



HURON BEHAVIORAL HEALTH OPERATIONAL POLICY

Policy #: ORI.1.36

Issue Date: 10/16/19

Rev. Date: 08/15/23

Page: 1 of 5

Title: Disqualified Providers Policy

Prepared By: Executive Director

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Purpose:

To ensure 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.

Scope:

This policy applies to all providers and organizations which Huron Behavioral Health (HBH) contracts with for services or goods.

Information:

N/A

Policy:

A. General:

1. It is the policy of Huron Behavioral Health (HBH) and its provider network to not employ, contract with, authorize services for, reimburse services for, or seek reimbursement for services delivered, prescribed, or ordered by any individual when:
 - a. The individual has received a criminal history screening indicating a mandatory disqualifying conviction listed in section "B" and the table below (42 USC 1320a-7(a));
 - b. The individual has been the subject of a substantiated finding as described in Category (8) in the table below; or
 - c. The individual has direct access, or provides direct services, to program participants in a prescribed setting (specialized residential) and the individual has received a criminal history screening indicating a time-limited disqualifying conviction for which the time limitation has not yet been satisfied (listed in Categories 2-7 in the table below) (MCL 20173a, MCL 330.1134a, MCL 400.734b).
 - d. The individual does not possess the appropriate/required degree, licensure, certification, training, etc., to perform their job functions.
2. All employees, directors, managers, and individuals with any other type of employment, contractual and/or consulting arrangement with HBH are required to report the following to the Human Resource (HR) Manager 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 (Exclusion Regulations)
3. HBH will also report to the Mid-State Health Network (MSHN) any criminal conviction or Recipient Rights substantiations resulting in disqualifications, including any direct contracted individuals or 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 five (5) business days of the discovery of the disqualification.
4. MSHN will notify the Michigan Department of Health and Human Services (MDHHS) Behavioral Health and Developmental Disabilities Administration (BHDDA) Division of Program Development, Consultation and Contracts when disclosures are made by HBH and other affiliate members of MSHN regarding any of its providers who have reported any offenses detailed in Subsections 1128(a) and 1128(b) (1), (2) or (3) of the Social Security Act, or that have had civil monetary penalties or assessments imposed under Subsection 1128A of the Act.

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Issue Date: 10/16/19

Rev. Date: 08/15/23

Page: 2 of 5

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B. Table of Mandatory and Time-Limited Disqualifications:

1. For the purpose of this policy, the following table applies to all HBH employees and providers.
2. The Health and Human Services (HHS) Office of the Inspector General (OIG) is required by law to exclude from participation in all federal health care programs, any individuals and entities convicted of the following types of criminal offenses:

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; Medicaid Provider Manual (General Information for Providers: section 6 Denial of Enrollment, Termination, and Suspension)

MANDATORY DISQUALIFICATIONS

Individuals or Entities with the following convictions are EXCLUDED from participating in any Medicare, Medicaid, or 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 Healthcare 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 program.
7	Termination on or after January 1, 2011 under the Medicare or 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	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 5 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 similar crimes against persons;
3	Extortion, embezzlement, income tax evasion, insurance fraud, or similar financial crimes;
4	Any misdemeanor that placed 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.

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Rev. Date: 08/15/23

Page: 3 of 5

NOTE: This Document Copy is **Uncontrolled and Valid on this date only: September 18, 2023.** For Controlled copy, view shared directory I:\ drive

The following tables apply to staff working in a Specialized Residential Setting (Adult Foster Care Homes). This includes a person that has direct access, or provides direct services to program participants in a prescribed setting and the person has received a criminal history screening indicating a time-limited disqualifying conviction for which the time limitation has not yet been satisfied.

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).
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 15-Year time-limited disqualifications section.
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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 disqualifications 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 violation of section 601d (1) 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 disqualifications section.
6	A misdemeanor of retail fraud in the second degree unless otherwise provided under the 1-year time limited disqualifications section.
7	Any other misdemeanor involving assault, fraud, theft, or the possession or delivery of a controlled substance unless otherwise provided under the 1, 3, and 10-year time limited disqualifications sections.

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Rev. Date: 08/15/23

Page: 4 of 5

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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 harm.
2	A misdemeanor of retail fraud in the third degree unless otherwise provided under the 1-year time limited disqualifications section.
3	A misdemeanor under part 74 (MCL 333.74 – offenses related to controlled substances) unless otherwise provided under the 1-year time limited disqualifications 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 or retail fraud in the second or third degree if the individual, at the time of conviction, is under the age of 16.

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

Definitions/Acronyms:

Acronyms:

BHDDA – Behavioral Health and Developmental Disabilities Administration

CFR – Code of Federal Regulations

CHIP – Children’s Health Insurance Program

COA – Council on Accreditation

HBH – Huron Behavioral Health

HHS – Health & Human Services

HR – Human Resource

MCL – Michigan Compiled Laws

MDHHS – Michigan Department of Health and Human Services

MSHN – Mid-State Health Network

OIG – Office of the Inspector General

PIHP – Prepaid Inpatient Health Plan

USC – United States Code

Definitions:

Conviction: For purposes of the laws mentioned above, 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, or local court, regardless of whether there is an appeal pending or whether the judgment of conviction or other record relating to criminal conduct has been expunged,
- A finding of guilt against the individual or entity by a federal, state, tribal, or local court,
- A plea of guilty or nolo contendere by the individual or entity has been accepted by a federal, state, or local court,

Direct Access: Means access to a consumer, a consumer’s property, or a consumer’s personal financial information (checking account information, credit cards, bank statements, etc.).

Personnel: For purposes of this policy, “personnel” means, employees, contractors, volunteers, interns, and any other staff.

Provider Network: Refers to HBH’s providers that are directly under contract with HBH to provide services and/or supports through direct operations or through subcontractors.

Subcontractors: refers to an individual, organization, or entity that is directly under contract with HBH to provide services and/or supports.

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Page: 5 of 5

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Forms:

N/A

Records:

Records of Disqualified Providers are permanently retained by the HR Manager in a retrievable format.

Reference(s) and/or Legal Authority

COA standards

MSHN Policy "Compliance – Disqualified Providers"

Social Security Act 1128 & 1128A @ http://www.ssa.gov/OP_Home/ssact/title11/1128.htm & http://www.ssa.gov/OP_Home/ssact/title11/1128A.htm

42 U.S.C 1320a-7

Mental Health Code - MCL 330.1134a

Public Health Code - MCL 400.734b

Public Health Code - MCL 333.20173a

Public Health Code -MCL 333.18263

42 CFR 441.570

1128 A of the Social Security Act

1128 B of the Social Security Act

[ORI.2.07 List of Excluded Individuals and Entities \(LEIE\) Procedure](#)

[../System Documentation/Procedures/RR.2.36 Appeals Grievances Procedure.doc](#)

Change History:

Change Letter	Date of Change(s)	Changes
None		New policy to define current practices and to comply with MSHN policy "Compliance – Disqualified Providers" adopted 07/09/19.
A	09/20/21	Added the second and third sections in the table and removed "category" designations to better align with MSHN policy, made numerous minor wording/grammatical changes/corrections throughout policy without changing sentence content.
B	08/15/23	In "Policy" section added 1.d, in B.2 ("Mandatory Disqualifications") removed "An individual shall not act as a behavior technician in this state unless he/she has had a criminal history check conducted and the criminal history check does not contain any criminal history record information for him/her" and added #5, #6, & #7, in B.2 removed "These individuals are Excluded from participating as a service provider. 1Engages in conduct that becomes the subject of a substantiated finding of neglect, abuse, or misappropriation of property by a state or federal agency pursuant to an investigation conducted in accordance with 42 USC 1395i-3 (Requirements for, and assuring quality of care in skilled nursing facilities) or 1396r (Requirements for nursing facilities).", made several minor wording/grammatical changes/corrections throughout policy without changing sentence content.