


**SWMBH Operating Policy 2.10**

<b>Subject:</b> Subcontracting and Delegation		<b>Accountability:</b> Provider Network	<b>Effective Date:</b> 1/1/2014	Pages: 3
<b>REQUIRED BY:</b> BBA Section <u>42 CFR 438.230, 42 CFR 434.6(a) (b)</u> PIHP Contract Section <u>38.0</u> NCQA/URAC Standard _____ Other _____		Last Reviewed Date: 5/17/17	Past Reviewed Dates: 5/27/15 5/12/16	
<b>LINE OF BUSINESS:</b> <input checked="" type="checkbox"/> Specialty Waiver (B/C) <input checked="" type="checkbox"/> 1115 Waiver <input checked="" type="checkbox"/> Healthy Michigan <input checked="" type="checkbox"/> SUD Medicaid <input checked="" type="checkbox"/> SUD Community Grant <input type="checkbox"/> MI Health Link <input type="checkbox"/> OTHER: _____	<b>APPLICATION:</b> <input checked="" type="checkbox"/> SWMBH Staff and Ops <input checked="" type="checkbox"/> Participant CMHSPs <input checked="" type="checkbox"/> SUD Providers <input checked="" type="checkbox"/> MH / DD providers <input type="checkbox"/> Other: _____	Last Revised Date: 5/17/17	Past Revised Dates: 5/27/15 5/12/16	
Approved:  Date: <u>5/22/17</u>		Required Reviewer: Director of Provider Network Management and Clinical Improvement		

**I. Purpose**

This policy guideline outlines the requirements Southwest Michigan Behavioral Health (SWMBH) must follow when delegating managed care functions, and subcontracting specialty supports and services.

**II. Policy**

SWMBH shall follow policy guidelines regarding how it will assess and make determinations as to what is delegated and subcontracted within its provider network.

**III. Standards and Guidelines**

A. Subcontracting Guidelines

1. SWMBH as a Managed Care Organization may subcontract specialty supports and services to a participating CMHSP.
2. In accordance with 42 CFR 434.6(a)(b), all subcontracts entered into by the participant Community Mental Health Service Providers (CMHSP) must:
  - a. Be in writing and fulfill the requirements of 42 CFR 434.6(a) that are appropriate to the service or activity delegated under the subcontract.
  - b. Be in compliance with all State of Michigan statutes and will be subject to the provisions thereof.
  - c. Be consistent with the provisions of the contract between SWMBH and Michigan Department of Health and Human Services (MDHHS).
  - d. No subcontract terminates the legal responsibility of the contractor to assure that all activities under the contract are carried out.
3. All subcontracts entered into by the Regional Entity (RE) and participant CMHSPs, must be in writing and include the following provisions:
  - a. Meet all applicable Medicaid requirements as outlined in the Medicaid Provider Manual and all other applicable requirements contract providers are held accountable to in the contract between MDHHS and SWMBH or the CMHSP.

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- b. Meet Medicaid accessibility standards as established in Medicaid policy and this contract.
  - c. Provide for the conditions for subcontracting services to a sub-network of providers.
  - d. Duty to treat and accept referrals.
  - e. Prior authorization requirements.
  - f. Access standards and treatment time lines.
  - g. Relationship with other providers.
  - h. Reporting requirements and time frames.
  - i. Quality Assurance/Quality Improvement Systems.
  - j. Payment arrangements (including coordination of benefits) and solvency requirements.
  - k. Financing conditions consistent with the contract between the provider and contracting entity.
  - l. Anti-delegation clause.
  - m. Anti-Lobbying Act.
  - n. Compliance with Office of Civil Rights Policy Guidance regarding Title VI "Language Assistance to Persons with Limited English Proficiency".
  - o. Cooperate with the contracting entity quality improvement and utilization review activities.
  - p. Include provisions for the immediate transfer of customers to a different provider if their health and safety is in jeopardy.
  - q. Not be prohibited from discussing treatment options with an individual that may not reflect the Provider's position or may not be covered by the Provider.
  - r. Not be prohibited from advocating on behalf of the recipient in any grievance or utilization review process, or individual authorization process to obtain necessary health care services.
  - s. Sub-contracts that contain provisions for a financial incentive, bonus, withhold, or sanctions must include provisions that protect individuals from practices that result in the inappropriate limitation or withholding of required services that would otherwise be provided to eligible individuals.
- B. Provider contracts and other arrangements for the provision of mental health and substance use disorder services whether or not characterized as a subcontract, shall be subject to review by the SWMBH and/or MDHHS.
- C. Delegation Guidelines
- 1. SWMBH oversees and is accountable for any functions and responsibilities that it delegates to any sub-contractor. SWMBH selects among the following potential list of functions listed that can be delegated to an entity under contract with the PIHP:
    - a. Utilization Management
    - b. Credentialing
    - c. Provider Network
    - d. Quality Improvement
    - e. Customer Services
    - f. Grievances and Appeals
- D. Standards
- 1. SWMBH will require that the delegated entity adhere to the same standards and criteria as SWMBH through a Delegation Agreement.

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2. SWMBH will require the subcontractor to have adequate staffing capabilities to perform the delegated function.
3. SWMBH will require the subcontractor to have the capacity for managing the delegated function.
4. SWMBH will require the subcontractor to have an adequate level of experience and success in performing the delegated function.
5. SWMBH will require the subcontractor to have a quality improvement program that continuously measures and improves the delivery of care.

### E. Procedures

1. Before any delegation decision is made SWMBH will evaluate the prospective subcontractor's ability to perform the activities to be delegated. The review will consist of a policy and procedure review in addition to evaluating their capacity to perform the delegated function.
2. SWMBH will review results of the pre-delegation evaluation and make a recommendation regarding the evaluation. The recommendation will be forwarded to SWMBH for review and final decision.
3. There will be written agreement or contract between SWMBH and the sub-contractor that specifies the activities and reporting responsibilities designated to the sub-contractor and provides for revoking delegation or imposing other sanctions if the sub-contractor's performance is inadequate.
4. SWMBH will monitor the delegates' performance on an annual basis and subject it to standards established by State and Federal Regulations and any accreditation requirements (if SWMBH becomes accredited).
5. If SWMBH identifies deficiencies or areas for improvement, SWMBH and the sub-contractor will take corrective action.
6. In the event that there is a failure to resolve the subcontractor's performance issue, SWMBH will remove the delegation and assure the function's adequate coverage and performance elsewhere.

## IV. Definitions:

### A. Delegation Agreement

1. A document outlining the agreement of delegated activities. The Delegation Agreement describes at minimum:
  - a. The responsibilities of the delegated entity and the required performance expectations.
  - b. The process by which SWMBH evaluates the delegated entity's performance.
  - c. The remedies, including revocation of the delegation, available to SWMBH if the delegated entity does not fulfill its obligations.

## V. References

MDHHS/PIHP Managed Mental Health Supports and Services Contract  
Code of Federal Regulations, 42 CFR 438.230, 42 CFR 434.6(a) (b)

## VI. Attachments

None

