



STATE OF MICHIGAN

DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING

GRETCHEN WHITMER
GOVERNOR

ELIZABETH HERTEL
DIRECTOR

MEMORANDUM

DATE: September 28, 2021

TO: Executive Directors of Prepaid Inpatient Health Plans (PIHPs) and Community Mental Health Services Programs (CMHSPs)

FROM: Raymie Postma, Director *RP*
Office of Recipient Rights

Allen Jansen, Deputy Director *AJ*
Behavioral Health and Developmental Disabilities Administration

SUBJECT: This rescinds the memo titled "Accept Verbal Consent for Services" from 3/20/2020 (attached), thereby returning to the statutory requirement of consent.
***This does not apply to the 1915 (c) waivers as they are still under the COVID Appendix K approval tied to the public health emergency.**

Due to the COVID-19 emergency, the Office of Recipient Rights (ORR) and Behavioral Health and Developmental Disabilities Administration (BHDDA) temporarily suspended enforcement of the written consent requirements to ensure that services were not being withheld or limited due to the inability to get a written consent. CMHSP and their contract providers may still make use of alternatives to face to face encounters to obtain written consent, including but not limited to, digital signature, fax, email or picture of signed document sent via text or email. Verbal consent may only be given by the person receiving services and it must be witnessed and documented by an individual other than the individual providing treatment.

MCL 330.1100a Definitions; A to E.

(19) "Consent" means a written agreement executed by a recipient, a minor recipient's parent, a recipient's legal representative with authority to execute a consent, or a full or limited guardian authorized under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, with the authority to consent, or a verbal agreement of a recipient that is witnessed and documented by an individual other than the individual providing treatment.

If you have further questions, you may contact ORR at MDHHS-recipientrights@michigan.gov.