



Adirondack Health Institute

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## POLICY AND PROCEDURE

**Title:** Conflict – Free Case Management

**Department:** Health Home

**Intended Population:** Health Home Serving Children

**Effective Date:** 7/1/2020

**Date Revised:** 7/1/2021, 8/1/2022, 1/1/2023,1/1/2024

**DOH Policy:** HH0012

### Purpose of Policy

This policy is intended to provide guidance to Health Homes Serving Children to address the requirements for Conflict-Free Case Management (CFCM) for Health Home Servicing Children (HHSC) members and the process for which CFCM should be implemented.

### Scope

1. This policy must be distributed to all AHI Health Home Program staff and all subcontracting Health Home Service Providers.
2. All recipients of this policy must acknowledge their receipt and understanding of the policy by referring any questions, problems, or compliance issues with the policy within ten days of the issue date to the AHI's Health Home Assistant Director.
3. All questions regarding this policy or its implementation may be directed to the AHI Health Home Assistant Director.

### Statement of Policy

AHI shall develop, disseminate, and review at least annually a Conflict-Free Case Management Policy that addresses purpose, scope, roles and responsibilities, management commitment, coordination among organization entities, and compliance. AHI shall formalize documented procedures to facilitate the implementation of the Conflict-Free Case Management Policy.

### Definitions

**AHI HEALTH HOME:** AHI Health Home, a designated lead Health Home by the New York State Department of Health

**Child:** A person age 21 or younger who is not on AOT (Assisted Outpatient Treatment).

**Health Home Network Partners:** The group of medical, behavioral, social services, and other community-based organizations by which a Health Home Participant receives services to address needs identified on



Adirondack Health Institute

Lead Empower Innovate

## POLICY AND PROCEDURE

the comprehensive care management plan developed by the Health Home Participant's AHI Health Home Services Provider.

**Health Home Participant:** A Health Home Candidate who is participating in the AHI Health Home and is assigned to an AHI Health Home Services Provider for care management.

**Health Home Service Provider:** An organization that has a fully executed contract (the "Health Home Services Provider Agreement") with the Adirondack Health Institute to provide health home outreach and/or care management services.

**Care Management Record System:** A structured information system, maintained by the Adirondack Health Institute Health Home (AHIHH), and made available for Health Home Service Providers and Health Home Network Partners to utilize, as applicable and appropriate to their role in the Health Home.

**Family:** Within this document the term "family" is used and defined as the primary caregiving unit inclusive of the wide diversity of primary caregiving units in our society. Family is a birth, foster, adoptive or self-created unit of people residing together, with significant attachment to the individual, consisting of adult(s) and/or child(ren), with adult(s) performing duties of parenthood/caregiving for the child(ren) even if the individual is living outside of the home.

**Caregiver:** a person who helps care for someone who is ill, disabled, or aged. Some caregivers are relatives or friends who volunteer their help. Some people provide caregiving services for a cost.

**Conflict of Interest:** a "real or seeming incompatibility between one's private interests and one's public or fiduciary duties." When the same entity is both assisting an individual to gain access to services and providing services to that individual, the role of the entity staff has potential to be conflicted. This is a higher threshold than the requirements of conflict-free; and to avoid a conflict of interest, the same entity *would not be allowed* to serve in both capacities.

**Conflict-Free Case Management:** when the same entity is both assisting an individual to gain access to services and providing services to that individual, there must be appropriate safeguards and "firewalls" in place to mitigate risk of potential conflict. Additionally, the entity has the "firewalls" in policies and practice to ensure that those establishing access to services are not the same individuals providing the services. Those individuals that determine access and in house that provide the services are separated by supervision, oversight, and decision-makers (as outlined in the 9 principles below).

**Direct Supports and Service Delivery:** the supports and/or services provided to the individual in accordance with the person-centered POC.

**Monitoring & Service Coordination:** process for ensuring that services are delivered according to guidance included in the POC. Activities include coordinating services, monitoring the quality of the services, and monitoring the participant (i.e. observing for changes in needs or preferences).



Adirondack Health Institute

Lead Empower Innovate

## POLICY AND PROCEDURE

**Person-Centered Plan of Care (POC):** includes individually identified goals and preferences; identifies the specific services and the service providers used to meet stated goals as well as their frequency, amount (scope), and duration; and is individualized and understandable to the enrollee/recipient.

**Workforce member:** means Employees, board members, volunteers, interns, independent contractors, vendors, and other persons whose conduct, in the performance of work for a covered entity, is under the direct control of such entity, whether or not they are paid by the covered entity. This includes full and part time employees, affiliates, associates, volunteers, and staff from third party entities who provide service to the covered entity.

### Background

The Conflict – Free Case Management Program Policy at AHI is intended to facilitate the effective implementation of the processes necessary to meet the Health Home Program standards and requirements as stipulated by the NYS DOH, federal regulations, and best practices. This policy directs that AHI meet these requirements.

### POLICY

It is required that Health Home Serving Children (HHSC) establish and maintain the Conflict-Free Case Management (CFCM) principles provided by federal guidance. CFCM is designed to complement the goal of improving person-centered planning.

Per federal regulation §441.301(c)(1)(vi), states are required to separate case management (including the development of person-centered plans) from service delivery functions for services delivered under 1915(c) waivers. AHI HEALTH HOME must ensure case managers implement CFCM principles by designing strategies for implementation, monitoring, and oversight of those strategies. The principles for CFCM are based on a NYS Balancing Incentive Program (BIP) which is comprised of nine (9) principles. BIP outlines the following nine (9) principles for implementing CFCM.

- **Principle 1:** Home and Community Based Services (HCBS) Level of Care (LOC) eligibility determination is separated from HCBS delivery.
- **Principle 2:** Health Home Care Managers (HHSPs) are not related to the child/youth, their paid caregivers, or anyone financially responsible for the child/youth.
- **Principle 3:** There is robust monitoring and oversight established by HHs.
- **Principle 4:** HHs have developed clear, well-known, and accessible pathways for the child/youth/parent/guardian/legally authorized representative to submit grievances and/or appeals for assistance regarding concerns about choice, quality, eligibility determination, service provisions, and outcomes.



Adirondack Health Institute

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## POLICY AND PROCEDURE

- **Principle 5:** Grievances, complaints, appeals, and the resulting decisions are adequately tracked and monitored.
- **Principle 6:** To ensure that consumer choice and control is not compromised, the Department will oversee HCBS LOC eligibility determination and HCBS business practices.
- **Principle 7:** The Department will track and document the child/youth’s experiences with measures that capture the quality-of-care coordination and care management services.
- **Principle 8:** In circumstances when one entity is responsible for providing care management and HCBS delivery, appropriate safeguards and firewalls exist to mitigate risk of potential conflict.
- **Principle 9:** Meaningful stakeholder engagement strategies are implemented which include child/youth, family members, advocates, providers, state leadership, and HHSP.

### Procedure

AHI Health Home will provide monitoring and oversight of its Health Home Service Providers to ensure the agency administration has put a CFCM structure into place. CFCM requires agencies to put firewalls in place between key functions. AHI Health Home will ensure these firewalls are properly in place and these functions are carried out by the appropriate staff.

Additionally, the Health Home Service Provider (HHSP) must ensure it has a “firewall” to ensure that those individuals establishing access to services are separate and apart from those individuals providing the services. Those that determine access and those that provide the services are separated by supervision, oversight, and decision makers in distinct departments.

### Implementation Strategies

**Principle 1:** Home and Community Based Services (HCBS) Level of Care (LOC) eligibility determination is separated from HCBS delivery.

- The HHSP is responsible for conducting the HCBS eligibility determination for the provision of services to be provided by a separate entity or the same entity with firewalls in place. A HHSP gathers the necessary documentation to determine that the child/youth meet the required HCBS required elements however the HHSP nor other staff related to the HH can provide the diagnosis or be the approved Licensed Practitioner of the Healing Arts to complete the License Practitioner of the Healing Arts (LPHA) attestation form.

HHSP’s conducting HCBS LOC eligibility determination should not have concurrent responsibility or oversight of finances or service provision at a HCBS organization.



Adirondack Health Institute

Lead Empower Innovate

## POLICY AND PROCEDURE

- In circumstances where there is overlap, appropriate firewalls (such as segregation of duties) must be in place so that there is no incentive or influence for care managers to affect the revenues for their organization.

HHSP's that also provide other services such as foster care, behavioral health clinic, Article 28 clinic, prevention services, etc.... could utilize staff and/or LPHAs within these services to assist with diagnosis, the HCBS LPHA attestation, or be the provider of the HCBS with the proper firewalls and policies in place.

- Where possible, agencies should not provide both care management and direct services to a child/youth.
  - If a HHSP refers a child/youth to another agency for HCBS, and that other agency is also a HHSP, the child/youth must not be required to transfer their care management to the other agency. The child/youth may continue to receive care management from one agency and HCBS or other services from a different agency, if they so choose.
  - The child/youth/family has the right to choose their providers, whether it is the same agency for care management and other direct services, as long as the choice is clearly documented, including discussion of any potential conflicts of interest that could arise.
  - AHI Health Home will monitor and audit HHSP's that also provide HCBS to ensure proper choice and consent was given to the member, parent, legal guardian, or legally authorized representative as documented on the Freedom of Choice form – DOH-5276.

**Principle 2:** HHSPs are not related to the child/youth, their paid caregivers, or anyone financially responsible for the child/youth.

- HHSP's cannot perform the HCBS LOC or develop the POC if they are:
  - Related by blood or marriage to the served child/youth, or to any paid caregiver of the child/youth, or residing in the same residence as the HCBS enrolled youth
  - Empowered to make financial decisions or health-related decisions on behalf of the served child/youth
  - Hold a financial interest in any entity that is a direct service provider to the child/youth
  - Are paid caregivers to the child/youth
  - Are financially responsible for the child/youth

Note: HCBS providers are subject to the same Principle 2 restrictions outlined above. To maintain the enrollee's autonomy and Freedom of Choice, it is not allowable for a HCBS Provider to be related by blood or marriage to the served child/youth. Further, an individual residing in the same residence as the HCBS-

## POLICY AND PROCEDURE

enrolled child/youth would not be an appropriate HCBS provider. It is up to the agency to determine if a conflict of interest is present in a potential staffing relationship and whether the family believes there is an opportunity for Freedom of Choice.

**Principle 3:** There is robust monitoring and oversight established by AHI Health Home.

- A CFCM system must include strong oversight and quality management to promote child/youth/family's choice. Health Homes must work alongside the Department to ensure that the expectations for monitoring and oversight are clearly established.
  - The lead HHs have a CFCM policy requirement for their network partners and HHs verify that all CMAs have a CFCM policy in place
  - CFCM is part of the HHs oversight and monitoring for their CMAs
  - There are CFCM triggers audit review as outlined in Principle 1
- Oversight should include monitoring for evidence that the HHSP developing the POC for HCBS provided the youth/child with:
  - A list of agencies that provide similar services in the child/youth's service area
  - A statement specifying the child/youth/family has a right to make an independent choice of HCBS providers through the Freedom of Choice form – DOH-5276 and has been given options of available providers in their area.
- Monitoring and oversight must demonstrate evidence of external referrals.

**Principle 4:** HHs have developed clear, well-known, and accessible pathways for the child/youth/parent/guardian/legally authorized representative to submit grievances and/or appeals for assistance regarding concerns about choice, quality, eligibility determination, service provisions, and outcomes.

- AHI Health Home and HHSP's must work collaboratively with the NYS DOH in establishing guidance and appeal mechanisms and the responsibilities of providers, payers, and State agencies in those processes.
- The child/youth must be clearly informed about their right to appeal decisions about plans of care, eligibility determination, and service delivery.
- Clear, publicized, and accessible pathways are established and provided to the child/youth with instruction for submitting a grievance/complaint and/or appeal to the lead HH, Medicaid Managed Care Plan (MMCP), or Department for assistance regarding concerns about choice, quality, eligibility determination, service provision, and outcomes.



Adirondack Health Institute

Lead Empower Innovate

## POLICY AND PROCEDURE

- Notice of Decision Eligibility,
- Notice of Decision Discontinuance,
- Freedom of Choice Form,
- Participant Rights,
- Grievance and Complaints Policy

**Principle 5:** Grievances, complaints, appeals, and the resulting decisions are adequately tracked and monitored.

Data related to grievances, complaints, appeals, and the resulting decisions must be tracked and monitored. HH and CMAs must work collaboratively with the Department, MMCP, and HH leadership in establishing these tracking monitoring mechanisms.

- Information obtained is used to inform program policy and operations as part of the continuous quality management and oversight system.
- Refer to the AHI HEALTH HOME Complaints Policy.

**Principle 6:** To ensure that consumer choice and control is not compromised, the Department will oversee HCBS LOC eligibility determination and HCBS business practices.

- The Department will provide oversight and monitoring of HCBS LOC eligibility determination.
- Random or targeted sample audits should be utilized to determine whether assessment/eligibility determination findings match actual service needs.

**Principle 7:** The Department will track and document the child/youth's experiences with measures that capture the quality-of-care coordination and care management services.

- Data must be collected to document the child/youth's experiences with assessment, planning and service provision, and coordination.
- Measures should include the child/youth's satisfaction, freedom of choice, and referral patterns to identify potential conflict.

**Principle 8:** In circumstances when one entity is responsible for providing care management and HCBS delivery, appropriate safeguards and firewalls exist to mitigate risk of potential conflict.

- Document in the member's record/case file that the entity will ensure its employees act in the best interest of the participant and mitigate potential conflict of interest.
- Specify methods of communication required to inform the child/youth about the potential for conflict through the Freedom of Choice form – DOH 5276
- Document through the Freedom of Choice form (DOH 5276) that the child/youth was informed about their freedom of choice, received the Participant's Rights



Adirondack Health Institute

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## POLICY AND PROCEDURE

document, and that the care manager discussed that they must act in the best interest of the child/youth and disclose any potential conflict of interest.

- AHI HH is aware that in some rural areas, there may only be one provider available to serve as both the care management and service provider agency. In these instances, AHI HH requires HHSP's to articulate how they will mitigate potential conflicts of interest, potentially including additional oversight. HHSPs must work closely with AHI HH and Managed Care Organizations, as applicable, to identify service areas with limited access and to identify solutions to address those gaps. In such cases, the child/youth still has the right to be notified of the potential conflict of interest, their options to receive services, and the process for filing a grievance.

**Principle 9:** Meaningful stakeholder engagement strategies are implemented which include child/youth, family members, advocates, providers, state leadership, and HHSP. HHSPs are encouraged to leverage existing forums, if available, that:

- Include the child/youth and their advocates in the evaluation of the current infrastructure.
- Identify existing policies and procedures within the Health Home Service Provider's network that may be the building blocks of the firewall.
- Collect feedback to determine what additional costs or unintended consequences could be incurred when implementing the components of a firewall (i.e. lack of efficiency, impact on the child/youth).
- Use input when developing communication plans related to firewalls and safeguards.





Adirondack Health Institute

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## POLICY AND PROCEDURE

### **Quality and Performance Improvement:**

Each Health Home Service Provider in the AHI HH Network that provides Health Home Care Management to Children and provides HCBS services is required to provide AHI HH with a copy of their current internal policies pertaining to Conflict - Free Case Management. These policies will be annually reviewed by the Health Home.

AHI HH quality and performance improvement activities include review of member's POC but are not limited to:

Completion of required documents (e.g., assessments, eligibility)

- Validation of qualified staff members and trainings
- Appropriate billing activities
- Ensuring member's POC was collaboratively produced and person-centered in focus
- Monitoring that each child/youth has a Freedom of Choice form on file
- Members receive Participants Rights document
- Notification of member's care team and outcome of case reviews
- Ensuring member's POC was updated and reviewed as required
- Ensuring referrals, evaluations, and assessments were sought and used to ensure eligibility to programs, with consideration for time as needed for waitlists and other barriers to service provision
- Ensuring appropriate training is provided to HHSP's in response to outcomes identified through the HH's quality monitoring activities

### **Training**

AHI HH will provide training related to all Health Home policies. Trainings may be formal and informal and requested on an as needed basis by forwarding questions related to this or any policy to [healthhome@ahihealth.org](mailto:healthhome@ahihealth.org).

**Contact Person:** Assistant Director, Care Management and Health Home

**Responsible Person:** Health Home Service Provider

**Reviewed By:** Director, Care Management and Health Home

**Approved By:** Chief Compliance Officer