

# ORGANIZATIONAL PROCEDURE

<b>PROCEDURE TITLE:</b> DISCLOSURE OF OWNERSHIP, CONTROL, AND CRIMINAL CONVICTIONS		
<b>Topic Area:</b> CORPORATE COMPLIANCE <b>Related Policies:</b> Human Resources, Quality, Financial		<b>REVIEW DATES</b>
<b>Applies to:</b> LRE Board Members, LRE Staff, CMHSP Participants and Provider Network	<b>ISSUED BY:</b> Chief Executive Officer	
<b>Review Cycle:</b> Annually		
<b>Developed and Maintained by:</b> Chief Compliance Officer	<b>APPROVED BY:</b>	
<b>Supersedes:</b> N/A	<b>Effective Date:</b> 7/22/22	<b>Revised Date:</b> July 22, 2022

## PURPOSE

To ensure compliance with federal regulations that require Managed Care Entities such as Lakeshore Regional Entity (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.

## I. PROCEDURES

- A. **Disclosures** – Disclosures must be made to MDHHS in accordance with 42 CFR §455.104(d) regarding:
1. Ownership and control interest in the Disclosing Entity or in any subcontractor in which the Disclosing Entity has a direct or indirect ownership interest of five percent or more; including Family Members.
  2. Information related to business transactions totaling more than \$25,000 during the 12-month period ending on the date of the request.
  3. Information on persons convicted of Criminal Offenses must be disclosed before entering into or renewing a provider agreement or upon written request.
- B. **Disclosure Statement** – Disclosure statements will include the following required information:
1. Name and address of any person (individual or corporation) with an ownership or control interest in the Disclosing Entity. The address for corporate Disclosing Entities must include primary business address, every business location, and P.O. Box location.

2. Date of Birth and Social Security Number of each individual with an ownership or control interest in the Disclosing Entity.
  3. Other tax identification number (in the case of a corporation) with an ownership or control interest in the Disclosing Entity or in any subcontractor in which the Disclosing Entity has five percent or more interest.
  4. Whether the person (individual or corporation) with an ownership or control interest in the Disclosing Entity is related to another person with an ownership or control interest in the Disclosing Entity as a Family Member or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the Disclosing Entity has five percent or more interest, is related to another person with an ownership or control interest as a Family Member.
  5. The name of any Other Disclosing Entity (or Fiscal Agent or Managed Care Entity) in which the owner of the Disclosing Entity has an ownership or control interest.
  6. The name, address, date of birth, and Social Security number of any Managing Employee of the Disclosing Entity.
  7. The identity of any individual who has an ownership or control interest in the provider or is an agent or Managing Employee of the provider and has been convicted of a Criminal Offense.
- C. **Managing Employee** – LRE requires each contractor and subcontractor to identify their “Managing Employees” in policy. LRE’s Managing Employees include, at minimum: Chief Executive Officer, Chief Financial Officer, Chief Information Officer, Chief Operations Officer, Chief Clinical Officer, Governing Board of Directors, and SUD Advisory Board Members.
- D. **Time of Disclosure/Medicaid Providers**– Any disclosing Medicaid Provider must furnish a disclosure statement at any of the following times:
1. When the provider submits a provider application;
  2. Upon execution of the provider agreement or contract;
  3. During re-credentialing or re-contracting;
  4. Within 35 days of any change in the ownership of the Disclosing Entity;
  5. At the time of re-validation of provider enrollment if requested by MDHHS. [42 CFR §455.414]
- E. **Time of Disclosure/LRE [42 CFR §455.104(c)(3)]**
1. Upon submitting a proposal in accordance with MDHHS’ procurement process;
  2. Upon executing the annual PIHP contract with MDHHS;
  3. Upon any renewal or extension of the PIHP contract;
  4. Within 35 days after any changes in ownership of LRE.
- F. **Time of Disclosure/Member CMHSP**
1. Upon submitting a proposal in accordance with MDHHS’ procurement process;
  2. Upon executing the annual contract with LRE;

3. Upon any renewal or extension of the LRE contract;
  4. Within 35 days after any changes in ownership of Member CMHSP.
- G. **Contract Language** – LRE requires contractors and subcontractors, through written agreements, to: comply with 42 CFR §§455.100-106; have processes for obtaining attestation of criminal convictions and full disclosure statements identified in these regulations; and have policies and procedures for subcontracting, employment, and credentialing that include requirements to report to LRE any individuals with a conviction of Criminal Offenses and individuals that have had civil monetary penalties or assessments imposed under section 1129 A of the Act.
- H. **Monitoring** –LRE and its Network Providers will conduct an Office of Inspector General (OIG) Exclusion database search at time of hire or contract and monthly thereafter for as long as the individual or entity is employed or under contract. The OIG database search will also be performed monthly on all Disclosing Entities in Region 3 and on any individuals with ownership or control interest identified on the disclosure form. Network Providers will communicate all OIG database search matches to LRE immediately; and, provide evidence of monthly searches and findings upon request and at least annually as part of the annual performance and compliance review. LRE ensures all contractors and subcontractors have a process for obtaining attestation of criminal convictions and full disclosures (identified in 42CFR §§ 455.101-106 Subpart B) from Managing Employees; board of directors; individuals with ownership or control interests as defined in this Policy; and individuals with an employment, consulting or other arrangement with the contractor or subcontractor of the Disclosing Entity.
- I. **Reporting Criminal Convictions** – Network Providers and CMHSP Participants will notify LRE when they make disclosures with regard to any conviction of Criminal Offenses, or that have had civil monetary penalties or assessments imposed under section 1128A of the Act. LRE will notify the MDHHS Behavioral Health and Developmental Disabilities Administration (BHDDA) Division of Program Development, Consultation and Contracts within two business days of receiving notice of said disclosures.
- J. **Failure to Comply** – Failure to fully complete the disclosure form (attached) as required or the submission of false or misleading information to LRE will be subject to contractual sanctions up to and including immediate suspension of funding and termination of the contractual agreement, if any.

## II. APPLICABILITY AND RESPONSIBILITY

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

### III. MONITORING AND REVIEW

This procedure will be reviewed by the LRE Corporate Compliance Officer or designee on an annual basis.

### IV. 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.

### V. 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

**VI. 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

**VII. CHANGE LOG**

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