct access to the Entity Board of Directors.

III. APPLICABILITY AND RESPONSIBILITY

This policy applies to the Entity Board of Directors, Entity CEO, Entity Chief Compliance Officer, and the Entity Chief Financial Officer.

IV. MONITORING AND REVIEW

The CEO and designees will review this policy on an annual basis.

V. DEFINITIONS

Entity – Also referred to as Lakeshore Regional Entity or LRE, is the Prepaid Inpatient Health Plan (PIHP) for Region 3 as defined in 42 CFR Part 438 and meets the requirements of MCL 330.1204b of the Michigan Mental Health Code.

VI. RELATED POLICIES AND PROCEDURES

A. Compliance Policies and Procedures
B. Board Policies and Procedures
C. Board By-Laws

VII. REFERENCE/LEGAL AUTHORITY

N/A

CHANGE LOG Date of Change	**Description of Change**	**Responsible Party**
11/18/21	Moved procedure to policy section. Added language from 10.17	CEO and Designees
1/8/2025	Added Entity Definition	CEO

LAKESHORE REGIONAL ENTITY

Lakeshore Regional Entity Board
Financial Officer Report for January 2025
1/22/2025

- **Disbursements Report** – A motion is requested to approve the December 2024 disbursements. A summary of those disbursements is included as an attachment.

- **Statement of Activities** – Report through November is included as an attachment.

- **FY25 Budget Amend 1 –** A motion is requested to approve the FY25 Budget Amend 1, the first amend of the fiscal year.

- **LRE Combined Monthly FSR –** The November LRE Combined Monthly FSR Report is included as an attachment for this month's meeting. Expense projections, as reported by each CMHSP, are noted. An actual **deficit** through November of $47 thousand, a projected annual **deficit** of $1 million, and a budgeted **surplus** of $1.3 million regionally (Medicaid and HMP, excluding CCBHC) is shown in this month's report. All CMHSPs have an actual **surplus** except Network180 who has a **deficit** of $2.8 million and OnPoint with a deficit of $1 thousand. HealthWest, OnPoint, and West Michigan CMH have projected **surpluses**. Network180 and CMH of Ottawa have projected **deficits**. All CMHSPs have a budgeted **surplus or breakeven**, except OnPoint with a budgeted **deficit** of $268 thousand.

  CCBHC activity (excluding PIHP activity) is included in this month's report showing an actual **deficit** of $480 thousand (excluding LRE activity), which is the responsibility of the CCBHCs and not the PIHP. A projected **surplus** of $462 thousand and a budgeted **deficit** of $2.2 million is shown.

- **Cash Flow Issues** – Network180 reported a cash flow issue on January 16, 2025. LRE extended a cash advance of an additional $1 million to Network180 on January 21, 2025. The total cash advancement to Network180 is currently $13,152,848.

5000 Hakes Drive, Norton Shores MI 49441
Phone: 231-769-2050
Fax: 231-269-2071

- **FY 2025 Revenue Projections** – Updated revenue and membership projections by program and Member CMHSP are below. The FY25 December revenue projection decreased $380,069 from the FY25 November projections to $454 million. The Average PMPM calculations were updated to exclude CCBHC Supplemental Revenue to provide a clearer picture of traditional revenue sources.

FY 2025 Revenue Projection

Total LRE

	FY25 Initial Budget Projection	FY25 Current Budget Projection	FY25 Initial to Current Change	
MCD - MH	$ 208,240,822	$ 200,860,233	$ (7,380,589)	-3.54%
MCD - SUD	$ 8,162,709	$ 7,719,684	$ (443,025)	-5.43%
HMP - MH	$ 17,311,272	$ 16,986,744	$ (324,528)	-1.87%
HMP - SUD	$ 11,157,718	$ 10,864,981	$ (292,737)	-2.62%
Autism	$ 47,599,001	$ 51,999,100	$ 4,400,099	9.24%
Waiver	$ 56,582,505	$ 56,345,973	$ (236,533)	-0.42%
CCBHC MCD Base Cap	$ 23,389,790	$ 28,904,608	$ 5,514,818	23.58%
CCBHC HMP Base Cap	$ 6,046,769	$ 7,837,590	$ 1,790,821	29.62%
CCBHC MCD Supplementa	$ 34,550,918	$ 42,474,023	$ 7,923,106	22.93%
CCBHC HMP Supplementa	$ 9,822,186	$ 12,735,147	$ 2,912,961	29.66%
LRE Admin	$ 13,922,556	$ 13,922,556	$ -	0.00%
ISF	$ -	$ -	$ -	
IPA	$ 3,585,824	$ 3,720,107	$ 134,283	3.74%
Total Region	**$ 440,372,070**	**$ 454,370,746**	**$ 13,998,676**	**3.18%**

Total CMHSPs

	FY25 Initial Budget Projection	FY25 Current Budget Projection	FY25 Initial to Current Change	
OnPoint	$ 39,310,267	$ 41,420,633	$ 2,110,366	5.37%
Healthwest	$ 90,762,761	$ 95,473,940	$ 4,711,179	5.19%
Network180	$ 200,607,414	$ 207,361,883	$ 6,754,468	3.37%
Ottawa	$ 59,198,098	$ 58,893,047	$ (305,051)	-0.52%
West Michigan	$ 32,985,149	$ 33,578,580	$ 593,431	1.80%
Total CMHSPs	**$ 422,863,689**	**$ 436,728,082**	**$ 13,864,393**	**3.28%**

Average PMPM - Net of CCBHC Supplemental Revenue

	FY25 Initial Budget Projection	FY25 Current Budget Projection	FY25 Initial to Current Change	
OnPoint	$ 131.90	$ 128.99	$ (2.91)	-2.21%
Healthwest	$ 136.33	$ 132.54	$ (3.80)	-2.79%
Network180	$ 122.55	$ 118.73	$ (3.82)	-3.11%
Ottawa	$ 121.59	$ 119.67	$ (1.92)	-1.58%
West Michigan	$ 129.50	$ 124.03	$ (5.48)	-4.23%
Total CMHSPs	**$ 126.27**	**$ 122.68**	**$ (3.58)**	**-2.84%**

Member Month Projection

	FY25 Initial Budget Projection	FY25 Current Budget Projection	FY25 Initial to Current Change
OnPoint	246,600	254,612	8,012
Healthwest	568,250	588,843	20,593
Network180	1,532,219	1,598,839	66,620
Ottawa	444,895	455,628	10,733
West Michigan	205,608	211,855	6,247
Total Member Months	**2,997,571**	**3,109,777**	**112,205**

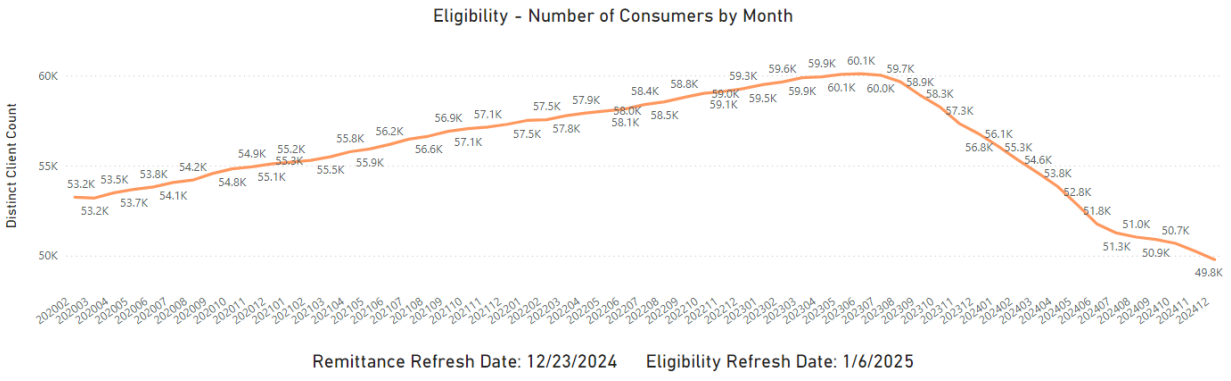
CMHSPs Breakdown (Net of CCBHC)

	FY25 Initial Budget Projection	FY25 Current Budget Projection	FY25 Initial to Current Change
MCD - MH			
OnPoint	$ 16,864,811	$ 16,295,377	$ (569,434)
Healthwest	$ 40,261,507	$ 39,936,732	$ (324,775)
Network180	$ 109,602,547	$ 103,354,978	$ (6,247,569)
Ottawa	$ 28,657,374	$ 28,803,639	$ 146,266
West Michigan	$ 12,854,583	$ 12,469,506	$ (385,078)
Total MCD - MH	**$ 208,240,822**	**$ 200,860,233**	**$ (7,380,589)**
MCD - SUD			
OnPoint	$ 653,507	$ 614,663	$ (38,844)
Healthwest	$ 1,657,313	$ 1,588,392	$ (68,920)
Network180	$ 4,253,796	$ 3,966,873	$ (286,923)
Ottawa	$ 1,057,081	$ 1,021,917	$ (35,164)
West Michigan	$ 541,012	$ 527,839	$ (13,173)
Total MCD - SUD	**$ 8,162,709**	**$ 7,719,684**	**$ (443,025)**
HMP - MH			
OnPoint	$ 1,226,108	$ 1,199,219	$ (26,889)
Healthwest	$ 2,989,777	$ 3,196,108	$ 206,331
Network180	$ 9,632,693	$ 8,918,094	$ (714,600)
Ottawa	$ 2,793,323	$ 2,925,960	$ 132,638
West Michigan	$ 669,371	$ 747,363	$ 77,991
Total HMP - MH	**$ 17,311,272**	**$ 16,986,744**	**$ (324,528)**
HMP - SUD			
OnPoint	$ 805,992	$ 780,138	$ (25,854)
Healthwest	$ 1,996,379	$ 2,125,988	$ 129,609
Network180	$ 6,176,263	$ 5,669,254	$ (507,009)
Ottawa	$ 1,722,885	$ 1,786,657	$ 63,772
West Michigan	$ 456,198	$ 502,943	$ 46,745
Total HMP - SUD	**$ 11,157,718**	**$ 10,864,981**	**$ (292,737)**
Autism			
OnPoint	$ 4,198,155	$ 4,377,834	$ 179,679
Healthwest	$ 9,643,002	$ 10,600,875	$ 957,872
Network180	$ 23,969,281	$ 26,562,757	$ 2,593,476
Ottawa	$ 6,980,987	$ 7,446,080	$ 465,093
West Michigan	$ 2,807,575	$ 3,011,554	$ 203,979
Total Autism	**$ 47,599,001**	**$ 51,999,100**	**$ 4,400,099**
Waiver			
OnPoint	$ 6,363,966	$ 6,353,434	$ (10,532)
Healthwest	$ 12,978,790	$ 12,901,656	$ (77,134)
Network180	$ 23,778,918	$ 23,688,891	$ (90,027)
Ottawa	$ 9,457,872	$ 9,477,731	$ 19,859
West Michigan	$ 4,002,959	$ 3,924,261	$ (78,698)
Total Waiver	**$ 56,582,505**	**$ 56,345,973**	**$ (236,533)**

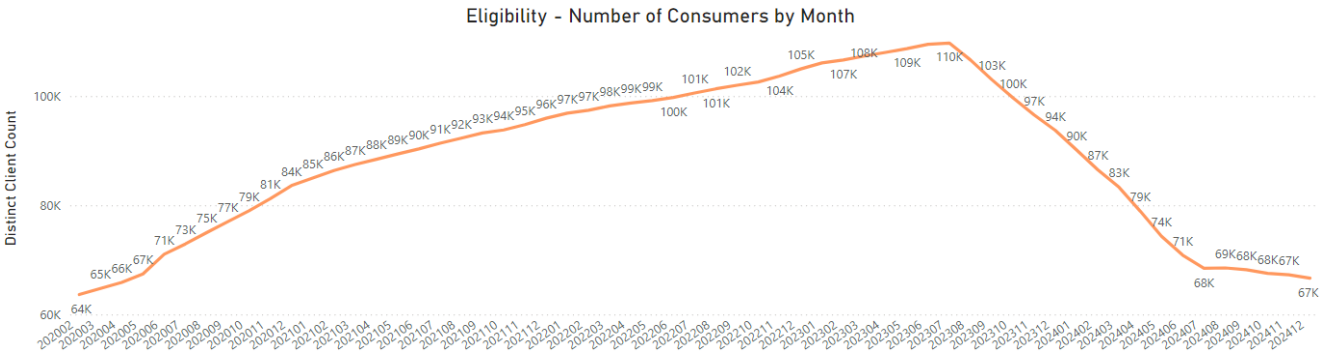
CMHSPs Breakdown - CCBHC			
	FY25 Initial Budget Projection	FY25 Current Budget Projection	FY25 Initial to Current Change
MCD - CCBHC Base Capitation			
OnPoint	$ 1,881,018	$ 2,524,398	$ 643,380
Healthwest	$ 6,336,673	$ 6,135,958	$ (200,715)
Network180	$ 8,529,158	$ 14,043,615	$ 5,514,457
Ottawa	$ 2,763,358	$ 2,395,123	$ (368,235)
West Michigan	$ 3,879,583	$ 3,805,514	$ (74,069)
Total	**$ 23,389,790**	**$ 28,904,608**	**$ 5,514,818**
HMP - CCBHC Base Capitation			
OnPoint	$ 532,594	$ 696,647	$ 164,053
Healthwest	$ 1,608,943	$ 1,557,980	$ (50,963)
Network180	$ 1,826,960	$ 3,628,658	$ 1,801,698
Ottawa	$ 662,433	$ 667,757	$ 5,324
West Michigan	$ 1,415,840	$ 1,286,549	$ (129,291)
Total	**$ 6,046,769**	**$ 7,837,590**	**$ 1,790,821**
MCD - CCBHC Supplemental Revenue			
OnPoint	$ 5,071,207	$ 6,571,487	$ 1,500,280
Healthwest	$ 10,199,499	$ 13,427,898	$ 3,228,399
Network180	$ 10,691,851	$ 13,764,593	$ 3,072,742
Ottawa	$ 3,930,417	$ 3,247,941	$ (682,476)
West Michigan	$ 4,657,943	$ 5,462,104	$ 804,161
Total	**$ 34,550,918**	**$ 42,474,023**	**$ 7,923,106**
HMP - CCBHC Supplemental Revenue			
OnPoint	$ 1,712,909	$ 2,007,436	$ 294,526
Healthwest	$ 3,090,877	$ 4,002,352	$ 911,475
Network180	$ 2,145,946	$ 3,764,169	$ 1,618,222
Ottawa	$ 1,172,369	$ 1,120,241	$ (52,128)
West Michigan	$ 1,700,084	$ 1,840,949	$ 140,865
Total	**$ 9,822,186**	**$ 12,735,147**	**$ 2,912,961**

- **Financial Data/Charts** – The charts below show regional eligibility trends by population. The number of Medicaid eligible individuals in our region determines the amount of revenue the LRE receives each month. Data is shown for February 2020 – December 2024. The LRE also receives payments for other individuals who are not listed on these charts but are eligible for behavioral health services (i.e. individuals enrolled and eligible for the Habilitation Supports Waiver (HSW) program. Due to the end of the PHE, Medicaid eligibility redeterminations resumed in July 2023.

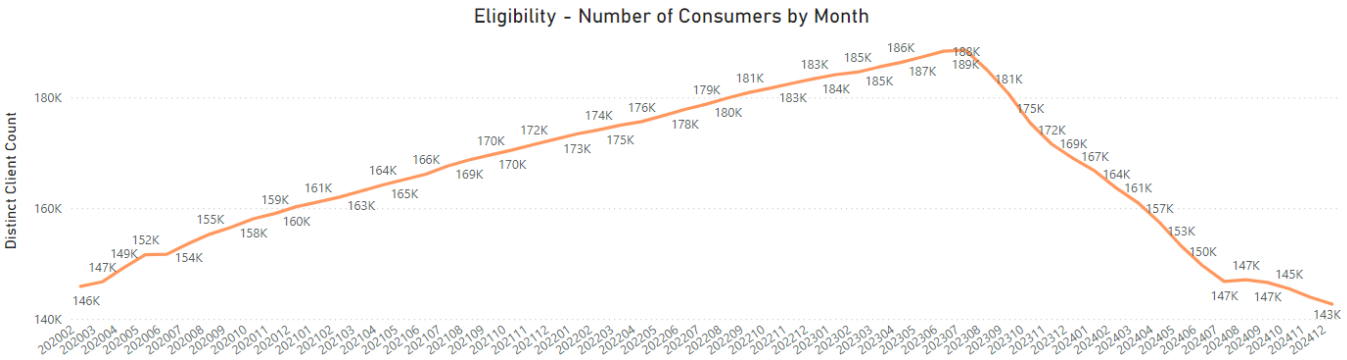
DAB



HMP


Eligibility - Number of Consumers by Month
Distinct Client Count
100K
80K
60K
64K 65K 66K 67K 71K 73K 75K 77K 79K 81K 84K 85K 86K 87K 88K 89K 90K 91K 92K 93K 94K 95K 96K 97K 97K 98K 99K 99K 100K 101K 101K 102K 104K 105K 107K 108K 109K 110K 103K 100K 97K 94K 90K 87K 83K 79K 74K 71K 68K 69K 68K 68K 67K 67K

TANF


Eligibility - Number of Consumers by Month
Distinct Client Count
180K
160K
140K
146K 147K 149K 152K 154K 155K 158K 159K 160K 161K 163K 164K 165K 166K 169K 170K 170K 172K 173K 174K 175K 176K 178K 179K 180K 181K 183K 183K 184K 185K 185K 186K 187K 188K 189K 181K 175K 172K 169K 167K 164K 161K 157K 153K 150K 147K 147K 145K 143K

- **Legal Expenses –** Below, this chart contains legal expenses of the LRE that have been billed to the LRE to date for FY2022 through FY2025.

LAKESHORE REGIONAL ENTITY LEGAL EXPENSES REPORT December 31, 2024		
4/30/2022	BYLAWS/OPERATING AGREEMENT	5,700.00
7/28/2022	BYLAWS/OPERATING AGREEMENT	6,500.00
	BYLAWS/OPERATING AGREEMENT TOTAL	**12,200.00**
11/30/2021	CCHBC SUPPORT	812.50
	CCHBC SUPPORT TOTAL	**812.50**
2/11/2022	GENERAL/OTHER	325.00
1/16/2023	GENERAL/OTHER	10,000.00
2/3/2023	GENERAL/OTHER	250.00
12/20/2023	GENERAL/OTHER	5,000.00
1/31/2024	GENERAL/OTHER	5,000.00
2/29/2024	GENERAL/OTHER	5,000.00
3/31/2024	GENERAL/OTHER	5,000.00
4/8/2024	GENERAL/OTHER	5,000.00
5/22/2024	GENERAL/OTHER	5,000.00
6/28/2024	GENERAL/OTHER	5,000.00
7/30/2024	GENERAL/OTHER	5,000.00
7/31/2024	GENERAL/OTHER	5,000.00
8/31/2024	GENERAL/OTHER	5,000.00
10/31/2024	GENERAL/OTHER	5,000.00
11/30/2024	GENERAL/OTHER	5,000.00
	GENERAL/OTHER TOTAL	**70,575.00**
10/31/2021	HEALTHWEST LIGITATION	5,368.74
3/31/2022	HEALTHWEST LIGITATION	2,016.00
4/30/2022	HEALTHWEST LIGITATION	9,388.80
6/24/2022	HEALTHWEST LIGITATION	13,782.40
3/31/2023	HEALTHWEST LIGITATION	6,992.00
4/30/2023	HEALTHWEST LIGITATION	3,728.00
11/30/2023	HEALTHWEST LIGITATION	281.60
1/31/2024	HEALTHWEST LIGITATION	105.60
	HEALTWEST LITIGATION TOTAL	**41,663.14**
10/31/2021	MANAGED CARE/MDHHS CONTRACT	17,058.00
11/30/2021	MANAGED CARE/MDHHS CONTRACT	9,992.00
12/31/2021	MANAGED CARE/MDHHS CONTRACT	5,202.00
1/25/2022	MANAGED CARE/MDHHS CONTRACT	23,501.31
2/17/2022	MANAGED CARE/MDHHS CONTRACT	9,280.00
2/17/2022	MANAGED CARE/MDHHS CONTRACT	17,125.00
2/28/2022	MANAGED CARE/MDHHS CONTRACT	20,051.20
2/28/2022	MANAGED CARE/MDHHS CONTRACT	6,312.50
3/31/2022	MANAGED CARE/MDHHS CONTRACT	4,032.00
4/11/2022	MANAGED CARE/MDHHS CONTRACT	421.50
6/24/2022	MANAGED CARE/MDHHS CONTRACT	2,863.57
7/25/2022	MANAGED CARE/MDHHS CONTRACT	6,788.23
8/22/2022	MANAGED CARE/MDHHS CONTRACT	4,437.50
8/25/2022	MANAGED CARE/MDHHS CONTRACT	16,806.40
9/29/2022	MANAGED CARE/MDHHS CONTRACT	20,832.00
9/30/2022	MANAGED CARE/MDHHS CONTRACT	23,104.65
10/31/2022	MANAGED CARE/MDHHS CONTRACT	9,307.00
11/30/2022	MANAGED CARE/MDHHS CONTRACT	33,792.00
11/30/2022	EARLY PAYMENT DISCOUNT	(5,068.80)
12/31/2022	MANAGED CARE/MDHHS CONTRACT	31,494.10
1/31/2023	MANAGED CARE/MDHHS CONTRACT	25,683.40
2/28/2023	MANAGED CARE/MDHHS CONTRACT	7,472.60
3/31/2023	MANAGED CARE/MDHHS CONTRACT	3,371.20
4/30/2023	MANAGED CARE/MDHHS CONTRACT	16,563.20
5/31/2023	MANAGED CARE/MDHHS CONTRACT	5,928.00
6/30/2023	MANAGED CARE/MDHHS CONTRACT	12,537.60
7/31/2023	MANAGED CARE/MDHHS CONTRACT	7,768.80
7/31/2023	EARLY PAYMENT DISCOUNT	(3,321.04)
8/31/2023	MANAGED CARE/MDHHS CONTRACT	1,302.40
9/30/20203	MANAGED CARE/MDHHS CONTRACT	2,810.40
10/31/2023	MANAGED CARE/MDHHS CONTRACT	3,547.20
11/30/2023	MANAGED CARE/MDHHS CONTRACT	563.20
12/31/2023	MANAGED CARE/MDHHS CONTRACT	5,000.00
2/29/2024	MANAGED CARE/MDDHS CONTRACT	76.00
	MANAGED CARE/MDHHS CONTRACT TOTAL	**346,635.12**
2/28/2023	NETWORK 180 LITIGATION	2,674.00
3/31/2023	NETWORK 180 LITIGATION	29,167.33
4/30/2023	NETWORK 180 LITIGATION	105.60
5/31/2023	NETWORK 180 LITIGATION	2,283.20
6/30/2023	NETWORK 180 LITIGATION	13,840.80
7/31/2023	NETWORK 180 LITIGATION	3,665.60
8/31/2023	NETWORK 180 LITIGATION	1,137.60
3/31/2024	NETWORK 180 LITIGATION	1,154.40
	NETWORK 180 LITIGATION TOTAL	**54,028.53**
	GRAND TOTAL	**$ 525,914.29**

LAKESHORE REGIONAL ENTITY

BOARD ACTION REQUEST
Subject: December 2024 Disbursements
Meeting Date: January 22, 2025

RECOMMENDED MOTION:

To approve the December 2024 disbursements of $36,722,362.48 as presented.

SUMMARY OF REQUEST/INFORMATION:

Disbursements:	
Allegan County CMH	$3,283,655.77
Healthwest	$8,448,373.88
Network 180	$17,032,041.33
Ottawa County CMH	$4,608,219.23
West Michigan CMH	$3,054,112.04
SUD Prevention Expenses	$37,795.03
Hospital Reimbursement Adjuster (HRA)	$4,354.00
SUD Public Act 2 (PA2)	$118,685.82
Administrative Expenses	$139,479.38
Total:	**$36,722,362.48**

99.30% of Disbursements were paid to Members and SUD Prevention Services.

I affirm that all payments identified in the monthly summary above are for previously appropriated amounts.

STAFF: *Stacia Chick* **DATE:** ***1/15/2025***

LAKESHORE REGIONAL ENTITY

Proposed Statement of Revenues, Expenditures & Changes in Fund Balance
Fiscal Year Ending 9/30/2025

	FY 2024/2025 Initial Budget	FY 2024/2025 Amendment 1 Budget	Increase / (Decrease)	Change %
Revenue				
Regional Operating Revenue				
Mental Health State Plan & 1915(i)	$ 225,749,203	$ 218,502,897	$ (7,246,306)	-3.2%
Habilitation Supports Waiver (HSW)	51,729,665	52,113,196	383,531	0.7%
Children's Waiver	3,180,212	3,593,149	412,936	13.0%
SED Waiver	1,672,628	639,628	(1,033,000)	-61.8%
DHS Incentive Payment	471,247	471,247	-	0.0%
Autism Revenue	47,599,001	51,999,100	4,400,099	9.2%
Mental Health Healthy Michigan	17,311,272	16,986,744	(324,528)	-1.9%
Mental Health Block Grant - Veteran Navigator	110,000	124,825	14,825	13.5%
Block Grants - Hisp BH, Native Am, Tob,Clubhse, BH Workforce Stab., ARPA	513,800	510,539	(3,261)	-0.6%
Substance Use Gambling, ARPA & DFC	1,040,366	1,042,317	1,951	0.2%
Substance Use State Plan	8,162,709	7,719,684	(443,025)	-5.4%
Substance Use Healthy Michigan	11,157,718	10,864,981	(292,737)	-2.6%
Substance Use Block, State Opioid Response, COVID-19	9,328,394	10,521,579	1,193,185	12.8%
Performance Bonus Incentive Pool	2,819,234	2,819,234	-	0.0%
CCBHC Quality Bonus Incentive	1,745,775	1,745,775	-	0.0%
Substance Use PA2 Liquor Tax	3,996,264	4,449,350	453,086	11.3%
Medicaid CCBHC Base Capitation	23,389,790	28,904,608	5,514,818	23.6%
Healthy Michigan CCBHC Base Capitation	6,046,769	7,837,590	1,790,821	29.6%
Medicaid CCBHC Supplemental	34,550,918	42,474,023	7,923,106	22.9%
Healthy Michigan CCBHC Supplemental	9,822,186	12,735,147	2,912,961	29.7%
Health Homes (BHH, OHH)	-	35,500	35,500	0.0%
CCBHC General Funds	-	-	-	0.0%
Hospital Rate Adjuster (HRA)	18,820,061	18,820,061	-	0.0%
Interest Earnings	1,354,059	1,354,059	-	0.0%
Member Local Contribution to State Medicaid	1,007,548	1,007,548	-	0.0%
Miscellaneous Revenue	5,500	5,500	-	0.0%
Total Revenue	$ 481,584,318	$ 497,278,280	$ 15,693,962	
Expense				
Regional Operating Expenses				
Administration expense	$ 13,922,557	$ 13,922,557	$ -	0.0%
Block Grants - Clubhse/Veterans/Hisp/Tob Cess/ NatAm/BH Workforce Stab/BHH Expansion	623,800	670,864	47,064	7.5%
SUD Treatment Expenses - Grants	-	1,138,436	1,138,436	0.0%
SUD Prevention Expenses - Grants & PA2	3,629,787	3,690,120	60,333	1.7%
Hospital Rate Adjustment / Taxes	22,405,885	22,540,168	134,283	0.6%
Operating Expense - Member Payments	439,994,741	454,308,587	14,313,846	3.3%
Contribution to ISF/Savings	-	-	-	0.0%
Local Contribution to State Medicaid	1,007,548	1,007,548	-	0.0%
Total Expense	$ 481,584,318	$ 497,278,280	$ 15,693,962	
Revenue Over/(Under) Expense	(0)	(0)		

LAKESHORE REGIONAL ENTITY

Statement of Activities - Actual vs. Budget
Fiscal Year 2024/2025
As of Date: 11/30/24

Change in Net Assets	Year Ending 9/30/2025	11/30/2024		
	FY25 Budget *Initial*	Budget to Date	Actual	Actual to Budget Variance
Operating Revenues				
Medicaid, HSW, SED, & Children's Waiver	290,494,416	48,415,736	45,311,170	(3,104,566)
DHS Incentive	471,247	78,541	-	(78,541)
Autism Revenue	47,599,001	7,933,167	9,660,880	1,727,713
Healthy Michigan	28,468,990	4,744,832	5,520,839	776,008
Peformance Bonus Incentive	2,819,234	469,872	-	(469,872)
CCBHC Quality Bonus Incentive	1,745,775	290,963	-	(290,963)
Hospital Rate Adjuster (HRA)	18,820,061	3,136,677	-	(3,136,677)
Member Local Contribution to State Medicaid	1,007,548	167,925	167,925	(0)
Medicaid CCBHC Base Capitation	23,389,790	3,898,298	4,417,523	519,225
Healthy Michigan CCBHC Base Capitation	6,046,769	1,007,795	1,111,600	103,805
Medicaid CCBHC Supplemental Revenue	34,550,918	5,758,486	5,565,067	(193,419)
Healthy MI CCBHC Supplemental Revenue	9,822,186	1,637,031	2,701,430	1,064,399
MDHHS Grants	10,867,560	1,811,260	25,525	(1,785,735)
PA 2 Liquor Tax	3,996,264	666,044	-	(666,044)
Non-MDHHS Grants: DFC	125,000	20,833	-	(20,833)
Interest Earnings	1,354,059	225,677	75,284	(150,393)
Miscellaneous Revenue	5500	917	0	(917)
Total Operating Revenues	**481,584,318**	**80,264,053**	**74,557,242**	**(5,706,811)**
Expenditures				
Salaries and Fringes	6,423,649	1,070,608	704,025	(366,583)
Office and Supplies Expense	259,246	43,208	20,114	(23,094)
Contractual and Consulting Expenses	954,171	159,029	94,908	(64,121)
Managed Care Information System (PCE) *	365,200	60,867	49,200	(11,667)
Legal Expense *	210,000	35,000	10,000	(25,000)
Utilities/Conferences/Mileage/Misc Exps	5,710,291	951,715	43,470	(908,245)
Grants - MDHHS & Non-MDHHS	623,800	103,967	107,073	3,106
Hospital Rate Adjuster / Taxes	22,405,885	3,734,314	-	(3,734,314)
Prevention Expenses - Grant & PA2	3,629,787	604,965	393,245	(211,719)
CCBHC Quality Bonus Incentive	1,745,775	290,963	-	(290,963)
Member Payments - Medicaid/HMP	354,744,045	59,124,008	57,269,058	(1,854,949)
Member Payments - CCBHC Capitation	29,436,559	4,906,093	5,529,123	623,030
Member Payments - CCBHC Supplemental	44,373,103	7,395,517	7,437,827	42,310
Member Payments - PA2 Treatment	2,414,659	402,443	97,216	(305,227)
Member Payments - Grants	7,280,600	1,213,433	654,107	(559,326)
Local Contribution to State Medicaid	1,007,548	167,925	167,925	(0)
Total Expenditures	**481,584,318**	**80,264,053**	**72,583,580**	**(7,680,473)**
Total Change in Net Assets	**-**	**-**	**1,973,662**	**1,973,662**

* The categories of Managed Care Information Systems (PCE) and Legal are Net of amounts applied to Grants

For internal use only. This report has not been audited, and no assurance is provided.

LAKESHORE REGIONAL ENTITY

Statement of Activities
Budget to Actual Variance Report

For the Period ending November 30, 2024

As of Date: 1/21/25

Operating Revenues

Medicaid/HSW/SED/CWP	Current projections reflect a decrease. Adjustments will be made during the next amendment.
DHS Incentive	This revenue is received quarterly beginning in April.
Autism Revenue	Current projections reflect an increase. Adjustments will be made during the next amendment.
Healthy Michigan	Current projections reflect an increase. Adjustments will be made during the next amendment.
Peformance Bonus Incentive	Revenue is received after the end of the fiscal year if health plan performance metrics are met.
CCBHC Quality Bonus	Revenue is received after the end of the fiscal year if CCBHC performance metrics are met.
Hospital Rate Adjuster	Revenue is received quarterly. First quarter payment is expected in January.
Member Local Match Revenue	N/A - Closely aligned with the current budget projections.
Medicaid CCBHC Base Capitation	Current projections reflect an increase. Adjustments will be made during the next amendment.
Healthy MI CCBHC Base Capitation	Current projections reflect an increase. Adjustments will be made during the next amendment.
Medicaid CCBHC Supplemental Revenue	N/A - Closely aligned with the current budget projections.
Healthy MI CCBHC Supplemental Revenue	Current projections reflect an increase. Adjustments will be made during the next amendment.
MDHHS Grants	MDHHS grant reimbursements are on hold. SUD grant payments are received quarterly.
PA 2 Liquor Tax	PA2 revenues are received quarterly, after the Department of Treasury issues payments to the counties. Initial payments are expected in the 2nd quarter.
Non-MDHHS Grants: DFC	No provider billings received for reimbursement.
Interest Revenue	Additional interest expected earned on deposits and CD re-investments.
Miscellaneous Revenue	Revenue may be received throughout the year, but the budgeted amount is not guaranteed.

Expenditures

Salaries and Fringes	Some expenses in this category will occur later in the fiscal year.
Office and Supplies	Budget projections will be monitored for potential changes during the next amendment.
Contractual/Consulting	Some expenses are planned for later in the fiscal year.
Managed Care Info Sys	Some expenses are planned for later in the fiscal year.
Legal Expense	Billings are delayed. Budget projections will be monitored for potential changes during the next amendment.
Utilities/Conf/Mileage/Misc	This line item includes the LRE's contingency fund and will be monitored for adjustments during the next amendment.
Grants - MDHHS & Non-MDHHS	Most of these payments are billed to the LRE and paid by MDHHS 45-60 days in arrears. In addition, as noted above, some grants are being paid quarterly.
HRA/Taxes	IPA & HRA taxes are paid quarterly. First quarter HRA payment will be made in quarter two.
Prevention Exps - Grant/PA2	MDHHS SUD grant payments are made quarterly. FY25 Operating Advance is also expected from MDHHS.
Member Med/HMP Payments	N/A - Closely aligned with the current budget projections.
Member CCBHC Capitation	Current projections reflect an increase. Adjustments will be made during the next amendment.
Member CCBHC Supplemental	N/A - Closely aligned with the current budget projections.
Member PA2 Tx Payments	Billings against this line item typically occur after other grant funding is applied. Spending is based on projections and will be monitored for amendments.
Member Grant Payments	Most of these payments are billed to the LRE and paid by MDHHS 45-60 days in arrears. In addition, as noted above, some grants are being paid quarterly.
Local Contribution to State Medicaid	N/A - Closely aligned with the current budget projections.

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LAKESHORE REGIONAL ENTITY

DRAFT ONLY - NOT ACCEPTED AS FINAL

Includes Medicaid, Autism and Healthy Michigan activity only.
Does not include Grant, General Funds, Local or other funding.

Lakeshore Regional Entity Combined Monthly FSR Summary
FY 2025
November 2024 Reporting Month
Reporting Date: 1/13/25

ACTUAL:	HealthWest	Network180	OnPoint	Ottawa	West Michigan	LRE	Total
Total Distributed Medicaid/HMP Revenue	11,522,087	28,876,741	5,010,106	8,370,987	3,489,136	921,717	58,190,775
Total Capitated Expense	9,053,965	31,687,028	5,011,474	8,294,828	3,268,728	921,717	58,237,740
Actual Surplus (Deficit)	2,468,122	(2,810,287)	(1,368)	76,159	220,409	-	(46,965)
% Variance	21.42%	-9.73%	-0.03%	0.91%	6.32%	0.00%	
Information regarding Actual (Threshold: Surplus of 5% and deficit of 1%)	Expenses for FY25 are still catching up from year end delays. We anticipate this gap to continue to close.	Network180 is working to reduce expenditures for services in the provider network, through inpatient diversion and utilization management. However, actual service needs continue to grow. Additionally, revenue projections have started falling for this fiscal year already.	Less than threshold for explanation.	Less than threshold for explanation.	No variance explanation provided by WM.	Less than threshold for explanation.	

PROJECTION: LRE Revenue Projections as of: *November Revised*	HealthWest	Network180	OnPoint	Ottawa	West Michigan	LRE	Total
Total Projected Medicaid/HMP Revenue	70,628,797	172,239,564	29,525,794	51,399,314	21,380,312	13,922,556	359,096,338
	-	-	-	-	-	-	
Total Capitated Expense Projections	68,733,175	175,083,757	29,503,797	51,534,229	21,363,297	13,922,556	360,140,811
Projected Surplus (Deficit)	1,895,622	(2,844,193)	21,997	(134,915)	17,015	-	(1,044,473)
% Variance	2.68%	-1.65%	0.07%	-0.26%	0.08%	0.00%	
Information regarding Projections (Threshold: Surplus of 5% and deficit of 1%)	Less than threshold for explanation.	Network180 is working to reduce expenditures for services in the provider network, through inpatient diversion and utilization management. However, actual service needs continue to grow. Additionally, revenue projections have started falling for this fiscal year already.	Less than threshold for explanation.	Less than threshold for explanation.	Less than threshold for explanation.	Less than threshold for explanation.	

PROPOSED SPENDING PLAN:	HealthWest	Network180	OnPoint	Ottawa	West Michigan	LRE	Total
Submitted to the LRE as of:	11/13/2024	11/15/2024	11/18/2024	11/19/2024	11/15/2024		
Total Budgeted Medicaid/HMP Revenue	70,516,979	172,798,914	29,463,833	51,455,956	21,363,297	13,922,556	359,521,535
Total Budgeted Capitated Expense	68,930,569	172,798,914	29,731,448	51,455,956	21,363,297	13,922,556	358,202,740
Budgeted Surplus (Deficit)	1,586,410	0	(267,615)	-	-	-	1,318,795
% Variance	2.25%	0.00%	-0.91%	0.00%	0.00%	0.00%	
Information regarding Spending Plans (Threshold: Surplus of 5% and deficit of 1%)	Less than threshold for explanation.	Less than threshold for explanation.	Less than threshold for explanation.	Less than threshold for explanation.	Less than threshold for explanation.	Less than threshold for explanation.	
Variance between Projected and Proposed Spending Plan	309,213	(2,844,193)	289,612	(134,915)	17,015	-	(2,363,268)
% Variance	0.44%	-1.65%	0.98%	-0.26%	0.08%	0.00%	
Explanation of variances between Projected and Proposed Spending Plan (Threshold: Surplus of 5% and deficit of 1%)	Less than threshold for explanation.	Network180 is experiencing increase demands in autism and specialized residential services beyond available revenue. Additionally, revenue projections have started falling for this fiscal year already.	Less than threshold for explanation.	Less than threshold for explanation.	Less than threshold for explanation.	Less than threshold for explanation.	

CCBHC Activity is primarily for LRE activity only. Does not reflect all the activity at the CCBHC level due to different reporting requirements for the PIHP vs. the CCBHC.

Lakeshore Regional Entity Combined Monthly FSR Summary
FY 2025
November 2024 Reporting Month
Reporting Date: 1/13/25

CCBHC ACTIVITY

ACTUAL:	HealthWest	Network180	OnPoint	Ottawa	West Michigan	LRE	Total
Distributed Medicaid/HMP CCBHC Revenue							
Total Distributed Medicaid/HMP CCBHC Revenue	4,215,583	4,716,534	1,404,519	1,176,684	2,110,130	190,363	13,810,082
Total CCBHC Expense	3,590,301	5,855,879	1,217,279	1,176,684	2,262,911	20,335	14,123,389
Actual CCBHC Surplus (Deficit)*	625,282	(1,139,346)	187,240	-	(152,781)	170,028	(313,307)
% Variance	14.83%	-24.16%	13.33%	0.00%	-7.24%	89.32%	
Information regarding CCBHC Actual (Threshold: Surplus of 5% and deficit of 1%)	Expenses for FY25 are still catching up from year end delays. We anticipate this gap to continue to close.	Network180 has seen increases in Daily Visits, but they are still not quite to projected levels. We expect this to stabilize over the course of the year.	Significant surplus is expected to be eliminated once OnPoint's PPS-1 rate is updated mid-year.	Less than threshold for explanation.	WM is planning for a shortfall in CCBHC based on the current PPS1 rates.	Surplus is used to cover PIHP administration on traditional capitation administration expenses.	

PROJECTION:	HealthWest	Network180	OnPoint	Ottawa	West Michigan	LRE	Total
Total Projected Medicaid/HMP CCBHC Revenue	25,124,188	35,201,035	11,799,968	7,431,062	12,395,115	1,142,176	93,070,093
Total CCBHC Expense Projections	25,957,876	35,135,276	8,978,884	7,430,637	13,986,304	122,011	91,610,988
Projected CCBHC Surplus (Deficit)*	(833,688)	65,759	2,821,084	425	(1,591,189)	1,020,166	1,459,105
% Variance	-3.32%	0.19%	23.91%	0.01%	-12.84%	89.32%	
Information regarding CCBHC Projections (Threshold: Surplus of 5% and deficit of 1%)	HW continues to work on productivity standards and is monitoring expenses very closely. I anticipate this to decrease in the next few months.	Less than threshold for explanation.	Significant surplus is expected to be eliminated once OnPoint's PPS-1 rate is updated mid-year.	Less than threshold for explanation.	WM is planning for a shortfall in CCBHC based on the current PPS1 rates.	Surplus is used to cover PIHP administration on traditional capitation administration expenses.	

PROPOSED SPENDING PLAN:	HealthWest	Network180	OnPoint	Ottawa	West Michigan	LRE	Total
Submitted to the LRE as of:	11/13/2024	11/15/2024	11/18/2024	11/19/2024	11/15/2024		
Total Budgeted Medicaid/HMP CCBHC Revenue	25,124,188	35,460,199	9,075,362	7,430,637	12,395,116	1,142,176	90,627,678
Total Budgeted CCBHC Expense	25,947,194	35,439,088	8,900,770	7,430,637	13,986,304	122,011	91,826,003
Budgeted Surplus (Deficit)*	(823,006)	21,111	174,592	-	(1,591,188)	1,020,166	(1,198,325)
% Variance	-3.28%	0.06%	1.92%	0.00%	-12.84%	89.32%	
Information regarding CCBHC Spending Plans (Threshold: Surplus of 5% and deficit of 1%)	Based on historical, HW planned a negative variance.	Less than threshold for explanation.	Less than threshold for explanation.	Less than threshold for explanation.	WM is planning for a shortfall in CCBHC based on the current PPS1 rates.	Surplus is used to cover PIHP administration on traditional capitation administration expenses.	
Variance between CCBHC Projected and Proposed Spending Plan	(10,682)	44,648	2,646,492	425	(1)	-	2,657,430
% Variance	-0.04%	0.13%	29.16%	0.01%	0.00%	0.00%	
Explanation of variances between CCBHC Projected and Proposed Spending Plan (Threshold: Surplus of 5% and deficit of 1%)	Less than threshold for explanation.	Less than threshold for explanation.	Significant surplus is expected to be eliminated once OnPoint's PPS-1 rate is updated mid-year.	Less than threshold for explanation.	Less than threshold for explanation.	Less than threshold for explanation.	

***CCBHC Surpluses are retained by the CCBHC and not the PIHP. CCBHC Deficits are the responsibility of the CCBHC and not the PIHP.**

Lakeshore Regional Entity
FY2025 FSR Monthly Comparison of Surplus/(Deficit)

Actual	Oct	Nov	*Change*
HW	1,945,990	2,468,122	*522,132*
N180	(1,977,445)	(2,810,287)	*(832,842)*
OnPoint	107,860	(1,368)	*(109,227)*
Ottawa	748,511	76,159	*(672,352)*
WM	79,930	220,409	*140,479*
Total	**904,845**	**(46,965)**	***(951,810)***

Projection	Oct	Nov	*Change*
HW	(1,281,099)	1,895,622	*3,176,721*
N180	(710,607)	(2,844,193)	*(2,133,585)*
OnPoint	(39,964)	21,997	*61,962*
Ottawa	0	(134,915)	*(134,915)*
WM	(1)	17,015	*17,015*
Total	**(2,031,671)**	**(1,044,473)**	***987,198***

Proposed Spending Plan/Budget	Oct	Nov	*Change*
HW	1,586,410	1,586,410	-
N180	0	0	-
OnPoint	(267,615)	(267,615)	-
Ottawa	-	-	-
November Re	-	-	-
Total	**1,318,795**	**1,318,795**	**-**

Base Capitation Only. Does not include CCBHC activity.

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Lakeshore Regional Entity
FY2025 FSR Monthly Comparison of Surplus/(Deficit) Detail
(Excluding CCBHC)
November 2024 Reporting Month
Reporting Date: 1/13/25

ACTUAL:	HealthWest	Network180	OnPoint	Ottawa	West Michigan	Total
Distributed Medicaid/HMP						
Medicaid/HMP	1,443,480	(1,380,343)	(524,099)	(248,616)	(153,271)	(862,849)
Autism	1,024,643	(1,429,944)	522,731	324,775	373,679	815,884
Total Distributed Medicaid/HMP Revenue	2,468,122	(2,810,287)	(1,368)	76,159	220,409	(46,965)

PROJECTION:	HealthWest	Network180	OnPoint	Ottawa	West Michigan	Total
Distributed Medicaid/HMP						
Medicaid/HMP	(2,532,661)	(3,877,610)	(2,477,226)	(133,883)	(1,959,362)	(10,980,742)
Autism	4,428,284	1,033,417	2,499,224	(1,032)	1,976,377	9,936,269
Total Distributed Medicaid/HMP Revenue	1,895,622	(2,844,193)	21,997	(134,915)	17,015	(1,044,473)