

## CMH AUTHORITY

### Definition of an Authority

- §100A(12) defines a Community Mental Health Authority as a separate legal entity created under §205, to operate as a CMH Services Program. [MCL330.1205]
- An Authority is an entity, separate and independent from the County, which operates the CMH Services Program. It has a legal identity separate from the County, can sue, be sued, and enter into contracts in its own name, and is separately liable for incurred debts.
- At this time, approximately 41 of the 46 CMHSPS in the state of Michigan are Mental Health Authorities and the remaining CMHSPS are county departments. At this time, Allegan County Community Mental Health Services is one of the five (5).

### Advantages – County

- One advantage to a County creating a CMH Authority is that the local match funding of the County will be capped at the expenditure level of the year that the Authority was created or the 1994-95 fiscal year, whichever is greater.
- The County will no longer have the responsibility of being involved in the operation of the CMH Services Program. This means less personnel/administrative expense. It also means that the County does not have to be responsible for the administration of a very complex funding structure that is difficult to understand.
- There will be less potential liability for the County. If the CMH incurs liability, such as a lawsuit, the Authority status insulates the County from liability.

### Advantages – CMH Program

- Better able to meet the changing needs of mental health service providers and clients. However, the County Board of Commissioners still appoints the CMH Board members.
- Better able to prepare for the changes that are occurring in public/social welfare policy such as those that are occurring in healthcare delivery that are being mandated at the Federal and State level in lieu of the adoption of the “Affordable Care Act” and this includes the emphasis upon integrated healthcare and the elimination of fraud, waste and abuse.
- Enables the CMH Program to prepare for the possibility of privatization of the public mental health system by providing greater flexibility.
- Some reserve accounting procedures available, in §205(4)(H), permitting set up of reserve accounts to cover certain employee expenses and depreciation. (There is also a reserve account that all CMH Service Programs can use which permits them to carry over up to 5% of their budget to the next operating year, but the Authority’s added reserve account is in addition to this carry over provision.)

### Disadvantages – County

- The Board of Commissioners will no longer have control of the CMH employees. The only control the Board of Commissioners will have on the Authority is through the appointment of the CMH Board members.
- The funding cap may not be much of an incentive, if the County has not increased the operating budget through the years.
- Employees are no longer County employees; the County cannot control salary or fringe benefits.

### Disadvantages – CMH Program

- There may be higher operating expenses as they assume the administrative services previously provided by the County.
- Wages and employee benefits cannot be reduced for the period of one year from the date of the creation of the Authority.
- Collective bargaining contracts with the CMH Services Program are binding on the Authority.
- The Authority is a separate bargaining unit for Unionization.
- They will no longer be able to have County assistance if things go wrong.
- §308 provides that a county’s local match is capped at the level which it was at in the year that the Authority was formed or the 1994-95 fiscal year, whichever is greater.
- Added duties, such as providing the County and the State with a yearly independent audit.

- ACCMHS has been performing the aforementioned administrative functions such as the independent audit, fiscal administration, human resource administration and IT administration for many years.
- The role of the Executive Director is more clearly delineated when the CMHSP is an Authority and not a County Department.

### **Financial**

- As noted, an Authority would become a separate legal entity upon becoming an Authority.
- An Authority could not reduce employee wages and benefits for one year from the date that the Authority is created.
- The Authority would have to incur the administrative costs associated with the operation of its department, which the County may provide currently, such as personnel costs, legal costs, computer services, etc.
- The employees of the Authority could form a union, independent from the County, if one does not currently exist.

### **Liability**

- CMH Board members will have governmental immunity.

### **Urban Cooperation Act (UCA) [MCL124.501 *et seq.*]**

- Once an Authority is created, it would be able to enter into UCA agreements to create a larger public entity. Some protections are available.

### **Public Policy Changes that Impact the CMHSPs**

**The Michigan Department of Community Health has recently altered the configuration of the Pre-Paid Inpatient Health Plans (PIHPS) in the state. Allegan will be moving to a different region with a different group of partners. As such, ACCMHS will be better able to adapt to the ever-changing healthcare environment as an Authority. This will mean that there will be increased opportunities for the persons served by ACCMHS across the new region that includes Kent, Muskegon, Ottawa and West Michigan.**

### **Procedures for Forming an Authority**

- Three public hearings.
- Certification by the State Department of Mental Health.
- Resolution creating the Authority by the County, which is filed with the Secretary of State and the Clerk of the County creating the Authority.

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