

Policy 9.1

POLICY TITLE: CORPORATE COMPLIANCE	POLICY # 9.1		
Topic Area: QUALITY IMPROVEMENT		REVIEW DATES	
Applies to: LRE Staff and Operations, All CMHSP Programs	ISSUED BY: Chief Executive Officer	11/21/13	1/1/2015
Developed and Maintained by: CEO and Designee	APPROVED BY: Board of Directors		
Supersedes: NA	Effective Date: January 1, 2014	Revised Date: 7/22/2022	

I. POLICY

The Lakeshore Regional Entity (LRE) will deliver services in strict conformance to the highest standards of accountability for administration, programs, services, business, marketing, human services, and financial management as it pertains to compliance and regulatory management. The LRE is committed to the prevention and detection of fraud, waste, and abuse and to the adherence of all federal and state laws, rules, and regulations. The LRE shall develop and manage a Compliance Program that addresses all required elements of an effective compliance program as established by the Department of Health and Human Services/Office of Inspector General Office.

II. PURPOSE

- A. To ensure that the LRE conducts all aspects of service delivery and administration with honesty, integrity, in conformance with the highest standards of accountability and applicable laws, while utilizing sound business practices, through the development of and adherence to its Corporate Compliance Plan, guaranteeing the highest standards of excellence.
- B. The LRE will establish a Corporate Compliance program and related processes for the LRE and its provider network.
 1. All LRE staff will be trained in the Corporate Compliance Plan upon hire, annually thereafter, and any time changes occur to the plan. LRE staff will have an open line of communication to share any recommendations to improve the Corporate Compliance Plan and review recommended changes to the plan annually.
 2. The LRE Corporate Compliance Plan provides the framework for LRE to comply with applicable laws, regulations and program requirements, minimize organizational risk, maintain internal controls and encourage the highest level of ethical and legal behavior.
 3. The Community Mental Health Service Program (CMHSP) Members and their contracted providers shall have policies and procedures necessary to comply with the LRE Corporate Compliance Plan and shall ensure effective processes for

identifying and reporting suspected fraud, abuse and waste, and timely response to detected offenses with appropriate corrective action.

4. The CMHSP Participants shall each identify a Corporate Compliance Officer specific to their agencies.
 5. The CMHSP Participants and their contracted providers shall provide staff training in compliance with the Corporate Compliance Plan and will maintain records of staff attendance. Trainings shall include but are not limited to: Federal False Claims Act, Michigan False Claims Act and Whistleblowers Protection Act.
 6. The CMHSP Participants shall require all Board members, employees and contractors to comply with corporate compliance requirements including any necessary reporting to other agencies.
 7. The CMHSP Participants shall review their own compliance activities at least annually and will participate in the annual review of the LRE Corporate Compliance Plan and provide recommendations for revisions as needed.
- C. Ethical Standards/Program Integrity:
1. All services within LRE shall be provided with commitment to appropriate business, professional and community standards for ethical behavior.
 2. LRE shall develop and maintain Standards of Conduct applicable to all LRE staff and LRE Board Members.
 3. LRE shall conduct business with integrity and not engage in inappropriate use of public resources.
 4. LRE shall ensure that services are provided in a manner that maximizes benefit to consumers while avoiding risk of physical, emotional, social, spiritual, psychological or financial harm.
 5. The interests of the persons served shall be the driving factor. Activities on behalf of persons served, whether primary or secondary, shall always be determined by their best interests and the need to acknowledge health and safety risks.
 6. All LRE staff and LRE Board Members shall conduct themselves in such a way as to avoid situations where prejudice, bias, or opportunity for personal or familial gain, could influence, or have the appearance of influencing, professional decisions.
 7. High professional standards will be maintained and promoted. The LRE staff, LRE Board members, and providers are required to conduct business based on acceptable principles and standards of practice.
 8. The CMHSP Participants and their contracted providers shall have standards of conduct that articulate organization's commitment to comply with all applicable requirements and standards under the contract, and all applicable Federal and State requirements.
 9. The LRE will require employees to report suspected compliance issues to their supervisor or Chief Compliance Officer.
 10. The LRE will require employees and network providers to report suspected compliance issues to their supervisor, local liaison, or regional Compliance Officer/QI Reporting Lead.

11. Whistleblower Protection will be present within the LRE.

D. The LRE will adhere to the eight seven elements of an effective compliance plan ensuring

1. auditing and monitoring occur;
2. practice standards and procedures are in place;
3. designation of a compliance officer;
4. appropriate compliance training is conducted;
5. response to detected offenses and develop corrective action plan initiatives as indicated;
6. open lines of communication;
7. enforcement of discipline standards through well published guidelines.
1. Standards, policies, and procedures are in place;
2. Compliance program administration is in place;
3. Screening and evaluation of employees, physicians, vendors, and other agents occurs;
4. Communication, education, and training on compliance issues is conducted;
5. Monitoring, auditing, and internal reporting systems are in place and utilized regularly;
6. Discipline for non-compliance standards are published and enforced;
7. Investigations and remedial measures are in place; and
8. Risk assessments are conducted.

III. APPLICABILITY AND RESPONSIBILITY

This policy applies to the LRE staff and its CMHSP members.

IV. MONITORING AND REVIEW

The LRE Chief Compliance Officer is responsible for the coordination of the Compliance Program. The Chief Compliance Officer works in conjunction with the Compliance Oversight Committee and the Regional Compliance Committee to maintain and improve the Corporate Compliance Plan and Compliance Program.

- A. The Regional Compliance Committee will assure that local monitoring and reviews occur and are reported to the LRE Chief Compliance Officer as required. Each member will have a Compliance Liaison who will be responsible for local monitoring and review efforts and will coordinate with the LRE Chief Compliance Officer as needed.

V. DEFINITIONS

Abuse: Means provider practices that are inconsistent with sound fiscal, business, or clinical practices, and result in unnecessary cost to the Medicaid program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards of care. It also includes beneficiary practices that result in unnecessary cost to the Medicaid program (42 CFR § 455.2).

Compliance Program: The compliance principles, components, and activities that guide the LRE and its provider network.

Corporate Compliance: The mechanisms that are intended to prevent and detect unethical and/or illegal business practices and violations of the law.

Code of Conduct: The descriptors that serve as the foundation of ethical practices.

Fraud: means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable Federal or State law (42 CFR § 455.2).

Waste: means overutilization of services, or other practices that result in unnecessary costs. Generally, not considered caused by criminally negligent actions but rather the misuse of resources.

VI. RELATED POLICIES AND PROCEDURES

- A. Lakeshore Regional Entity Corporate Compliance Plan
- B. Compliance Policies and Procedures
- C. Quality Policies and Procedures
- D. Human Resource Policies and Procedures

VII. REFERENCES/LEGAL AUTHORITY:

- A. Department of Health and Human Services, Office of Inspector General, Publication of the OIG Compliance Program Guidance for Hospitals.
- B. Michigan False Claims Act (Act 72 of 1997)
- C. Michigan Whistleblowers Protection Act (Act 469 of 1980)
- D. Deficit Reduction Act of 2005
- E. MDHHS Medicaid Managed Special Supports and Service Contract
- F. Code of Federal Regulations, Section 42: 438.608 – Program Integrity Requirements

The basic legal standards directly affecting Lakeshore Regional Entity include, as applicable:

- a. Section 1909 of Title 19 of the Social Security Act (SSA), as amended;
- b. The Balanced Budget Act of 1997 (BBA), particularly as it pertains to the Medicaid program;
- c. 42 CFR Parts 400 et al. Final Rules implementing the SSA as amended by the BBA regarding Medicaid Managed Care;
- d. Patient Protection and Affordable Care Act;
- e. HITECH HIPAA Omnibus Rule;
- f. Health Care Fraud and Abuse legal prohibitions, as referenced in the above statutes, and including:
 - The Federal Anti-Kickback statute at 42 USC 1320a-7b(b), prohibiting knowing and willful solicitation, receipt, offer, or payment of remuneration in return for referring a customer or services under a federal health program;
 - The Stark Law at 42 USC Section 1395nn and as implemented by 42 CFR 411 and 424 relating to self-referrals by physicians;
 - The Federal False Claims Act;
 - The Deficit Reduction Act of 2005
 - Applicable Michigan statutes, in particular:
 - The Michigan Medicaid False Claim Act (MCL 400.601 et/ seq.), addressing such issues as:
 - Billing for Services Not Rendered;
 - Billing Without Reporting Other Resources;

- Billing for a Brand Name Drug Not Dispensed;
- Billing for Unnecessary Services resulting in inappropriate or otherwise excessive payment;
- Billing a Date of Service Other Than the Actual Date the Service was Rendered;
- Receiving Kickbacks;
- Fraudulent Cost reports;
- The Michigan Social Welfare Act (MCLA 400.111d);
- The Michigan Public Health Code (MCLA 333.16226); and
- The Michigan Mental Health Code (MCLA 330.1400)

VIII. CHANGE LOG

Date of Change	Description of Change	Responsible Party
06/26/2014	New Policy	Chief Compliance Officer
7/22/2022	Annual Policy Update	Chief Compliance Officer

Policy 9.7

POLICY TITLE: COMPLIANCE REVIEWS AND INVESTIGATIONS FOR REPORTING	POLICY # 9.7		
Topic Area: CORPORATE COMPLIANCE		REVIEW DATES	
Applies to: LRE Staff and Operations	ISSUED BY: Chief Compliance Officer	8/21/14	
Developed and Maintained by: CEO and Designee	APPROVED BY: Board of Directors		
Supersedes: N/A	Effective Date: January 1, 2014	Revised Date: 7/22/2022	

I. POLICY

Lakeshore Regional Entity's (LRE) Chief Compliance Officer will coordinate and complete the investigation of all LRE Medicaid fraud, abuse, or waste compliance allegations throughout the entire LRE region and provider network.

A. Suspected Medicaid Fraud and/or Abuse:

1. LRE staff and its Provider Network shall report all suspected Medicaid fraud and abuse to the LRE Corporate Compliance Officer in accordance with standards established in the LRE Compliance Plan. Investigations shall be conducted in accordance with the LRE Compliance Plan, Compliance Reporting, and Ongoing Communication.
2. Reports will be made to the LRE Corporate Compliance Officer in writing utilizing the Office of Inspector General Fraud Referral Form.
3. LRE's Compliance Officer will complete a preliminary investigation, as needed, to determine if a suspicion of fraud exists.
4. If there is suspicion of fraud, LRE's Compliance Officer will report the suspected fraud and abuse to the MDHHS Office of Inspector General.
5. LRE's Corporate Compliance Officer will inform the appropriate provider network member when a report is made to the Michigan Department of Health and Human Services (MDHHS) Office of Inspector General (OIG).
6. LRE will follow the guidance/direction provided by the MDHHS Office of Inspector General regarding investigation and/or other necessary follow up.

B. Suspected Violations and/or Misconduct (not involving Medicaid Fraud and/or Abuse):

1. LRE staff and its Provider Network shall report all suspected violations and/or misconduct to the LRE Corporate Compliance Officer and/or the appropriate CMHSP Participant designated Compliance Officer.
2. Reporting and Investigations shall be conducted in accordance with the LRE Compliance Plan, Compliance Reporting, and Ongoing Communications.

3. Where internal investigation substantiates a reported violation, corrective action plans will be initiated by LRE staff or its Provider Network.
4. Corrective action plans developed by the Provider Network, shall be submitted to the LRE Corporate Compliance Officer within thirty (30) days of the approved plan.
5. The LRE Corporate Compliance Officer shall review corrective action plans and ensure, as appropriate, prompt restitution of any overpayment amounts, notifying the appropriate governmental agency, coordinating with the CMHSP designee for follow-up monitoring and oversight, and implementing system changes to prevent a similar violation from recurring in the future.

C. Required Reporting:

1. LRE's Provider Network shall submit compliance activity reports quarterly to the LRE Corporate Compliance Officer utilizing the Office of Inspector General program integrity report template. Minimally the report will include the following:
 - a. Tips/grievances received
 - b. Data mining and analysis of paid claims, including audits performed based on the results
 - c. Audits performed
 - d. Overpayments collected
 - e. Identification and investigation of fraud, waste, and abuse (as these terms are defined in the "Definitions" section of this contract
 - f. Corrective action plans implemented
 - g. Provider dis-enrollments
 - h. Contract terminations
2. Reporting Period/Due Dates to LRE:
 - January through March: May 1st
 - April through June: August 1st
 - July through September: November 1st
 - October through December: February 1st

D. The LRE Corporate Compliance Officer will prepare a quarterly summary report of the Provider Network and direct LRE compliance activities and present to the LRE Compliance Committee and Regional Compliance Committee. An annual summary report of the regional compliance activities will be presented to the LRE Board of Directors.

E. To the extent consistent with applicable law, including but not limited to 42 CFR Part 2, HIPAA, and the Michigan Mental Health Code, the PIHP is required to comply with MDHHS-OIG's requests for documentation and information related to program integrity and compliance.

II. PURPOSE

To articulate the process that will be used by LRE regionally in all managed care compliance investigations. To ensure LRE staff and its provider network report suspected violations, misconduct and Medicaid fraud and abuse, complete investigations, and complete the required reporting in accordance with the Compliance Plan, Compliance Reporting, and Ongoing Communications.

III. APPLICABILITY AND RESPONSIBILITY

This policy applies to all member CMHSP staff and LRE staff and operations.

IV. MONITORING AND REVIEW

The Chief Executive Officer and designee will review this policy on an annual basis

V. DEFINITIONS

Compliance investigation: the observation or study of suspected fraud, abuse, waste, or reported violations of applicable laws and regulations for all Lakeshore Regional Entity covered services by close examination and systematic inquiry.

Abuse: means provider practices that are inconsistent with sound fiscal, business, or clinical practices, and result in an unnecessary cost to the Medicaid programs, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards of care. It also includes beneficiary practices that result in unnecessary cost to the Medicaid programs.

Fraud (per 42 CFR): means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable Federal or State law including but not limited to the Federal False Claims Act and the Michigan False Claims Act.

Fraud (per Michigan statute and case law interpreting same): Under Michigan law, a finding of Medicaid fraud can be based upon evidence that a person “should have been aware that the nature of his or her conduct constituted a false claim for Medicaid benefits, akin to constructive knowledge.” But errors or mistakes do not constitute “knowing” conduct necessary to establish Medicaid fraud, unless the person’s “course of conduct indicates a systematic or persistent tendency to cause inaccuracies to be present.”

Waste: means overutilization of services, or other practices that result in unnecessary costs. Generally, not considered caused by criminally negligent actions, but rather the misuse of resources.

VI. RELATED POLICIES AND PROCEDURES

- A. Corporate Compliance Plan
- B. Compliance Policies and Procedures

VII. REFERENCES/LEGAL AUTHORITY

- A. 42 Code of Federal Regulations 455.17 – Reporting Requirements
- B. 42 Code of Federal Regulations 438.608: Program Integrity Requirement
- C. 42 Code of Federal Regulations, Part 2: Confidentiality of Substance Use Disorder Patient Records
- D. Medicaid Managed Specialty Supports and Services Concurrent 1915(b)/(c) Waiver Program FY20 contract, Attachment P 7.7.1.1: PIHP Reporting Requirements
- E. Michigan Mental Health Code

VIII. ATTACHMENTS

- A. LRE Compliance Investigation Reports Office of Inspector General Fraud Referral Form
- B. LRE Compliance Activity Report Template

IX. CHANGE LOG

Date of Change	Description of Change	Responsible Party
08/21/2014	New Policy	Chief Compliance Officer
7/22/2022	Annual Review-	CEO and Designee

Policy 9.8

POLICY TITLE: COMPLIANCE ENFORCEMENT AND DISCIPLINE	POLICY # 9.8		
Topic Area: CORPORATE COMPLIANCE		REVIEW DATES	
Applies to: All CMHSP Programs, LRE Staff and Operations	ISSUED BY: Chief Compliance Officer	6/26/14	
Developed and Maintained by: CEO and Designee	APPROVED BY: Board of Directors		
Supersedes: N/A	Effective Date: January 1, 2014	Revised Date: 7/22/2022	

I. POLICY

Through its commitment to have an effective compliance program, Lakeshore Regional Entity (LRE) will include disciplinary guidelines that identify the consequences of violating the organization's standards of conduct, policies, and procedures.

Enforcement and discipline standards contained or referenced in the LRE Corporate Compliance Plan will be consistently enforced through appropriate disciplinary mechanisms, up to termination, depending on the egregiousness of the offense.

It is the policy of LRE that officers and managers are accountable for the foreseeable behavior of their subordinates.

Adequate discipline of individuals responsible for an offense is a necessary component of enforcement. The form of discipline that occurs will be appropriate and will be case specific. Each situation will be considered on a case-by-case basis to determine the appropriate response. Disciplinary action will be taken on a fair, equitable, and consistent basis.

Intentional noncompliance will subject transgressors to significant sanctions. Such sanctions could range from oral warnings, written warning, corrective action, suspension, or termination as appropriate.

Disciplinary action is appropriate and will be enforced when a responsible employee's failure to detect a violation is attributable to his or her negligence or reckless conduct.

II. PURPOSE

The purpose of this policy is to articulate the LRE commitment to the standards contained and/or referenced in its Corporate Compliance Plan regarding enforcement and discipline of

its employees and agents in relation to compliance with State and Federal laws and regulations, Medicaid program requirements, and PIHP contractual obligations.

III. APPLICABILITY AND RESPONSIBILITY

This policy applies to LRE staff and operations.

IV. MONITORING AND REVIEW

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

V. DEFINITIONS

PIHP: Prepaid Inpatient Health Plan

VI. RELATED POLICIES AND PROCEDURES

A. Corporate Compliance Plan

VII. REFERENCES/LEGAL AUTHORITY

- A. 42 CFR, Ch. IV §438.608
- B. Federal Register Volume 64, No. 219
- C. MDHHS Managed Special Supports and Service Contract

IV. CHANGE LOG:

Date of Change	Description of Change	Responsible Party
06/26/2014	New Policy	Corporate Chief Compliance Officer
7/22/2022	Annual Update	CEO and Designee

Policy 9.9

POLICY TITLE: Exclusion Screening	POLICY # 9.9	
Topic Area: CORPORATE COMPLIANCE		REVIEW DATES
Applies to: LRE Staff and Operations, All Member CMHSPs, LRE Provider Network	ISSUED BY: Chief Compliance Officer	
Developed and Maintained by: CEO and Designee	APPROVED BY: Board of Directors	
Supersedes: N/A	Effective Date: June 26, 2014	Revised Date: 7/22/2022

I. POLICY

It is the policy of the Lakeshore Regional Entity (LRE) not to employ, contract or conduct business with individuals or entities listed by a federal agency or state law enforcement, regulatory or licensing agency as excluded, suspended, debarred, or otherwise ineligible to participate in federally funded health care programs, as defined in 42 U.S.C. Section 1320a,7,b(f), or who have been identified as potential terrorists or having connections with terrorists.

- A. Applicants and or vendors who are excluded, debarred, charged or proposed for exclusion, or listed as alleged terrorists are not offered employment or awarded contracts for services.
 - B. Individuals currently employed by LRE or employed by one of LRE's vendors who become designated as excluded or debarred or listed as alleged terrorists are subject to disciplinary action up to and including employment or contract termination.
 - C. It is the responsibility of each provider to conduct exclusion screenings.
- This policy demonstrates the manner in which the LRE performs sanction-screening checks.

II. PURPOSE

To establish a process and guidelines for performing sanction screening checks as required by federal and state agencies on LRE employees, temporary employees, volunteers, consultants, governing body members and vendors to ensure that the LRE does not employ, contract or partner with any individual who is designated as ineligible by a federal or state law enforcement, regulatory or licensing agency. Federal regulations prohibit health care programs from employing, or contracting with, individuals or entities that have been excluded from participation in federally funded programs. The United States Department of Health and Human Services, Office of Inspector General (OIG) has the authority to impose civil monetary penalties against excluded individuals and entities that seek reimbursement from federal health care programs and health care providers that employ or enter into contracts with excluded individuals that provide items or services to federal program beneficiaries.

III. APPLICABILITY AND RESPONSIBILITY

This policy applies to all LRE staff and the LRE Provider Network regardless of the role they play or responsibility they hold within the organization including:

- A. All Full, Part-time and temporary employees, and volunteers;
- B. Vendors, Contractors, Consultants;
- C. Corporate directors and officers (as applicable), and governing body members;
- D. Partners (as applicable);
- E. Any Health Professional participating in one of LRE's Provider Networks; and
- F. Any individual with an ownership or controlling interest of five (5) percent or more in LRE or one of its providers

IV. MONITORING AND REVIEW

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

V. DEFINITIONS

Employee: Any LRE per diem, temporary, part-time, or full-time Employee, corporate director, officer (as applicable) and Board of Managers for LRE.

Excluded Parties List System (EPLS): General Service Administration's (GSA) database that was replaced by System for Awards Management (SAM).

Federal Health Care Program: Any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or part, by the United States government or a state health care program.

Health and Human Services (HHS) Office of Inspector General (OIG): The Office of Inspector General was established by law as an independent and objective oversight unit of the HHS Department to carry out the mission of promoting economy, efficacy, and effectiveness through the elimination of waste, abuse, and fraud.

List of Excluded Individuals/Entities (LEIE): Office of Inspector General's (OIG) database that provides information to the health care industry, patients, and the public, regarding individuals and entities currently excluded from participation in Medicaid and all Federal health care programs.

Office of Foreign Assets Control (OFAC): US Department of Treasury's agency that enforces the mandatory screening of all employees, vendors and providers against the database that provides information to the public regarding individuals and entities involved with terrorist and terrorist activities.

Sanction: Action taken by a federal or state government to debar or exclude an entity or individual from receiving government funding, either directly or indirectly, as a result of a government determination that the entity or individual has engaged in wrongdoing.

Specially Designated Nationals (SDN): Individuals and companies which OFAC has designated as being owned by or acting on behalf of terrorist organizations, targeted countries or narcotics traffickers. SDN assets are blocked, and U.S. persons are generally prohibited from dealing with them.

System for Awards Management (SAM): database that provides information to the health care industry, patients and the public, regarding individuals and entities currently excluded from participation Medicaid and all Federal health care programs due to non-healthcare related issues.

Vendor: Any entity or individual receiving a payment from LRE for services that receives a 1099 (vs. a W-2) from LRE. This includes consultants, contractors and subcontractors (as applicable).

VII. RELATED POLICIES AND PROCEDURES

- A. Disclosure of Ownership, Control, and Criminal Convictions
- B. LRE Exclusions Screening Procedure
- C. 8.5 Hiring/Background Checks
- D. 9.6 Compliance Program
- E. LRE Corporate Compliance Plan

VI. REFERENCES/LEGAL AUTHORITY

- A. MDHHS Medicaid Provider Manual
- B. MDHHS Contract
- C. MCL 333.20173a, MCL 330.1134a, MCL 400.734b,
- D. 42 USC 1320a-7: Exclusion of certain individuals and entities from participation in Medicare and State health care programs
- E. 42 CFR 441.570

VII. CHANGE LOG

Date of Change	Description of Change	Responsible Party
06/26/2014	New Policy	Corporate Compliance Officer
7/22/2022	Updated and removed procedure	CEO and Designee

Policy 9.11

POLICY TITLE: CRIMINAL HISTORY CHECKS	POLICY # 9.11		
Topic Area: CORPORATE COMPLIANCE Applies to: LRE Board Members, LRE Staff, CMHSP Participants and Medicaid Network Providers Developed and Maintained by: CEO and Designee Supersedes: N/A		REVIEW DATES	
		8/18/2016	
	ISSUED BY: CEO		
	APPROVED BY: Board of Directors		
	Effective Date: August 18, 2016	Revised Date: 7/22/2022	

I. POLICY

Lakeshore Regional Entity (LRE), member Community Mental Health Service Providers (CMHSP) and provider entities will conduct criminal history checks prior to hire, contracting, and/or service. LRE and CMHSPs will not employ, independently contract with or grant clinical privileges to if the individual will regularly have direct access to or provide direct services to consumers, and the individual is prohibited by law from having the access or performing the services due to a criminal conviction. Criminal history checks will occur at time of hire or contract initiation, and minimally every two years thereafter.

LRE, its member CMHSPs, and contracted providers will not employ, contract with, authorize services for, reimburse services for, or seek reimbursement for services delivered, prescribed, or ordered by any individual if:

- A. The individual has received a criminal history check that indicates a mandatory disqualifying conviction listed in Subdivision (1) in the table below (42 USC 1320a-7(a));
- B. The individual has been the subject of a substantiated finding as described in Subdivision (8) in the table below;
- C. The individual has direct access, or provides direct services, to consumers in a prescribed setting (inpatient psychiatric, specialized residential) and the individual has received a criminal history check indicating a time-limited disqualifying conviction for which the time limitation has not yet been satisfied (listed in Subdivisions 2-7 in the table below) (MCL 20173a, MCL 330.1134a, MCL 400724b);
- D. The individual is being considered or is currently employed as a Behavior Technician and the criminal history check reveals any criminal conviction for the individual (MCL 333.18263(1)(a)).

Background Checks

- A. **Specialized Residential and Psychiatric Inpatient settings:** Inpatient psychiatric facilities and licensed adult foster care homes shall follow Michigan Department of

Health and Human Services (MDHHS) Michigan Workforce Background Check procedures for obtaining criminal background checks and fingerprints (MCL 2333.20173a; MCL 330.1134a; MCL 400.734b). The Workforce Background Check system alerts employers to ongoing criminal activity, so biannual re-checks of criminal history status are not necessary.

- B. **LRE and all other settings:** Entities shall ensure its background checks are completed by an organization, service, or agency that specializes in gathering the appropriate information to review the complete history of an individual. Use of the state of Michigan Offender Tracking Information System (OTIS) or a county level service that provides information on individuals involved with the court system are not appropriate resources to use for criminal background checks.
1. Entities shall secure written consent from individuals who apply for employment, contracting or volunteering, at the time of application, for the entity to conduct a criminal history check.
 2. Background check documentation shall be maintained in the employee record and shall include the following (which shall be updated every two years for those individuals having direct access or providing services to customers):
 - a. OIG exclusion verifications to ensure no mandatory disqualifying convictions from 42 USC 1320a-7(a), or other exclusions.
 - b. Queries for state offenses committed in the state of Michigan.
 - c. If the individual has resided in any other state in the 5 years prior to application, or since age 16, whichever is less, queries of those states' criminal background systems (required for initial background check only, unless the individual resides part-time in another state).
 - d. A statement signed by the individual that indicates the following:
 - e. That he or she has not been the subject of a substantiated finding as described in Subdivision (8) of the table below.

Reporting

1. **LRE INTERNAL:** All employees, directors, managers, and individuals with any other type of employment or consulting arrangement with LRE are required to report the following to LRE Human Resources Designee within five (5) days of conviction or assessment imposition:
 - i. Any criminal conviction, felony or misdemeanor; and/or
 - ii. The imposition of civil money penalties or assessments imposed under section 1128 A of the Social Security Act.
2. **EXTERNAL:** Criminal conviction results are to be disclosed to LRE by participant CMHSPs and providers with regard to those offenses as detailed in sections 1128(a) and 1128(b)(1), (2), or (3) of the Social Security Act, or that have had civil money penalties or assessments imposed under section 1128A of the Act.
3. **MDHHS:** LRE will notify the MDHHS Behavioral Health and Developmental Disabilities Administration (BHDDA) Division of Program Development, Consultation and Contracts when disclosures are made by providers with regard

to any offenses detailed in sections 1128(a) and 1128(b) (1), (2) or (3) of the Social Security Act, or that have had civil money penalties or assessments imposed under section 1128A of the Act.

Compliance

1. Although criminal background checks are required, it is not intended to imply that a criminal record will necessarily bar employment. The verification of these checks and justification for the decisions that are made should be documented in the employee personnel or interview file. Decisions must be consistent with state and federal rules and regulations regarding individuals with a criminal history.

Table of Disqualifying Convictions

1. For purposes of this policy, Subdivisions (1) and (8) apply to LRE, member CMHSPs, and providers.
2. Subdivisions (2) through (7) apply to personnel working in inpatient psychiatric and specialized residential settings.
3. Subdivisions 2-8: Disqualifications related to MCL333.20173a, MCL330.1134a and MCL 400.734b
4. Subdivision (9) applies only to individuals being considered for or employed as Behavior Technicians delivering applied behavior analysis services. An individual who is not licensed or authorized to practice a profession under this part (MCL 333.18251-Act 368 of 1978, Part 182A) and who delivers applied behavior analysis services under the delegation and supervision of a behavior analyst and meets the requirements of section 18263.

Mandatory and Time-limited disqualifications are described in part in the table below.

Subdivision 1 - Mandatory Disqualifications Persons with the following convictions are excluded from participating in Medicare and State health care programs
1. Any criminal convictions related to the delivery of an item or service under Medicare {Title XVIII}, Medicaid (Title XIX) or other state health care programs (e.g., Children's Special Health Care Services, Healthy Kids), (Title V, Title XX, and Title XXI).
2. Any criminal convictions under federal or state law, relating to neglect or abuse of patients in connection with the delivery of a health care item or service.
3. Felony convictions occurring after August 21, 1996, relating to an offense, under federal or state law, in connection with the delivery of health care items or services or with respect to any act or omission in a health care program (other than those included in number 1 above) operated by or financed in whole or in part by any federal, state, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.
4. Felony convictions occurring after August 21, 1996, under federal or state law, related to unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.

Subdivision 2 - Time-Limited Disqualifications Time Requirement*: 15 years
1. A felony that involves the intent to cause death or serious impairment of a body function, that results in death or serious impairment of a body function, that involves the use of force or violence, or that involves the threat of the use of force or violence
2. A felony involving cruelty or torture.
3. A felony under chapter XXA of the Michigan penal code, 1931PA328, MCL750.145m to 750.145r (Vulnerable Adults chapter).
4. A felony involving criminal sexual conduct.
5. A felony involving abuse or neglect.
6. A felony involving the use of a firearm or dangerous weapon.
7. A felony involving the diversion or adulteration of a prescription drug or other medications.
Subdivision 3 - Time-Limited Disqualifications Time Requirement*: 10 years
C. Other felony or attempt or conspiracy to commit felony, other than those described under Subdivision 1 and 2.
Subdivision 4 - Time-Limited Disqualifications Time Requirement*: 10 years
1. A misdemeanor involving the use of a firearm or dangerous weapon with the intent to injure, the use of a firearm or dangerous weapon that results in a personal injury, or a misdemeanor involving the use of force or violence or the threat of the use of force or violence.
2. A misdemeanor under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r (Vulnerable Adults chapter).
3. A misdemeanor involving criminal sexual conduct
4. A misdemeanor involving cruelty or torture unless otherwise provided under Subdivision 5.
5. A misdemeanor involving abuse or neglect.
Subdivision 5 - Time-Limited Disqualifications Time Requirement*: 5 years
1. A misdemeanor involving cruelty if committed by an individual who is less than 16 years of age.
2. A misdemeanor involving home invasion.
3. A misdemeanor involving embezzlement
4. A misdemeanor involving negligent homicide or a violation of section 601d (1) of the Michigan vehicle code, 1949 PA 300, MCL 257.601d.
5. A misdemeanor involving larceny unless otherwise provided under Subdivision 7.
7. Any other misdemeanor involving assault, fraud, theft, or the possession or delivery of a controlled substance unless otherwise provided under Subdivision 4, 6, or 7.
Subdivision 6 - Time-Limited Disqualifications Time Requirement*: 3 years

1. A misdemeanor for assault if there was no use of a firearm or dangerous weapon and no intent to commit murder or inflict great bodily injury.
2. A misdemeanor of retail fraud in the third degree unless otherwise provided under Subdivision 7.
3. A misdemeanor under part 74 (MCL 333.74 - offences related to controlled substances) unless otherwise provided under Subdivision 7.
Subdivision 7 - Time-Limited Disqualifications Time Requirement*: 1 year
1. A misdemeanor under part 74 (MCL 333.74 - offences related to controlled substances) if the individual, at the time of conviction, is under the age of 18.
2. A misdemeanor for larceny or retail fraud in the second or third degree if the individual, at the time of conviction, is under the age of 16.
Subdivision 8 - These individuals are Excluded from participating as a service provider
1. Engages in conduct that becomes the subject of a substantiated finding of neglect, abuse, or misappropriation of property by a state or federal agency pursuant to an investigation conducted in accordance with 42 USC 1395i-3 (Requirements for, and assuring quality of care in, skilled nursing facilities) or 1396r (Requirements for nursing facilities).
Subdivision 9 – These individuals are Excluded from working as Behavior Technician providing applied behavior analysis services.
1. Any misdemeanor or felony conviction. Criminal history check must not obtain any convictions.

** Time requirement means the time required for completing all terms and conditions of sentencing, parole, and probation for the conviction prior to the date of application for employment or clinical privileges.*

II. PURPOSE

The purpose of the policy is to comply with federal and state mandates to assure that access to and services performed for consumers are provided by individuals who are permitted by law and are qualified to perform the services.

III. APPLICABILITY AND RESPONSIBILITY

This policy applies to LRE staff and operations, member CMHSPs, and all network providers.

IV. MONITORING AND REVIEW

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

V. DEFINITIONS

Direct Access: Access to a consumer or a consumer's property, financial information, medical records, treatment information, or any other identifying information.

Employee/Staff: An individual who is directly engaged by LRE, a member CMHSP or network provider including employees, contractors, volunteers, interns, and any other

staff.

Conviction: For the purpose of the laws mentioned above, an individual or entity is considered to have been convicted of a criminal offense when:

1. A judgement of conviction has been entered against the individual or entity by a federal, state or local court, regardless of whether there is an appeal pending or whether judgement of conviction or other record relating to the criminal conduct has been expunged,
2. A finding of guilt against the individual or entity by a federal, state or local court,
3. A plea of guilty or nolo contendere by the individual or entity has been accepted by a federal, state, or local court or
4. An individual or entity that has entered into participation in a first offender, deferred adjudication, or other arrangement or program where judgment of conviction has been withheld.

VI. RELATED POLICIES AND PROCEDURES

- A. LRE Corporate Compliance Plan
- B. Corporate Compliance Policy and Procedures
- C. Human Resource Policy and Procedures

VII. REFERENCES/LEGAL AUTHORITY

- A. 42 U.S.C. 13 20A-7
- B. MCL333.1134a
- C. MCL400.734b
- D. MCL333.20173a
- E. MCL333.18263
- F. 42 CFR 441.570
- G. MDHHS Medicaid Managed Specialty Supports and Services Contract

VIII. CHANGE LOG

Date of Change	Description of Change	Responsible Party
06/26/2014	New Policy	Chief Compliance Officer
7/22/2022	Annual Policy Update	Chief Compliance Officer

Policy 9.12

POLICY TITLE: DISCLOSURE OF OWNERSHIP, CONTROL, AND CRIMINAL CONVICTIONS	POLICY # 9.12	
Topic Area: CORPORATE COMPLIANCE		REVIEW DATES
Applies to: LRE Board Members, LRE Staff, CMHSP Participants and Medicaid Network Providers	ISSUED BY: CEO	
Developed and Maintained by: CEO and Designee	APPROVED BY: Board of Directors	
Supersedes: N/A	Effective Date: October 20, 2016	Revised Date: 7/22/2022

I. POLICY

Lakeshore Regional Entity (LRE) complies with federal regulations to obtain, maintain, disclose, and furnish required information about ownership, control interests, business transactions, and criminal convictions as specified in 42 CFR §§455.104-106. In addition, LRE ensures that any and all of its contracts and sub-contracts, agreements, purchase orders, or leases to obtain space, supplies, equipment or services provided with Medicare or Medicaid funds require compliance with 42 CFR §§455.104-106. LRE will report known convictions of criminal offenses related to a person's involvement in programs under Medicare Title XVIII, Medicaid Title XIX and Title XX of the Social Security Act [42 CFR §455.106(a)(2)], including convictions of program-related crimes, patient abuse, healthcare fraud, and controlled substances (Criminal Offenses). The Michigan Department of Health and Human Services (MDHHS), Behavioral Health and Developmental Disabilities Administration (BHDDA) Division of Program Development, Consultation and Contracts will be notified of those Criminal Offenses and any civil monetary penalties or assessments imposed under section 1128A of the Act.

II. PURPOSE

To ensure compliance with federal regulations that require Managed Care Entities such as LRE, the LRE provider network and Fiscal Agents (if applicable) disclose information about individuals with ownership or control interests in those respective entities; to identify and report any additional ownership or control interest by those individuals in other entities, as defined in this Policy, including Family Members with ownership or control interests; to report criminal convictions as required under this Policy; and, to ensure LRE and Community Mental Health Service Provider (CMHSP) Participants and sub-contractors comply with these regulations and have policies and processes in place to also ensure compliance with these regulations.

III. APPLICABILITY AND RESPONSIBILITY

This policy applies to LRE, CMHSP Participants and Medicaid contracted providers.

IV. MONITORING AND REVIEW

This policy by the CEO and Designee annually.

V. DEFINITIONS

Act means the Social Security Act of 1935, as amended.

Disclosing Entity means a Medicaid Provider (other than an individual practitioner or group of practitioners), or a Fiscal Agent and, for purposes of this Policy, a Managed Care Entity

Family Members for the purpose of this policy include spouse, parent, child, or sibling.

Fiscal Agent means a contractor that processes or pays vendor claims on behalf of the Medicaid Agency (MDHHS).

Managing Employee means an individual, including a general manager, business manager, administrator, director, or other individual, who exercises operational or managerial control over the entity, or who directly or indirectly conducts the day-to-day operations of the entity.

Managed Care Entity means a prepaid inpatient health plan (PIHP) as well as other entities listed in 42 CFR §455.101.

Medicaid Agency means the single State agency administering or supervising the administration of a State Medicaid Plan, which in Michigan is MDHHS. [42 CFR §400.203]

Other Disclosing Entity means any other Medicaid disclosing entity and any entity that does not participate in Medicaid but is required to disclose certain ownership and control information because of participation in any of the programs established under title V, XVIII, or XX of the Act. This includes:

- a. Any hospital, skilled nursing facility, home health agency, independent clinical laboratory, renal disease facility rural health clinic, or health maintenance organization that participates in Medicare (title XVIII);
- b. Any Medicare intermediary or carrier; and
- c. Any entity (other than an individual practitioner or group of practitioners) that furnishes or arranges for the furnishing of health-related services for which it claims payment under any plan or program established under title V or title XX of the Act.

Person with an ownership or control interest means with respect to the Disclosing Entity, a person who: (a) has directly or indirectly (as determined by the Secretary in regulations) an ownership interest of 5 per centum or more in the Disclosing Entity; owns an interest of 5% or more of any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the Disclosing Entity if that interest is equal to or exceeds five percent of the value of total property or assets of the Disclosing Entity; or (b) is an officer or director of the Disclosing Entity, if the Disclosing Entity is organized as a corporation, or a partner of a Disclosing Entity that is organized as a Partnership.

VI. RELATED POLICIES AND PROCEDURES

- A. LRE Corporate Compliance Plan
- B. Corporate Compliance Policy and Procedures
- C. Quality Policies and Procedures
- D. Ownership Interest Procedure
- E. Human Resource Policy and Procedures

VII. REFERENCES/LEGAL AUTHORITY

- A. 42 CFR§§455.104-106
- B. Social Security Act
- C. MDHHS Medicaid Managed Specialty Supports and Services Contract
- D. LRE Ownership, Control and Criminal Conviction Disclosure Form

VIII. CHANGE LOG

Date of Change	Description of Change	Responsible Party
06/26/2014	New Policy	Chief Compliance Officer
7/22/2022	Annual Policy Update	CEO and Designee

Policy 9.14

POLICY TITLE: STANDARD MDHHS CONSENT TO SHARE	POLICY # 9.14	
Topic Area: CORPORATE COMPLIANCE		REVIEW DATES
Applies to: Lakeshore Regional Entity (LRE) Staff and Operations	ISSUED BY: CEO	
Developed and Maintained by: CEO and Designee	APPROVED BY: Board of Directors	
Supersedes: N/A	Effective Date: July 22, 2022	Revised Date:

I. POLICY

The Lakeshore Regional Entity (LRE) delegates the responsibility to the Member Community Mental Health Services Program (CMHSP) and Provider Network for obtaining consents to share information such as mental health records or information on treatment or referrals for alcohol and substance use services. The consent form is to be utilized for all electronic and non-electronic Health Information Exchange environments. This would include hard copies of records that are passed from one provider to another. Member CMHSP and SUD Providers will utilize, accept and honor the Michigan Department of Health and Human Services (MDHHS) standard release form that was created by MDHHS under Public Act 129 of 2014 (DCH-3927 Consent to Share Behavioral Health Information for Care Coordination Purposes). LRE will not use or disclose protected health information (PHI) without written authorization except where permitted or required by state and/or federal law(s).

A. Sharing Protected Health Information NOT Requiring a Signed Consent:

1. Health Insurance Portability and Accountability Act (HIPAA) and the Michigan Mental Health Code (under Public Act 559 of 2016) allows for the sharing of mental health records for the purposes of treatment, payment, and coordination of care
2. Sharing information for Substance Use Service under the following conditions (42 CFR- Part 2; Subpart D and E):
 - a. Medical Emergencies
 - b. Research
 - c. Audit and Evaluation
 - d. Court Ordered
3. Refer to Attachment A for examples of when a signed consent is not required

B. Sharing Protected Health Information that DOES Require a Signed Consent:

1. Behavioral health and mental health services for purposes other than payment, treatment and coordination of care
2. Referrals and/or treatment for substance use disorder services

3. Refer to Attachment A for examples of when a signed consent is required
- C. MDHHS Standard Consent Form CANNOT be used for the following:
1. To share psychotherapy notes (as defined by federal law - 45 CFR164.501)
 2. Release of information pertaining to HIV infection or acquired immunodeficiency syndrome (unless by court order or subpoena as defined in the Public Health Code – Section333.5131)
 3. For a release from any person or agency that has provided services for domestic violence, sexual assault, stalking, or other crimes.

II. PURPOSE

To ensure that the LRE is in compliance with the Michigan Department of Health and Human Services (MDHHS), Medicaid Managed Specialty Supports and Services Contract regarding the use and acceptance of the current MDHHS Standard Release Form. Michigan Public Act 129 of 2014 mandated that the Michigan Department of Health and Human Services (MDHHS) develop a standard release form for exchanging and sharing confidential mental health and substance use disorder information for use by public and private agencies, departments, corporations, or individuals that are involved with treatment of an individual experiencing serious mental illness, serious emotional disturbance, developmental disability, or substance use disorder.

III. APPLICABILITY AND RESPONSIBILITY

This policy applies to Lakeshore Regional Entity (LRE) staff and operations, Member CMHSPs, and contracted providers.

IV. MONITORING AND REVIEW

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

V. DEFINITIONS:

Care Coordination: A set of activities designed to ensure needed, appropriate, and cost-effective care for beneficiaries. As a component of overall care management, care coordination activities focus on ensuring timely information, communication, and collaboration across a care team and between Responsible Plans. Major priorities for care coordination in the context of a care management plan include:

- Outreach and contacts/communication to support patient engagement,
- Conducting screening, record review and documentation as part of Evaluation and Assessment,
- Tracking and facilitating follow up on lab tests and referrals,
- Care Planning,
- Managing transitions of care activities to support continuity of care,
- Address social supports and making linkages to services addressing housing, food, etc., and
- Monitoring, Reporting and Documentation.

CMHSP: Community Mental Health Service Programs

Consent: A written agreement executed by a recipient, a minor recipient's parent, or a recipient's legal representative with authority to execute a consent, or a verbal agreement of a recipient that is witnessed and documented by an individual other than the individual providing treatment.

Contractor: Medicaid Health Plans and Prepaid Inpatient Health Plans

DHHS: Department of Health and Human Services

MDHHS: Michigan Department of Health and Human Services

Network Payment: Activities undertaken by (1) A health plan to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the health plan; or (2) A health care provider or health plan to provide reimbursement for the provision of health care.

PIHP: Prepaid Inpatient Health Plan

Responsible Plan: Contractors with responsibility for Medicaid beneficiaries within the shared service area

SUD: Substance Use Disorder

Treatment: The provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or referral of a patient for health care from one health care provider to another.

VI. RELATED POLICIES AND PROCEDURES

- A. Lakeshore Regional Entity Compliance Plan
- B. Compliance Reporting Responsibility Procedure

VII. REFERENCES/LEGAL AUTHORITY

- A. Michigan Medicaid Managed Special Supports and Service Contract
- B. Michigan Mental Health Code, Sections 330-1261, 330-1262 and 330-1263

VIII. ATTACHMENTS:

- A. DCH-3927 Consent to Share Behavioral Health Information for Care Coordination Purposes http://www.michigan.gov/mdhhs/0,5885,7-339-71550_2941_58005_70642---_00.html
- B. Behavioral Health Consent Form Background Information [https://www.michigan.gov/documents/mdhhs/Behavioral Health Consent Form Background Information 641578 7.pdf](https://www.michigan.gov/documents/mdhhs/Behavioral_Health_Consent_Form_Background_Information_641578_7.pdf)
- C. Behavioral Health Consent Form Handout [https://www.michigan.gov/documents/mdhhs/Behavioral Health Consent Form Handout 641579 7.pdf](https://www.michigan.gov/documents/mdhhs/Behavioral_Health_Consent_Form_Handout_641579_7.pdf)
- D. Frequently Asked Questions for Michigan Residents About the DCH-3927 http://www.michigan.gov/documents/mdhhs/MDHHS-Pub-1101_514350_7.pdf

IV. CHANGE LOG:

Date of Change	Description of Change	Responsible Party
7/22/2022	New Policy	Chief Compliance Officer