

**NORTHERN MICHIGAN REGIONAL ENTITY
BOARD OF DIRECTORS MEETING
10:00AM – JUNE 26, 2024
GAYLORD BOARDROOM**

ATTENDEES:	Bob Adrian, Tom Bratton, Ed Ginop, Gary Klacking, Eric Lawson, Mary Marois, Michael Newman, Gary Nowak, Jay O’Farrell, Ruth Pilon, Richard Schmidt, Karla Sherman, Don Smeltzer, Don Tanner,
ABSENT:	Chuck Varner
NMRE/CMHSP STAFF:	Bea Arsenov, Brian Babbitt, Carol Balousek, Brady Barnhill, Lisa Hartley, Eric Kurtz, Brian Martinus, Diane Pelts, Brandon Rhue, Nena Sork, Denise Switzer
PUBLIC:	Chip Cieslinski, Dave Freedman, Genevieve Groover

CALL TO ORDER

Let the record show that Chairman Gary Klacking called the meeting to order at 10:00AM.

ROLL CALL

Let the record show that Chuck Varner was excused from the meeting on this date; all other NMRE Board Members were in attendance in Gaylord.

PLEDGE OF ALLEGIANCE

Let the record show that the Pledge of Allegiance was recited as a group.

ACKNOWLEDGEMENT OF CONFLICT OF INTEREST

Let the record show that no conflicts of interest to any of the meeting Agenda items were declared.

APPROVAL OF AGENDA

Let the record show that no changes to the meeting agenda were requested.

MOTION BY RICHARD SCHMIDT TO APPROVE THE NORTHERN MICHIGAN REGIONAL ENTITY BOARD OF DIRECTORS MEETING AGENDA FOR JUNE 26, 2024; SUPPORT BY KARLA SHERMAN. MOTION CARRIED.

APPROVAL OF PAST MINUTES

Let the record show that the May minutes of the NMRE Governing Board were included in the materials for the meeting on this date.

MOTION BY MARY MAROIS TO APPROVE THE MINUTES OF THE MAY 22, 2024 MEETING OF THE NORTHERN MICHIGAN REGIONAL ENTITY BOARD OF DIRECTORS; SUPPORT BY ED GINOP. MOTION CARRIED.

CORRESPONDENCE

- 1) PIHP CEO meeting minutes dated June 6, 2024.

- 2) Communication from the Community Mental Health Association of Michigan (CMHAM) announcing that Governor Whitmer signed Senate Bill 27 Codifying Federal Parity Legislation.
- 3) Email correspondence dated June 14, 2024 from CMHAM CEO, Bob Sheehan, regarding an Analysis of the FY24 Medicaid Behavioral Health Revenue Picture.
- 4) A memorandum dated May 17, 2024 from Belinda Hawks, Director of the Adult Home and Community Based Services Division at MDHHS, to PIHP and CMHSP Executive Directors regarding HCBS Final Rule Requirements Regarding Use of Restrictions and Modification of Rights.
- 5) A memorandum dated May 28, 2024 from Jackie Sproat, Director of the Division of Contracts and Quality Management at MDHHS, to PIHP Executive Directors regarding Psychiatric Inpatient Tiered Rates.
- 6) A memorandum dated June 5, 2024 from Kristen Jordan, Director of the Bureau of Specialty Behavioral Health Services at MDHHS, to PIHP and CMHSP Executive Directors and Assessment Panel Members and Community Partners regarding the Introduction of a new Intellectual and Developmental Disability (I/DD) Assessment/Screening Tool.
- 7) Email correspondence dated June 10, 2024 from Lyndia Deromedi, Manager of Federal Compliance Section of the Division of Adult Home and Community Based Services at MDHHS acknowledging the Excellent Work by PIHP HCBS Leads.
- 8) Email correspondence dated May 20, 2024 from Bob Sheehan, CMHAM CEO, regarding Advocacy Efforts to Urge the State of Michigan to Adopt a Sound Approach to Meeting Federal Conflict-Free Requirements.
- 9) A letter dated June 11, 2024 from the Oscoda County Board of Commissioners supporting the NMRE's Resolution Opposing MDHHS' Decision to Implement Conflict Free Access and Planning in Michigan.
- 10) A letter dated March 5, 2024 from Marianne Huff (Mental Health Association in Michigan), Michelle Roberts (Disability Rights Michigan), and Sherri Boyd (The Arc Michigan) to Keri Toback at CMS and Meghan Groen, Kristin Jordan, Erin Emerson, Belinda Hawks, and Jackie Sproat at MDHHS expressed concerns about the proliferation of conflict of interest in the Michigan Community Mental Health System.
- 11) A flyer from Northern Lakes Community Mental Health Association announcing its Public Hearing on July 9, 2024 from 9:00AM to 11:00AM.
- 12) The draft minutes of the June 12, 2024 regional Finance Committee meeting.

Mr. Kurtz drew attention to the memorandum from CMHAM regarding Medicaid Behavioral Health rates. What was intended to be \$116M in additional revenue (sufficient to close the projected revenue gap) as a result of the increased rates, is projected to be closer to \$42M, based on the April and May 2024 payments. Advocacy efforts are in process to push the remaining \$74M out to PIHPs and CMHSPs.

Mr. Kurtz next drew attention to the memorandum from Jackie Sproat regarding Psychiatric Inpatient Tiered Rates. Psychiatric Inpatient Tiered Rates will be implemented October 1, 2024 for revenue code 0100 (all-inclusive room and board), pending federal review and approval. Although the state intends to push out an additional \$32M, PIHP Regions 1 (NorthCare Network) and 2 (NMRE) will actually be getting less money. Mr. Kurtz is hopeful that the Tiered Rates project gets the attention of the Michigan Health & Hospital Association.

Mr. Kurtz also drew attention to the letter from the Oscoda County Board of Commissioners supporting the NMRE's Resolution Opposing MDHHS' Decision to Implement Conflict Free Access and Planning in Michigan.

The letter from advocates expressing concerns about the proliferation of conflict of interest in the Michigan Community Mental Health System was viewed to be unhelpful, resulting in questions from CMS.

Mr. Lawson asked how to answer questions that might be posed to Board Members regarding how MDHHS holds PIHPs and CMHSPs accountable. Mr. Kurtz responded that the PIHP is held to a lengthy Contract along with Policies and Practice Guidelines that requires constant oversight by both the MDHHS and External Providers (Health Services Advisory Group) and the NMRE.

ANNOUNCEMENTS

Let the record show that there were no announcements during the meeting on this date.

PUBLIC COMMENT

Let the record show that the members of the public attending the meeting virtually were recognized.

REPORTS

Executive Committee Report

Let the record show that no meetings of the NMRE Executive Committee have occurred since the May Board Meeting.

CEO Report

The NMRE CEO Monthly Report for June 2024 was included in the materials for the meeting on this date.

Mr. Kurtz highlighted the May 31st meeting with the Attorney General and the Emmet County Board of Commissioners regarding opioid settlement funds and how they're being used. It was noted that the state's portion of the funds may come to the PIHPs in time. Mr. O'Farrell added that the Michigan Association of Counties (MAC) has county-level information. Ms. Pilon suggested that funding be put toward enhancing the SUD treatment infrastructure.

April 2024 Financial Report

- Net Position showed net surplus Medicaid and HMP of \$67,302. Carry forward was reported as \$11,624,171. The total Medicaid and HMP Current Year Surplus was reported as \$11,691,473. The total Medicaid and HMP Internal Service Fund was reported as \$20,576,156. The total Medicaid and HMP net surplus was reported as \$32,267,629.
- Traditional Medicaid showed \$121,054,836 in revenue, and \$117,378,208 in expenses, resulting in a net surplus of \$3,676,628. Medicaid ISF was reported as \$13,510,136 based on the current FSR. Medicaid Savings was reported as \$845,073.
- Healthy Michigan Plan showed \$16,150,559 in revenue, and \$19,759,885 in expenses, resulting in a net deficit of \$3,609,326. HMP ISF was reported as \$7,066,020 based on the current FSR. HMP savings was reported as \$10,779,098.
- Health Home showed \$1,428,070 in revenue, and \$1,484,801 in expenses, resulting in a net deficit of \$56,731.
- SUD showed all funding source revenue of \$17,567,743 and \$16,033,218 in expenses, resulting in a net surplus of \$1,534,525. Total PA2 funds were reported as \$4,908,762.

The decline in DAB, TANF, and HMP revenue has been greater than anticipated. The April rate adjustment did not compensate for the revenue loss. Currently, the increase in HSW revenue is buffering the shortfall. The NMRE expects to end FY24 with a slight surplus.

The NNRE discovered that it has not been receiving payments for approximately 50 clients enrolled in HSW since October 2023; specifics information has been sent to MDHHS. The issue has been identified and corrected. The NMRE is waiting to hear about retroactive payments for the approximately \$1.4M in lost revenue.

The region currently has 3 open HSW slots with 7 packets in the queue. The NMRE has also requested up to 45 additional slots from the Department.

MOTION BY DON TANNER TO APPROVE THE NORTHERN MICHIGAN REGIONAL ENTITY MONTHLY FINANCIAL REPORT FOR APRIL 2024; SUPPORT BY JAY O'FARRELL. MOTION CARRIED.

Operations Committee Report

The draft minutes from June 16, 2024 were included in the materials for the meeting on this date.

Mr. Tanner questioned why MIWorks Northeast Consortium asked to enter into a Memorandum of Understanding with the NMRE to access grant funding to refer individuals to the appropriate CMHSP for services, noting that CMHSP services are available to all individuals that meet established criteria.

Mr. Kurtz, Mr. Johnston, and Steve Burnham are working to "aggressively educate" legislators about the \$10M local drawdown and match which essentially makes the PIHP a "taxing entity" as arm of the state without constitutional authority. A five-year plan to reduce the local match to zero by 2024 was implemented in 2019 and has since stalled; by Federal mandate, it must end by 2027.

Ms. Marois referenced the letter from advocates expressing concerns about the proliferation of conflict of interest in the Michigan Community Mental Health System. The letter asserts that "the CMHSPs have absolute control of the boards of directors of the PIHPs." Ms. Marois stated that, by making this statement, it is evident that they have never attended a PIHP Board meeting.

NMRE SUD Oversight Committee Report

The next meeting of the NMRE Substance Use Disorder Oversight Committee is scheduled for July 8, 2024 at 10:00AM.

NEW BUSINESS

PIHP FY24 Contract Amendment No.2

A summary of the changes included in Amendment No.2 to the PIHP Specialty Supports and Services Contract with the State was included in the materials for the meeting on this date.

The predominant change is the addition in Schedule A – Statement of Work, Section 1, General Requirements, Subsection R, Program Integrity. This section requires:

- 1) Maintenance of a Regulatory Compliance Committee comprised of Board of the Directors and senior management charged with overseeing the PIHP's compliance program and its

compliance with the requirements of the Specialty Supports and Services Contract. The Committee must be chaired by the PIHP Compliance Officer and meet at least quarterly.

2) The PIHP must have adequate staffing and resources to investigate unusual incidents and develop and implement corrective action plans to assist the PIHP in preventing and detecting potential Fraud, Waste, and Abuse activities.

a) The PIHP must operate a distinct "Special Investigations Unit" to prevent and detect Fraud, Waste, and Abuse led by a Special Investigation Unit (SIU) manager/liaison.

Mr. Kurtz noted that Amendment No.2 also includes language related to the April 1, 2024 rate adjustment.

MOTION BY GARY NOWAK TO AUTHROIZE THE NORTHERN MICHIGAN REGIONAL ENTITY CHIEF EXECUTIVE OFFICER TO SIGN AMENDMENT NUMBER TWO (NO. 2) TO THE SPECIALTY SUPPORTS AND SERVICES CONTRACT WITH THE STATE OF MICHIGAN; SUPPORT BY DON TANNER.

"Yea" Votes: B. Adrian, T. Bratton, E. Ginop, G. Klacking, E. Lawson, M. Newman, M. Marois, G. Nowak, J. O'Farrell, R. Pilon, R. Schmidt, K. Sherman, D. Smeltzer, D. Tanner

"Nay" Votes: Nil

MOTION CARRIED.

Internal Service Fund (ISF) Resolution

An email dated June 6, 2024 from Region 10 CEO, Jim Johnson, shared a Board Resolution opposing proposed contract language which would limit internal service fund (ISF) balances to amounts well below actuarially sound levels.

Region 10's resolution language was updated for adoption by the NMRE Board of Directors and included in the meeting materials.

It is likely that no changes to the contract will occur until FY26.

MOTION BY MARY MAROIS TO ADOPT THE NORTHERN MICHIGAN REGIONAL ENTITY RESOLUTION OPPOSING PROPOSED CONTRACT LANGUAGE LIMITING INTERNAL SERVICE FUND BALANCES TO AMOUNTS BELOW ACTUARILY SOUND LEVELS; SUPPORT BY DON TANNER.

"Yea" Votes: B. Adrian, T. Bratton, E. Ginop, G. Klacking, E. Lawson, M. Newman, M. Marois, G. Nowak, J. O'Farrell, R. Pilon, R. Schmidt, K. Sherman, D. Smeltzer, D. Tanner

"Nay" Votes: Nil

MOTION CARRIED.

The full resolution is attached to these meeting minutes and incorporated herein.

OLD BUSINESS

Northern Lakes CMHA Update

Mr. Johnston attended a June 24th Northern Lakes Board Subcommittee meeting regarding Board Governance structures. Ms. Marois called it a very positive meeting. A governance proposal will be presented to the Northern Lakes Board on July 18th. Greg McMorrow is settling into the position of Board Chair. Overall, Northern Lakes is heading in the right direction.

Waskul Settlement Agreement

A Settlement Agreement was reached in the *Wasul vs. Washtenaw County Community Mental Health* suit on May 29, 2024. The Community Mental Health Association of Michigan (CMHAM) will be filing an objection to the settlement by the July 15th deadline. CMHAM asked that PIHPs and CMHSPs also consider submitting an objective to the settlement. A Court hearing is scheduled for September 23, 2024.

Using a template distributed by attorney Neil Marchand, Mr. Kurtz drafted a "Declaration of Northern Michigan Regional Entity Regarding the Impact of the Waskul Settlement" which was distributed during the meeting. The Declaration stated, in part:

"While NMRE applauds MDHHS's willingness to provide additional funding for Community Living Supports services through the Waskul settlement, the Waskul settlement itself represents very poor public policy that will have the unintended consequences of damaging the services and supports for individuals not covered by the settlement and potentially other catastrophic consequences for the public behavioral health system."

"The Waskul settlement seeks to increase the CLS hourly rate to \$31 per hour, but only for the individuals who self-direct their CLS services."

"By limiting the additional funding to those individual on the Habilitation Supports Waiver who self-direct their CLS services, MDHHS is skewing the labor market away from agency providers. This public policy will potentially drive the workforce toward self-directed service arrangements at the expense of beneficiaries served through other means."

It was noted that the Waskul settlement could end up going before the Michigan Supreme Court.

MOTION BY KARLA SHERMAN TO APPROVE THE DECLARATION OF NORTHERN MICHIGAN REGIONAL ENTITY REGARDING THE IMPACT OF THE WASKUL SETTLEMENT AS AUTHORED BY THE NORTHERN MICHIGAN REGIONAL ENTITY CHIEF EXECUTIVE OFFICER; SUPPORT BY DON TANNER. ROLL CALL VOTE.

"Yea" Votes: B. Adrian, T. Bratton, E. Ginop, G. Klacking, E. Lawson, M. Newman, M. Marois, G. Nowak, J. O'Farrell, R. Pilon, R. Schmidt, K. Sherman, D. Smeltzer, D. Tanner

"Nay" Votes: Nil

MOTION CARRIED.

PRESENTATION

Substance Use Disorder Admission Data

NMRE Clinical Services Director, Branislava Arsenov, presented SUD admissions data through April 30, 2024. Fiscal year 2024 admissions were down 4.7% from the same period in FY23. The data showed that outpatient was the highest level of treatment admissions at 48%, and alcohol was the most prevalent primary substance at 59%, all opiates (including heroin) were second at 18%, and methamphetamine was the third most prevalent primary substance at 17%. It was noted that stimulant use is rising sharply throughout the 21-county region.

According to the Substance Abuse and Mental Health Services Administration (SAMHSA), in 2022, 48.7 million people aged 12 or older (or 17.3%) had a substance use disorder (SUD) in the past year.

County-specific reports were distributed to Board Members on this date. The county-specific reports are intended to be shared with Boards of Commissioners and other community stakeholders.

It is likely that liquor tax funds will be needed to supplement SUD Block Grant Funding in FY24. It may be necessary to dip into county fund balances in excess of one year's receivables.

Mr. Bratton asked to receive SUD admissions data on a regular basis.

COMMENTS

Board

Mr. Tanner spoke about a bill in the state House that would amend the Mentored Youth Hunting Program to include children and adults with developmental disabilities. The program currently allows children under 10 to hunt with an adult before completing a hunter training course and allows for two years of apprenticed hunting between 10 and 16. The current legislation would expand the program to include minors and adults with developmental or intellectual disabilities of all ages, provided they are accompanied by an adult with a standard hunting license.

Staff/CEOs

Ms. Pelts expressed appreciation to all the individuals who are leading Northern Lakes in a positive direction.

MEETING DATE

The next meeting of the NMRE Board of Directors was scheduled for 10:00AM on July 24, 2024.

ADJOURN

Let the record show that Mr. Klacking adjourned the meeting at 11:33AM.



Northern Michigan Regional Entity
1999 Walden Drive, Gaylord, MI 49735
p: 231.487.9144 • f: 989.448.7078

Resolution of the Northern Michigan Regional Entity Board of Directors Opposing the Michigan Department of Health and Human Services Proposed Language for Fiscal Year 2025 Limiting the Funding and Use of the Internal Service Fund

WHEREAS the Northern Michigan Regional Entity (NMRE) is a regional entity created in 2014 by AuSable Valley Community Mental Health Authority, Centra Wellness Network, North Country Community Mental Health Authority, North Country Community Mental Health Authority, Northeast Michigan Community Mental Health Authority, and Northern Lakes Community Mental Health Authority in accordance with section 204(b) of Michigan’s Mental Health Code to function as the Prepaid Inpatient Health Plan (PIHP) under a master Medicaid specialty supports and services contract with the Michigan Department of Health and Human Services (MDHHS) for Alcona, Alpena, Antrim, Benzie, Charlevoix, Cheboygan, Crawford, Emmet, Grand Traverse, Iosco, Kalkaska, Leelanau, Manistee, Missaukee, Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle, Roscommon, and Wexford Counties. The NMRE Board of Directors is comprised of three appointees from each of the five participating CMHSP Boards.

WHEREAS, under federal regulation as a managed care entity, the PIHP is responsible to ensure solvency to adequately ensure that its Medicaid enrollees will not be liable should the PIHP become insolvent.

WHEREAS, the master Medicaid specialty supports and services contract provides for the establishment of an Internal Service Fund (ISF) as the mechanism by which a PIHP may retain adequate funds to ensure solvency.

WHEREAS, MDHHS has proposed language in the master Medicaid specialty supports and services contract for fiscal year 2025 that would arbitrarily cap the amount of funding allowed to be retained by the PIHP and inappropriately shift the current risk sharing arrangement between the parties to the financial benefit of MDHHS.

WHEREAS, the proposed change represents a material change in the operation of the Medicaid State Plan in that the risk sharing arrangement approved by the Center for Medicare and Medicaid Services would be fundamentally altered.

WHEREAS, after careful review, the conclusions of the NMRE Board are that the proposed contract language:

- Limits the funding of the ISF to an amount that is less than what is actuarially sound;
- Limits the funding of the ISF to an amount that is less than what is considered best practice for operating reserves of governmental entities as proposed by the Government Finance Officers Association (GFOA);
- Overreaches and attempts to contractually limit the NMRE’s ability to operate as a PIHP and appropriately manage its risk;

- Would (if enforceable) require the NMRE to return funding rightfully earned and retained from a prior contractual period.

THEREFORE, BE IT UNANIMOUSLY RESOLVED THAT, in the strongest possible terms, and for the reasons noted herein, the NMRE Board of Directors opposes the MDHHS proposed language for fiscal year 2025.

BE IT FURTHER UNANIMOUSLY RESOLVED THAT, the NMRE Board of Directors requests MDHHS to remove the language limiting the funding and use of the ISF and to honor:

- The PIHP's right to manage its business operations including the management of its contractual risk through an appropriately funding ISF;
- Generally Accepted Accounting Principles (GAAP) that already provide appropriate limitations on the establishment, purpose, and accounting for an ISF;
- Generally Accepted Actuarial Principles and Methodologies (GAAPM) that already provide appropriate limitations on determining adequate funding for an ISF;
- Federal Regulations codified in 2 CFR and 42 CFR that already provide appropriate limitation on allowable costs and utilization of ISF funding.

ON BEHALF OF THE REGION 2 PIHP BOARD OF DIRECTORS BY ITS OFFICERS ON <DATE>

Gary Klacking
Chairperson of the NMRE Board of Directors