

POLICIES AND PROCEDURE MANUAL

Chapter:	Compliance		
Title:	Disqualified Providers		
Policy: ☐ Procedure: ☒ Page: 1 of 11	Review Cycle: Biennial Author: Chief Compliance & Quality Officer	Adopted Date: 07.07.2026 Review Date:	Related Policies: Disqualified Provider; Provider Network Management Disclosure of Ownership, Control, and Criminal Convictions; Credentialing/Recredentialing

Purpose

To provide guidance on the process for ensuring individual providers are eligible to participate in federal and state health care programs (e.g.: Medicaid and Medicare) and are not excluded from participation based on federal and state regulations.

Procedure

The following process will be followed in accordance with the MSHN Disqualified Provider Policy and the Medicaid Provider Manual.

A. Reporting:

1. All employees, directors, administrators, managers, and individuals with any other type of employment or consulting arrangement with MSHN are required to report the following to Human Resources within five (5) days of conviction or assessment imposition:
 - a. Any criminal conviction, felony or misdemeanor; and/or
 - b. The imposition of civil money penalties or assessments imposed under Subsection 1128A of the Social Security Act.
2. Criminal conviction resulting in disqualifications are to be disclosed to MSHN's Compliance Officer by the Community Mental Health Service Program (CMHSP) participants and MSHN direct contracted entities with regard to those offenses as detailed in Subsections 1128(a) and 1128(b)(1), (2), of (3) of the Social Security Act, or that have had civil money penalties or assessments imposed under Subsection 1128A of the Act. The report to MSHN will be made within 15 business days of the discovery of the disqualification through electronic submission.
3. MSHN will notify, as required, the appropriate regulatory body that may include the Michigan Department of Health and Human Services (MDHHS) Behavioral and Physical Health and Aging Services Administration (BPHASA) Division of Program Development, Consultation and Contracts, Licensing and Regulatory Affairs (LARA) and the Office of Inspector General (OIG) when disclosures are made by providers regarding any offenses detailed in Subsections 1128(a) and 1128(b) (1), (2) or (3) of the Social Security Act, or that have had civil money penalties or assessments imposed under Subsection 1128A of the Act.

Mandatory and Time-Limited Disqualifications:

The tables below identify disqualifications for participation in a provider capacity in Medicare, Medicaid or any other Federal health care programs.

The following table applies to all personnel at MSHN and the Provider Network.

Disqualifications related to the Social Security Act, subsections 1128(a), 1128(b)(1), (2), and (3); 1128A; Title V, XX, XXI, XVII, and XIX; MCL 333.18263; 42 USC 1320a – 7(a); Medicaid Provider Manual (General Information for Providers: Section 6 – Denial of Enrollment, Termination and Suspension)
Mandatory Disqualifications Persons with the following convictions are <u>Excluded</u> from participating in Medicare and State health care programs
1. Any criminal convictions related to the delivery of an item or service under Medicare (Title XVIII), Medicaid (Title XIX) or other state health care programs (e.g., Children’s Special Health Care Services, Healthy Kids), (Title V, Title XX, and Title XXI).
2. Any criminal convictions under federal or state law, relating to neglect or abuse of patients in connection with the delivery of a health care item or service.
3. Felony convictions occurring after August 21, 1996, relating to an offense, under federal or state law, in connection with the delivery of health care items or services or with respect to any act or omission in a health care program (other than those included in number 1 above) operated by or financed in whole or in part by any federal, state, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.
4. Felony convictions occurring after August 21, 1996, under federal or state law, related to unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.
5. The provider is convicted of violating the Medicaid False Claims Act, the Health Care False Claims Act, a substantially similar statute, or a similar statute by another state or the federal government.
6. The provider is excluded from participating in a provider capacity in Medicare, Medicaid or any other Federal health care programs.
7. Termination on or after January 1, 2011, under Medicare or the Medicaid program, or the Children's Health Insurance Program (CHIP) of any other state.
Disqualifications related to the Medicaid Provider Manual (General Information for Providers: Section 6 – Denial of Enrollment, Termination and Suspension)
Time-Limited Disqualifications Time Requirement*: 10 Years The provider has a federal or state felony conviction within the preceding 10 years of their provider enrollment application, including but not limited to, any criminal offense related to:
1. Murder, rape, abuse or neglect, assault, or other similar crimes against persons
2. Extortion, embezzlement, income tax evasion, insurance fraud, and other similar financial crimes
3. The use of firearms or dangerous weapons
4. A felony conviction of theft.
5. Any felony that placed the Medicaid program or its beneficiaries at immediate risk, such as a malpractice suit that results in a conviction of criminal neglect or misconduct.
Disqualifications related to the Medicaid Provider Manual (General Information for Providers: Section 6 – Denial of Enrollment, Termination and Suspension)
Time-Limited Disqualifications Time Requirement*: 5 Years The provider has a federal or state misdemeanor conviction within the preceding five years of their provider enrollment application, including but not limited to, any criminal offense related to:
1. Any misdemeanor crime listed as a permissive exclusion in 42 USC 1320a-7(b);
2. Rape, abuse or neglect, assault, or other similar crimes against persons;
3. Extortion, embezzlement, income tax evasion, insurance fraud, or other similar financial crimes;
4. A misdemeanor conviction of theft.
5. Any misdemeanor that placed the Medicaid program or its beneficiaries at immediate risk, such as a malpractice suit that results in a conviction of criminal neglect or misconduct.

Applied Behavioral Analysis Technicians and Specialized Residential Settings

The following tables include additional disqualifications that apply to all staff working in a Specialized Residential Setting (adult foster care homes) and Applied Behavioral Analysis Technicians (ABA Techs).

Disqualifications related to MCL 333.20173a, MCL 330.1134a and MCL 400.734b	
Time-Limited Disqualifications Time Requirement*: 15 years	
1.	A felony that involves the intent to cause death or serious impairment of a body function, that results in death or serious impairment of a body function, that involves the use of force or violence, or that involves the threat of the use of force or violence
2.	A felony involving cruelty or torture.
3.	A felony under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r (Vulnerable Adults chapter). https://www.legislature.mi.gov/(S(sigap145p0xoam2bb0t0kxrp))/documents/mcl/pdf/mcl-328-1931-XXA.pdf
4.	A felony involving criminal sexual conduct.
5.	A felony involving abuse or neglect.
6.	A felony involving the use of a firearm or dangerous weapon.
7.	A felony involving the diversion or adulteration of a prescription drug or other medications.
Time-Limited Disqualifications Time Requirement*: 10 years	
1.	Convicted of a felony or attempt or conspiracy to commit felony, other than those described under the mandatory and the 15-year time limited disqualifications sections.
Time-Limited Disqualifications Time Requirement*: 10 years	
1.	A misdemeanor involving the use of a firearm or dangerous weapon with the intent to injure, the use of a firearm or dangerous weapon that results in a personal injury, or a misdemeanor involving the use of force or violence or the threat of the use of force or violence.
2.	A misdemeanor under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r (Vulnerable Adults chapter).
3.	A misdemeanor involving criminal sexual conduct.
4.	A misdemeanor involving cruelty or torture unless otherwise provided under the 5-year time limited disqualification section.
5.	A misdemeanor involving abuse or neglect.
Time-Limited Disqualifications Time Requirement*: 5 years	
1.	A misdemeanor involving cruelty if committed by an individual who is less than 16 years of age.
2.	A misdemeanor involving home invasion.
3.	A misdemeanor involving embezzlement.
4.	A misdemeanor involving negligent homicide or a violations of section 601d (10 of the Michigan vehicle code, 1949 PA 300, MCL 257.601d.
5.	A misdemeanor involving larceny unless otherwise provided under the 1-year time limited disqualification section.
6.	A misdemeanor of retail fraud in the second degree unless otherwise provided in the 1-year time limited disqualification section.
7.	Any other misdemeanor involving assault, fraud, theft, or the possession or delivery of a controlled substance unless otherwise provided in the 1, 3, and 10-year time limited disqualifications sections.

Time-Limited Disqualifications Time Requirement *: 3 years	
1.	A misdemeanor for assault if there was no use of a firearm or dangerous weapon and no intent to commit murder or inflict great bodily injury.
2.	A misdemeanor of retail fraud in the third degree unless otherwise provided under the 1-year time limited disqualification section.
3.	A misdemeanor under part 74 (MCL 333.74- offenses related to controlled substances) unless otherwise provided under the 1-year time limited disqualification section.
Time-Limited Disqualifications Time Requirement*: 1 year	
1.	A misdemeanor under part 74 (MCL 333.74 – offenses related to controlled substances) if the individual, at the time of conviction, is under the age of 18.
2.	A misdemeanor for larceny of retail fraud in the second or third degree if the individual, at the time of the conviction, is under the age of 16.

*** Time requirement means the time required for completing all terms and conditions of sentencing, parole, and probation for the conviction prior to the date of application for employment or clinical privileges.**

Applies to

- ☒ All Mid-State Health Network Staff
- ☐ Selected MSHN Staff, as follows:
- ☒ MSHN's CMHSP Participants: ☐ Policy Only ☒ Policy and Procedure
- ☒ Other: Sub-contract Providers

Definitions

- A. **ABA Techs:** Applied Behavioral Analysis Technicians
- B. **Behavioral Health:** refers to individuals with a Mental Health, Intellectual Developmental Disability and/or Substance Use Disorder or children with Serious Emotional Disturbances
- C. **BPHASA:** Behavioral and Physical Health and Aging Services Administration
- D. **CMHSP:** Community Mental Health Service Provider
- E. **Conviction:** For purposes of the laws mentioned above, an individual or entity is considered to have been convicted of a criminal offense when:
 - 1. A judgment of conviction has been entered against the individual or entity by a federal, state, tribal or local court, regardless of whether there is an appeal pending:
 - 2. A finding of guilt against the individual or entity by a federal, state, tribal or local court,
 - 3. A plea of guilty or nolo contendere by the individual or entity has been accepted by a federal, state, tribal or local court.
- F. **Direct Access:** Means access to an individual, an individual's property, or an individual's personal financial information (checking account information, credit cards, bank statements, etc.).
- G. **LARA:** Licensing and Regulatory Affairs
- H. **MDHHS:** Michigan Department of Health and Human Services
- I. **MSHN:** Mid-State Health Network
- J. **OIG:** Office of Inspector General
- K. **Personnel:** For purposes of this policy, "personnel" means, employees, contractors, volunteers, interns, and any other staff.
- L. **Provider Network:** Refers to a CMHSP Participant and all Behavioral Health Providers that are directly under contract with the MSHN PIHP to provide services and/or supports through direct operations or through CMHSP subcontractors.
- M. **Subcontractors:** refers to an individual or organization that is directly under contract with a CMHSP to provide services and/or supports.

Other Related Materials

Medicaid Service Administration (MSA) Policy Bulletin 18-09: Home Help Agency Provider Standards

42 U.S.C 1320a-7

Michigan Public Health Code - MCL 333.20173a Public Health Code -MCL 333.18263

1128 A of the Social Security Act 1128 B of the Social Security Act

Senate Bill No. 184 (revisions to ABA technician exclusions in the Michigan Public Health Code)

Change Log:

[illegible]

Attachment A

Lookback Periods:

- Reference the date of conviction in relation to the date of application or enrollment (i.e., within X years preceding the date of application/enrollment)
- An exception is felonies for Specialized Residential Staff and ABA Techs, which are in reference to the date of completion of “all of the terms and conditions of his or her sentencing, parole and probation for that conviction”.

An individual or entity is considered to have been convicted of a criminal offense when:

- a judgment of conviction has been entered against the individual or entity by a federal, state, tribal or local court regardless of whether there is an appeal pending;
- there has been a finding of guilt against the individual or entity by a federal, state, tribal or local court; or
- a plea of guilty or nolo contendere by the individual or entity has been accepted by a federal, state, tribal, or local court.
- (for behavioral technicians) a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt for a criminal law violation or a juvenile adjudication or disposition by the juvenile division of probate court or family division of circuit court for a violation that if committed by an adult would be a crime.

The MSHN network providers are responsible for reviewing and verifying provider disqualifications within the sources provided. Sources below include additional details and descriptions of crimes that may fall into similar categories that may not be listed on the grid below.

All Medicaid Prov.		
CHECK	Automatic Disqualifications	Law or Rule Reference
☐	Termination on or after Jan 1, 2011, under Medicare, Medicaid or Children's Health Insurance Program (CHIP) of any other state	A
☐	Exclusion from participation in a provider capacity in Medicare, Medicaid or any other Federal health care programs	A
☐	Any conviction related to the delivery of an item/service under Medicare or Medicaid or any state health care program.	A, C
☐	Any conviction related to patient abuse/neglect in connection with delivery of a health care item or service	A, C
☐	Any felony conviction relating to and offense in connection with the delivery of healthcare items or services or with respect to any act or omission in a health care program (other than those listed above) operated by or financed in whole or part by federal, state, local government agency consisting of fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.	A, C
☐	Felony conviction related to controlled substance – unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.	A
☐	Conviction for violating the Medicaid False Claims Act, the Health Care False Claims Act, a substantially similar statute, or a similar statute by another state or the federal gov't	A
☐	<u>Failure to Comply w Enrollment & Screening Requirements:</u> Failure to submit timely and accurate information; cooperate with MDHHS screening methods; submit sets of fingerprints as required within 30 days of a CMS or MDHHS request; permit access to provider locations for site visits; and/or comply with Medicaid policies regarding submission of claims and billing Medicaid beneficiaries. Falsification of information provided on the enrollment application or subsequent information requests. Inability to verify their identity	A, B

All Medicaid Prov.			Additional Req'ts for ABA Techs/Specialized Residential			
CHECK	Felony	Misdemeanor	Felony	Misdemeanor		Law or Rule Reference
☐	w/in 10 yrs	w/in 5 yrs			Any conviction that placed the Medicaid program or its beneficiaries at immediate risk, such as a malpractice suit that results in a conviction of criminal neglect or misconduct.	A, D
				w/in 1 year	Subject to an order or disposition of not guilty by reason of insanity	D, H
Related to fraud, theft, embezzlement, breach of fiduciary responsibility, financial misconduct						
☐	w/in 10 yrs	w/in 5 yrs			Extortion, theft, income tax evasion, insurance fraud, and other similar financial crimes	A, D
	w/in 10 yrs	w/in 5 yrs		w/in 5 yrs	Embezzlement	
☐				w/in 5 yrs Larceny- if committed when <16 yrs, then w/in 1 yr	Larceny, fraud or theft not otherwise addressed in this section.	D
☐				w/in 5 yrs. if committed when <16 yrs, then w/in 1 yr	Retail Fraud in the 2 nd Degree	D
☐				w/in 3 yrs. if committed when <16 yrs old, then w/in 1 yr	Retail Fraud in the 3 rd Degree	D
☐				w/in 5 yrs	Home invasion	D

All Medicaid Prov.			Additional Req'ts for ABA Techs/Specialized Residential			
CHECK	Felony	Misdemeanor	Felony	Misdemeanor		Law or Rule Reference
Abuse, Assault, Crimes related to harming others/Endangerment						
☐	w/in 10 yrs		w/in 15 yrs after completion of parole/ probation		Murder	A, D
☐				w/in 5 yrs	Negligent homicide or a moving violation that is proximate cause of death of another person or serious impairment of body function	D, G
☐	w/in 10 yrs		Includes attempts/ conspiracy to commit; w/in 15 yrs after parole/ probation	w/in 10 yrs*	Use of firearms or dangerous weapons *Additional info for misdemeanors for ABA Techs: ...with the intent to injure, the use of a firearm or dangerous weapon that results in a personal injury, or a misdemeanor involving the use of force or violence or the threat of the use of force or violence	A, D
☐			Includes attempts/ conspiracy to commit; w/in 15 yrs after completion of parole/ probation		Involving intent to cause death or serious impairment of a body function, that results in death or serious impairment of a body function, that involves the use of force or violence, or that involves the threat of the use of force or violence.	D
☐			Includes attempts/ conspiracy to commit; w/in 15 yrs after completion of parole/ probation	w/in 10 yrs. if committed when <16 yrs old, then w/in 5 yrs	Cruelty or torture	D
☐	w/in 10 yrs	w/in 5 yrs	w/in 15 yrs after completion of parole/ probation	w/in 5 yrs. if no weapon and no intent to murder/ inflict great bodily injury, w/in 3 yrs	Assault or other similar crimes against persons	A, D
☐	w/in 10 yrs	w/in 5 yrs	Includes attempts/ conspiracy to commit; w/in 15 yrs after completion of parole/ probation	w/in 10 yrs	Rape or other similar crimes against persons involving criminal sexual conduct	A, D
☐	w/in 10 yrs	w/in 5 yrs	Includes attempts/ conspiracy to commit; w/in 15 yrs after completion of parole/ probation	w/in 10 yrs	Abuse or neglect	A, D

☐			Includes attempts/ conspiracy to commit; w/in 15 yrs after completion of parole/ probation	w/in 10 yrs	Substantiated finding of neglect, abuse, or misappropriation of property by a state or federal agency (regarding long term care facilities) related to chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r: • Caregiver who intentionally causes serious physical harm or serious mental harm to a vulnerable adult • Reckless act or reckless failure to act of the caregiver or other person with authority over the vulnerable adult causes serious physical harm or serious mental harm • An operator/employee/individual acting on behalf of an unlicensed facility that is subject to licensure, who violates the adult foster care facility licensing act or public health code or rules and whose violation is a proximate cause of the death of a vulnerable adult Caregiver/person with authority over vulnerable adult or licensee convicted of felony due to repeated misdemeanor violations of the adult foster care licensing act regarding funds, retaliation against staff/ residents, obstruction, falsifying info, etc.	D, E
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All Medicaid Prov.			Additional Req'ts for ABA Techs/Specialized Residential			
CHECK	Felony	Misdemeanor	Felony	Misdemeanor		Law or Rule Reference
Medication, Prescriptions, Controlled Substances						
☐	After Aug. 21, 1996	w/in 5 yrs		in 5 yrs. if committed when <18 yrs old, then w/in 1 yr	Relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance	A, C
☐			Includes attempts/ conspiracy to commit; w/in 15 yrs after parole/ probation		Diversion or adulteration of a prescription drug or other medications	D
☐				w/in 5 yrs	Possession or delivery of a controlled substance	D

A = Michigan Medicaid Manual; General Information for All Providers; Section 6 – Denial of Enrollment, Termination and Suspension; 6.1 Termination or Denial of Enrollment

B = Social Welfare Act, Public Act 280 of 1939 (MCL 400.111b -111e) and 42 CFR 455.416

C = 42 USC 1320a-7 Exclusion of certain individuals and entities from participation in Medicare and state health care programs

D = Public Act 19 of 2020 (Public Health Code revision) Section 18263 regarding behavioral technicians

E = Chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r regarding vulnerable adults

F = Public Health Code 333.7401 “Part 74” regarding controlled substances

G = Michigan vehicle code, 1949 PA 300, MCL 257.601d

H = Code of Criminal Procedure MCL 769.16b regarding not guilty by reason of insanity

I = 42 USC 1395i-3a: Protecting residents of long-term care facilities