

SWMBH Operating Policy 10.10a

Subject: Conflict of Interest Waiver Policy		Accountability: Compliance Department	Effective Date: 02/12/2016	Pages: 7
REQUIRED BY: BBA Section _____ PIHP Contract Section _____ NCQA/URAC Standard _____ Other _____			Last Reviewed Date: 10/4/18	Past Reviewed Dates: 4/13/16
LINE OF BUSINESS: <input checked="" type="checkbox"/> Specialty Waiver (B/C) <input checked="" type="checkbox"/> I Waiver <input checked="" type="checkbox"/> Healthy Michigan <input checked="" type="checkbox"/> SUD Medicaid <input checked="" type="checkbox"/> SUD Community Grant <input checked="" type="checkbox"/> MI Health Link <input type="checkbox"/> OTHER: _____		APPLICATION: <input checked="" type="checkbox"/> SWMBH Staff and Ops <input checked="" type="checkbox"/> Participant CMHSPs <input type="checkbox"/> SUD Providers <input type="checkbox"/> MH / DD providers <input type="checkbox"/> Other: _____		Last Revised Date: Past Revised Dates:
Approved: <u>Mike C. Joad</u> Date: <u>10-11-18</u> Approved by SWMBH Board 02/12/2016			Required Reviewer: Chief Compliance & Privacy Officer	

I. Purpose

To ensure conflict of interest waivers have been granted by participant Community Mental Health Service Provider (CMHSP) Boards for individuals serving in a dual capacity with Southwest Michigan Behavioral Health (SWMBH) and a CMHSP, in accordance with 18 U.S.C. §208.

II. Policy

Participant CMHSPs shall provide documentation of conflict of interest waivers granted to CMHSP Covered Persons, as defined in the CMHSPs' Conflict of Interest Policy; who are appointed by the Participant CMHSP to serve in a SWMBH role, such as SWMBH Board members, SWMBH Operations Committee members and any shared employees, prior to the SWMBH Board granting conflict of interest waivers to those individuals.

III. Standards and Guidelines

A. PARTICIPANT CMHSP STANDARDS AND GUIDELINES: Participant CMHSPs shall adhere to the following in compliance with federal conflict of interest rules noted in Section V:

1. Adhere to the CMHSP Conflict of Interest Policy at all times and specifically the waiver procedures for individuals serving in dual roles with SWMBH and the CMHSP.
2. Grant waivers to individuals with a conflict only if the CMHSP Board determines that it is not, with reasonable efforts, able to obtain a more advantageous arrangement from a person other than the individual with a conflict and the financial interest with SWMBH is not so substantial as to likely affect the integrity of service which the Participant CMHSP may expect from the individual.
3. Utilize the following forms included with the Conflict of Interest Policy (any modifications will be subject to SWMBH approval):
 - a. Annual Financial Interest Disclosure Statement;
 - b. CMHSP Board Resolution granting a conflict of interest waiver; and

SWMBH Operating Policy 10.10a

c. Conflict of Interest Waiver.

4. Submit copies of all completed and current documents listed directly above to the SWMBH Compliance Officer annually, unless circumstances change necessitating new documentation. Waivers, once granted, do not have to be granted again, unless the financial interest requires a new waiver.

B. SWMBH BOARD STANDARDS AND GUIDELINES: SWMBH Board shall review such waiver documentation prior to considering and granting SWMBH conflict of interest waivers, all of which must occur before the individual may serve in a SWMBH role.

IV. Definitions

None

V. References

A. GOVERNING LAWS

1. 42 U.S.C. § 1396a (Federal Medicaid Statute)
2. 41 U.S.C. Chapter 21 (Federal Conflict of Interest)
3. 18 U.S.C. § 207 (Federal Conflicts of Interest)
4. 18 U.S.C. § 208 (Federal Conflicts of Interest)
5. 5 CFR Part 2640
6. 45 CFR 74 (Federal Procurement Regulations)
7. 45 CFR 92 (Federal Procurement Regulations)
8. 42 CFR Part 438 (Federal Managed Care Regulations)
9. CMS State Medicaid Manual (Publication 45 – Paper based manual) Section 2450, Conflict of Interest

VI. Attachments

- A. SWMBH 10.10a Exhibit A: Financial Interest Disclosure Statement
- B. SWMBH 10.10a Exhibit B: Conflict of Interest Waiver

EXHIBIT A

**SOUTHWEST MICHIGAN BEHAVIORAL HEALTH
FINANCIAL INTEREST DISCLOSURE STATEMENT**

Definitions:

Covered Person. Covered Person means

- (a) Members of the Entity's Board;
- (b) Entity officers,
- (c) Members of committees of the Board with delegated authority from the Board, and
- (d) Entity employees, independent contractors or agents who are responsible for the expenditure of federal or state government funds in excess of \$100 on behalf of the Entity.

Conflict of Interest. A Conflict of Interest arises when a Covered Person participates or proposes to participate in a transaction, arrangement, proceeding or other matter for the Entity, in which the Covered Person, the Covered Person's Family Member, or an organization in which the Covered Person is serving as an officer, director, trustee or employee has a Financial Interest. Conflict of Interest.

Family Member means a spouse, parent, children (natural or adopted), sibling (whole or half-blood), father-in-law, mother-in-law, grandchildren, great grandchildren and spouses of siblings, children, grandchildren, great grandchildren, and all step family members, wherever they reside, as any person(s) sharing the same living quarters in an intimate, personal relationship that could affect business decisions of the Covered Person in a manner that conflicts with this Policy.

Financial Interest. A Covered Person has a Financial Interest if he or she has, directly or indirectly, actually or potentially, through a business, investment or through a Family Member:

- (a) an actual or potential ownership, control or investment interest in, or serves in a governance or management capacity for, an entity with which the Entity has a transaction, arrangement, proceeding or other matter;
- (b) an actual or potential compensation arrangement with any entity or individual with which the Entity has a transaction, arrangement, proceeding or other matter; or
- (c) an actual or potential ownership or investment interest in, compensation arrangement with, or serves in a governance or management capacity for, any entity or individual with which the Entity is contemplating or negotiating a transaction, arrangement, proceeding or other matter.

Compensation includes direct and indirect remuneration, in cash or in kind.

SWMBH Operating Policy 10.10a

Affirmation of Conflict of Interest Policy

By my signature below, I agree that I:

Have received a copy of the Entity's Conflict of Interest Policy;

Have read and understand the Entity's Conflict of Interest Policy;

Understand that I am a Covered Person under the Conflict of Interest Policy;

Agree to comply with the Entity's Conflict of Interest Policy;

Have disclosed below all Financial Interests which I may have; and

Will update the information I have provided on this Statement in the event that the information changes and/or a new Financial Interest arises.

Disclosure of Financial Interests

By my signature below, I certify that I or one of my Family Members has the Financial Interest(s) described below. (Please attach additional pages, if necessary.) I understand that the Entity Board may request further information about the Financial Interests described below, and that I agree to cooperate with providing such information. If I have not disclosed any information below, it is because I am not aware that I or any of my Family Members has a Financial Interest.

Disclosure #1

Name and Contact Information for Individual with Financial Interest:

Individual's Relationship to You: ☐ Self

☐ Other, specify: _____

Description of Financial Interest:

Disclosure #2

Name and Contact Information for Individual with Financial Interest:

SWMBH Operating Policy 10.10a

Individual's Relationship to You: ☐ Self
☐ Other, specify: _____

Description of Financial Interest:

Disclosure #3

Name and Contact Information for Individual with Financial Interest:

Individual's Relationship to You: ☐ Self
☐ Other, specify: _____

Description of Financial Interest:

I certify that the above information is accurate and complete to the best of my knowledge, information and belief.

Signature

Date

Typed or Printed Name

Title/Position with Entity

Please return this form, signed and dated, to the Entity's Executive Officer.

EXHIBIT B

SOUTHWEST MICHIGAN BEHAVIORAL HEALTH

CONFLICT OF INTEREST WAIVER

Review of the Disclosed Financial Interest

In accordance with the requirements of the Southwest Michigan Behavioral Health's (the "Entity") Conflict of Interest Policy, the Board of Directors has undertaken appropriate due diligence review and deliberation regarding the Financial Interest disclosed by [insert name] on the Financial Interest Disclosure Statement (the "Statement") attached as Exhibit A.

Board Resolution Granting Conflict of Interest Waiver

At the conclusion of such due diligence review and deliberation, at its meeting on [insert date], the Board passed a resolution in which it determined that it is not, with reasonable efforts, able to obtain a more advantageous transaction or arrangement from a person or entity other than [insert name], and the Financial Interest disclosed on the Statement is not so substantial as to be likely to affect the integrity of services which the Entity may expect from [insert name] and granted this Conflict of Interest Waiver under the terms described below.

Conflict of Interest Waiver Terms and Conditions

Name of Interested Person:

Description of Financial Interest:

Description of the Transaction, Proceeding or Matter to which the Financial Interest Applies:

Interested Person's Role in the Transaction, Proceeding or Matter:

SWMBH Operating Policy 10.10a

Scope of Waiver and Restrictions:

This Conflict of Interest Waiver does not operate to waive [insert name]'s inherent Conflict of Interest arising from [his/her] position as a [enter CMHSP position] while also serving as a SWMBH [Board/Operations Committee] member when a dispute arises between SWMBH and [CMHSP]. In such circumstances, [insert name] shall recuse [him/herself] from, and shall not be present during any discussions, deliberations or voting that pertain to the dispute. [Insert name] may, however, respond to any inquiries that the [Board/Operations Committee] determines necessary in order for it to fully consider the matter at hand.

Additional Restrictions, if any:

President/Chairman of the Board

Date: _____

(Print Name)

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