

## FISCAL INTERMEDIARY TECHNICAL REQUIREMENT

### I. Background

Fiscal Intermediary (FI) services are an essential component of providing financial accountability and Medicaid integrity for the individual budgets authorized for individuals using arrangements that support self-determination. Prepaid Inpatient Health Plans/Community Mental Health Service Programs (PIHP/CMHSPs) have been contractually required to offer arrangements that support self-determination to adults who use mental health services and supports since January 1, 2009 (90 days after the publication of the Choice Voucher System Technical Advisory version 2.0) (dated September 30, 2008) (CVS TA) PIHP/CMHSPs are also required to offer choice voucher arrangements to families of minor children on the Children's Waiver Program (CWP) and may elect to provide choice voucher arrangements to other families of minor children. Entities that provide FI services also provide critical support to individuals who use arrangements that support self-determination that allow them to control and manage their arrangements effectively.

The primary role of the FI is to provide fiscal accountability for the funds in the individual budget. "The individual budget represents the expected or estimated costs of a concrete approach to accomplishing the consumer's plan." Self-Determination Policy and Practice Guideline (July 18, 2003) (SD Policy), Section II.C. Development of an individual budget shall be done in conjunction with development of a plan of specialty mental health services and supports, using a person-centered planning process. As part of the planning process leading to an agreement about self-determination, the arrangements that will, or may, be applied by the consumer to pursue self-determination shall be delineated and agreed to by the consumer and the CMHSP." SD Policy II.A & B.<sup>1</sup> The role of the FI is not to develop the individual budget or direct how services and supports are used, but to ensure that the payments it makes correspond with the IPOS and the individual budget.

FI services were first identified in the Self-Determination Policy and Practice Guideline (July 18, 2003). "A fiscal Intermediary is an independent legal entity (organization or individual) that acts as a fiscal agent of the CMHSP for the purpose of assuring fiduciary accountability for the funds comprising a consumer's individual budget." SD Guideline Glossary. "A PIHP/CMHSP shall select and make available qualified third-party entities that may function as fiscal

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<sup>1</sup> In arrangements that support self-determination, authority for public funds is delegated to the individual using services and supports. The individual has a responsibility to use the funds consistently with the IPOS and individual budget. If the individual exceeds the authorizations over the course of a budget period (usually six months or a year), the individual is responsible for excess. The Fiscal Intermediary is responsible for amounts that it pays over the budget authorization over the course of the budget period.

intermediaries to perform employer agent functions and/or provide other support management functions, in order to assist the consumer in selecting, directing and controlling providers of specialty services and supports." Fiscal Intermediary Services was later made a 1915(b) waiver service (Medicaid Provider Manual, Mental Health/Substance Abuse §17.3.0) and can be billed as an administrative activity for families using choice voucher arrangements under the Children's Waiver Program.

The purpose of this Technical Requirement is to clarify the qualifications, role and functions of entities that provide FI services as well as the requirements that PIHP/CMHSPs have in procuring and contracting with entities to provide FI services.

## **II. PIHP/CMHSP Requirements**

Each PIHP/CMHSP is required to contract with at least one entity to provide FI services. In procuring and contracting with entities to provide FI services, the PIHP/CMHSP must ensure that the entities meet all of qualifications set forth in this technical requirement. The PIHP/CMHSP also must assure that fiscal intermediaries are oriented to and supportive of the principles of self-determination and able to work with a range of consumer styles and characteristics. PIHP/CMHSPs have an obligation to identify and require remedy to any conflicts of interest that, in the judgment of the PIHP/CMHSP, interfere with the performance of the role of the entity providing FI services (see Section III Qualification for FI Entities below).

Contracts with entities providing FI services must identify the functions and scope of FI services, set forth accounting methods and methods for assuring timely invoicing, service activity and cost reporting to the PIHP/CMHSP for specialty mental health services, require indemnification and professional liability insurance for non-performance or negligent performance of FI duties (general business or liability insurance is insufficient), and identify a contact person or persons at the PIHP/CMHSP and at the FI entity for troubleshooting problems and resolving disputes. The PIHP/CMHSP should provide individuals using FI services and their allies with the opportunity to provide input into the development the scope of the FI services and the implementation of those services. In addition to the required functions identified in Section IV below, PIHP/CMHSPs may choose to contract with the entities to provide other supportive functions (such as verification of employee qualifications (background checks, provider qualification checks, etc.)) that are identified in the CVS TA, Appendix A, List of Fiscal Intermediary Functions, Section II Employment Support Functions. PIHP/CMHSPs may only pay entities that provide FI services on a flat rate basis or another basis that does not base compensation on a percentage of individual budgets.

In addition to contracting and procurement, each PIHP/CMHSP must monitor the performance of entities that provide FI services on an annual basis just as it monitors the performance of all other service providers. Minimally, this annual performance monitoring must include:

- Verification that the FI is fulfilling contractual requirements;
- Verification of demonstrated competency in safeguarding, managing and disbursing Medicaid and other public funds;
- Verification that indemnification and required insurance provisions are in place and updated as necessary;
- Evaluation of feedback (experience and satisfaction) from individuals using FI services and other FI performance data with alternate methods for collections data from individuals using services (more than mailed surveys); and
- An audit of a sample of individual budgets to compare authorizations versus expenditures.

### **III. Required Qualifications for FI Entities**

Entities that provide FI services must have a positive track record of managing and accounting for funds. These entities must be independent and free from conflicts of interest. In other words, they cannot be a provider of any other mental health services and supports or any other publicly funded services (such as, but not limited to Home Help services available through the Department of Human Services (DHS)) to the individual to whom they are providing fiscal intermediary services. In addition, FI entities cannot be a guardian, conservator, or trust holder or have any other compensated fiduciary relationship with any individual receiving mental health services and supports except for representative payee<sup>2</sup>.

### **IV. Required Fiscal Intermediary Functions**

Required FI functions include Financial Accountability functions and Employer Agent functions. Other possible functions are identified within the Administrative Functions and Employment Support Functions in the List of Fiscal Intermediary Functions (CVS TA, Appendix A).

#### **A. Financial Accountability Functions**

For all individuals using arrangements that support self-determination and families of minor children using choice voucher arrangements, entities providing FI services must:

- Have a mechanism to crosscheck invoices with authorized services and supports in each individual plan of service (IPOS) and individual budget

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<sup>2</sup> Other fiduciary relationship such as bookkeeper for microenterprise funds may be approved by MDCH.

and a procedure for handling invoices for unauthorized services and supports.

- Pay only invoices approved by the individual (or family of a minor child) for services and supports explicitly authorized in the IPOS and individual budget.
- Have a system in place for tracking and monitoring individual budget expenditures and identifying potential over- and under-expenditures that minimally includes the following:
  - Provide monthly financial status reports to the supports coordinator (and anyone else at the PIHP/CMHSP identified in the contract to receive monthly budget reports) and the individual (or the family of a minor child) by no later than 15 days after the end of month.
  - Contact the supports coordinator by phone or e-mail in the case of an over-expenditure of 10 percent in one month prior to making payment for that expenditure.
  - Contact the supports coordinator by phone or e-mail in the case of under-expenditure of the pro rata share of the individual budget for the month that indicates that the individual is not receiving the services and supported in the IPOS.
- Have policies and procedures in place to assure adherence to federal and state laws and regulations (especially requirements related to Medicaid integrity) and ensure compliance with documentation requirements related to management of public funds.
- Have policies and procedures in place to assure financial accountability for the funds comprising the individual budgets, indemnify the PIHP/CMHSP for any amounts paid in excess of the individual budget and maintain required insurance for nonperformance or negligent performance of FI functions
- Assure timely invoicing, service activity and cost reporting to the PIHP/CMHSP for specialty mental health services as required by the contract between the PIHP/CMHSP and the entity providing FI services.

#### B. Employer Agent Functions

For all individuals using arrangements that support self-determination and families of minor children using choice voucher arrangements who are directly employing workers, entities providing FI services must facilitate the employment of service workers by the individual or family of a minor child, including federal, state and local tax withholding/payments, unemployment compensation fees, wage settlements, and fiscal accounting. These Employer Agent functions include:

- Obtain documentation from the participants and file it with the IRS so that the FI can serve as Employer Agent for individuals directly employing workers, and meet the requirements of state and local income tax authorities and unemployment insurance authorities.

- Have a mechanism in place to crosscheck timesheets for directly employed workers with authorized services and supports in the IPOS and individual budget and a mechanism to handle over-expenditures that exceed 10 percent of the individual budget prior to making payroll payments (such contacting the PIHP/CMHSP to determine if an additional authorization is necessary and/or notifying the employer that he or she is responsible for the costs related to approved timesheets in excess of the authorizations in the IPOS and individual budget).
- Issue payroll payments to directly employed workers for authorized services and supports that comport with the individual budget or have approval from the PIHP/CMHSP for payment.
- Withhold income, Social Security, and Medicare taxes from payroll payments and make payments to the appropriate authorities for taxes withheld.
- Make payments for unemployment taxes and worker's compensation insurance to the appropriate authorities, when necessary.
- Issue W-2 forms and tax statements.
- Assist the individual directly employing workers with purchasing worker's compensation insurance as required.

## **V. References**

Michigan Self-Determination Policy and Practice Guideline, July 18, 2003  
[http://www.michigan.gov/documents/SelfDeterminationPolicy\\_70262\\_7.pdf](http://www.michigan.gov/documents/SelfDeterminationPolicy_70262_7.pdf)

Michigan Medicaid Provider Manual  
<http://www.michigan.gov/mdch/0,1607,7-132--87572--,00.html>

Choice Voucher System Technical Advisory, Version 2.0, September 30, 2008  
[http://www.michigan.gov/documents/mdch/Choice\\_Voucher\\_System\\_Transmittal\\_9\\_30\\_08\\_251403\\_7.pdf](http://www.michigan.gov/documents/mdch/Choice_Voucher_System_Transmittal_9_30_08_251403_7.pdf)