AUTHORITY

STATUS

ALLEGAN COUNTY COMMUNITY MENTAL HEALTH

4/16/02
Land Location for Transit Facility
- IDS Property
- Dumont
- Other – City?
- Lease, then buy Option? Build private then buy-it.

Sheriff Department involvement
- They are in

Software - buy on own?

SDNT - Applications
- Telephone upgrade - internal

Radio System – 800 mhz
- Checklist built in Telecommunications. Need a new system. Rural Transit dollars to pay. Would upgrade from existing UHF.

CMH – Transportation
- Current Status of consolidation
- Current vehicle grants 5310 – $100k this year & $100 next
- Proposal – numbers?
- FIA Medicaid – funding
- Other options – Schools, Ottawa, Senior/Transportation Millage

CMH Authority status
- Scenario – County Transportation saves CMH $200,000, how then is this passes on to General Fund? What incentive would CMH have to consolidate. “It’s not about saving money, it’s about quality of life for clients”
- Specialized services funding - $40,353
- Capital 5310 vehicles. Rural Task force

EOC Director interview

EOC Mapping software

Meeting with Fulton Sheen

CMH would not be eligible

Expanding Service to clients – trips to the store etc.
TRANSPORTATION TRANSITION PLAN
DRAFT
FEBRUARY 3, 2004

In response to requests from MDOT and Allegan County, the County Transportation Director, Dan Wedge, and ACCMHS staff Beth Durkee and Jim Madsen have been working together to determine whether or not it is feasible and qualitatively advisable to transfer transportation services from ACCMHS to the Allegan County Transportation Services. Allegan County feels that there could be some cost savings by making this transfer. Additionally, the Transportation Director feels that transportation hours and routes could be expanded. MDOT's interest is funding one less transportation system in Allegan County.

While very interested in reducing costs and expanding service hours and routes, the Board and staff of ACCMHS are very concerned about the quality of service that would be provided if such a transition occurred. Further, there are concerns related to financial issues, most especially during the transition period.

As a result of many discussions and planning sessions, the following transition plan is offered for consideration. Part 1 includes quality and procedural issues that will need to be addressed. Part 2 illustrates the budget piece. Part 3 addresses a specific transition schedule.
Transportation Transition Plan
Part 1
Quality and Procedures

Before transferring any additional trips to ACT, the following issues need to be addressed in writing.

1. The policy manual of ACT needs to be updated to include appropriate procedures for:
   * Response to inappropriate behavior on vehicles
   * No-shows
   * Office coverage
   * Assistance getting on and off vehicles
   * Procedures for pick-up and drop-off (what to do if the person does not immediately appear to get on the vehicle, what to do if there is no one home to receive a person being dropped off)
   * Procedures for scheduling and/or changing the schedule
   * Consistency of drivers on routes

2. Finalize QA indicators. Suggestions made by ACCMHS include:
   * 100% of people are on time for appointments
   * 100% of people wait less than 15 minutes after their appointment
   * 100% of people spend less than one hour on the van per trip
   * Percentage of people that feel they are treated with dignity and respect
   * 100% of people are not more than 30 minutes early for an appointment
   * Amount of increased hours of transportation service on weekends and evenings
   * Reduced Cost

3. Clarify unresolved issues:
   * No-show rate
   * Cancellation and scheduling procedures
   * Driver training requirements
   * On-call
   * State/Federal Budget Stability

4. Develop a workable budget for transition as well as ongoing services.

The following activities need to occur.

1. Meet with staff
2. Meet with consumers and families
3. Conduct a survey with our riders to get baseline data on satisfaction.
### ACCMHS FY03 Transportation Expenses

<table>
<thead>
<tr>
<th>Line Item</th>
<th>Driver Expense</th>
<th>Admin. Expense</th>
<th>Operation Expense</th>
<th>Vehicle Expense</th>
<th>Other Expense</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries and Wages</td>
<td></td>
<td>97,573.14</td>
<td></td>
<td></td>
<td></td>
<td>97,573.14</td>
</tr>
<tr>
<td>Wages - Drivers</td>
<td>233,807.07</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>233,807.07</td>
</tr>
<tr>
<td>Overtime Wages - Drivers</td>
<td>21,418.58</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>21,418.58</td>
</tr>
<tr>
<td>Employee Insurance</td>
<td>53,688.39</td>
<td>20,079.65</td>
<td></td>
<td></td>
<td></td>
<td>73,768.04</td>
</tr>
<tr>
<td>FICA</td>
<td>19,209.19</td>
<td>7,214.61</td>
<td></td>
<td></td>
<td></td>
<td>26,423.80</td>
</tr>
<tr>
<td>Retirement</td>
<td>9,600.39</td>
<td>3,590.58</td>
<td></td>
<td></td>
<td></td>
<td>13,190.97</td>
</tr>
<tr>
<td>Supplies and Materials</td>
<td></td>
<td>2,806.04</td>
<td></td>
<td></td>
<td></td>
<td>2,806.04</td>
</tr>
<tr>
<td>Professional and Contractual</td>
<td></td>
<td></td>
<td></td>
<td>65,536</td>
<td>65,536</td>
<td></td>
</tr>
<tr>
<td>Telephone</td>
<td>2,506.48</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2,506.48</td>
</tr>
<tr>
<td>Travel</td>
<td>471.44</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>471.44</td>
</tr>
<tr>
<td>Gas and Oil</td>
<td></td>
<td></td>
<td>36,049.26</td>
<td></td>
<td></td>
<td>36,049.26</td>
</tr>
<tr>
<td>Van Maintenance</td>
<td></td>
<td></td>
<td>16,911.77</td>
<td></td>
<td></td>
<td>16,911.77</td>
</tr>
<tr>
<td>Advertising and Recruitment</td>
<td>478.22</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>478.22</td>
</tr>
<tr>
<td>Van Insurance</td>
<td></td>
<td></td>
<td>18,639.56</td>
<td></td>
<td></td>
<td>18,639.56</td>
</tr>
<tr>
<td>Utilities</td>
<td>426.32</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>426.32</td>
</tr>
<tr>
<td>Building Maintenance</td>
<td>72.87</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>72.87</td>
</tr>
<tr>
<td>Other Maintenance</td>
<td>74.65</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>74.65</td>
</tr>
<tr>
<td>Building Rent</td>
<td>720</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>720</td>
</tr>
<tr>
<td>Graphic Reproduction</td>
<td>122.8</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>122.8</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>337,723.62</td>
<td>128,457.98</td>
<td>7678.82</td>
<td>71,600.59</td>
<td>65,536</td>
<td>610,997.01</td>
</tr>
</tbody>
</table>

### ACCMHS FY 03 Cost

- **With ACT Trips**
  - **Per Year**: 610,997.01 trips
  - **Cost per Trip**: 14.36

- **ACT Proposal**
  - **Per Year**: 614,689 trips
  - **Cost per Trip**: 14.45
Part III
Transition Plan

When the items in the previous pages are resolved/completed, the following specific plan is recommended for transition of the trips. It is recommended that before going from one step to the next that there is acceptable performance based on the QA indicators for a period of at least 30 days.

Before moving to a transfer of clinic trips, it is recommended that there be acceptable performance for at least three months.

1. Daily Fast Food run to Otsego/Plainwell (plus week-end and holiday work)
   This includes trips to Walmart and Meijers as well as some various runs while in Plainwell/Otsego. People are dropped off in the morning and then taken home in the afternoon.
   5 days a week plus five hours a day on week-ends and holidays
   35 driver hours a week
   13 one way trips a day
   Lay off one driver (4 hours a week)
   Reduce hours of other drivers by 18 hours a week

2. Drop-In Center/ACC from Otsego/Plainwell
   5 days a week
   37 driver hours a week
   21 one way trips a day
   Lay off one driver (28 hours a week)
   Reduce hours of other drivers by 2 hours a week
   Eliminate 100% overtime

3. Lakeshore Run to ACC/Drop-In
   5 days a week
   30 driver hours a week
   10 one way trips a day
   Lay off one driver (30 Hours a week)
   Reduce hours of other drivers by 10 hours a week
   Ken, Bill and Don will do all clinic runs
   Transfer van #33 to ACT

4. Wayland/Dorr to ACC Drop/In Run
   5 days a week
   40 driver hours a week
17 one way trips a day
lay off one driver (37 Hours a week)
Reduce hours of other drivers by 3 hours a week
Transfer Van # 34 to ACT

5. Holland/Fennville to ACC/Drop-in
   5 days a week
   40 driver hours a week
   9 one way trips a day
   Lay off one driver (30 Hours a week)
   Reduce hours of other drivers by 10 hours a week
   Transfer Van #30 to ACT

6. Allegan Local
   5 days a week
   38 Driver hours a week
   17 one-way trips a day
   Lay off one driver (40 Hours a week)
   Lay off one office staff (40 hours a week)
   Transfer Van # 29 to ACT

7. Clinic Runs
   Lay off five drivers working an average of 32 hours per week
   Lay off one additional office staff
   Reduce Supervisor to 30 hours per week
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. [MCL 330.1205]
- 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.

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 program. This means less personnel/administrative expense.
- 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 Board of Commissioners still appoints the Board members.
- 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 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.
- Section 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.

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) [MCL 124.501 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.

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.

January 2001
PROCEDURES FOR FORMING AN AUTHORITY

Certification by the Department of Community Health.

Three public hearings held in accordance with the Open Meetings Act.

Board of Commissioners adopt enabling resolution.

Resolution filed with Secretary of State and clerk of the county creating the authority.
CMH AUTHORITY STATUS

Act 290 of the Public Acts of 1995 created an option for counties and CMH services programs to create a local "Mental Health Authority."

Definition of an Authority:

* Section 100A(12) defines a community Mental Health Authority as a separate legal entity created under section 205, to operate as a CMH services program.

An Authority is an entity, separate and independent from the County, which operates the CMH services program. It has 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.
(6) A community mental health authority is liable for any intentional, negligent, or grossly negligent act or omission, for any financial affairs, or for any obligation of a community mental health authority, its board, employees, representatives, or agents.

(7) A community mental health authority shall not levy any type of tax or issue any type of bond in its own name or financially obligate any unit of government, the authority is the employer with regard to all laws pertaining to employee and employer rights, benefits, and responsibilities.

(8) As a public governmental body, a community mental health authority is subject to the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws, and the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws, except for those documents produced as a part of the peer review process required in section 145a and made confidential by section 748(9).

330.1206 Community mental health services program; purpose; services.

Sec. 206. (1) The purpose of a community mental health services program shall be to provide a comprehensive array of mental health services appropriate to conditions of individuals who are located within its geographic service area, regardless of an individual's ability to pay. The array of mental health services shall include, at a minimum, all of the following:

(a) Crisis stabilization and response including a 24-hour, 7-day per week, crisis emergency service that is prepared to respond to persons experiencing acute emotional, behavioral, or social dysfunctions, and the provision of inpatient or other protective environment for treatment.

(b) Identification, assessment, and diagnosis to determine the specific needs of the recipient and to develop an individual plan of services.

(c) Planning, linking, coordinating, follow-up, and monitoring to assist the recipient in gaining access to services.

(d) Specialized mental health recipient training, treatment, and support, including therapeutic clinical interactions, socialization and adaptive skill and coping skill training, health and rehabilitative services, and pre-vocational and vocational services.

(e) Recipient rights services.

(f) Mental health advocacy.

(g) Prevention activities that serve to inform and educate with the intent of reducing the risk of severe recipient dysfunction.

(h) Any other service approved by the department.

(2) Services shall promote the best interests of the individual and shall be designed to increase independence, improve quality of life, and support community integration and inclusion. Services for children and families shall promote the best interests of the individual receiving services and shall be designed to strengthen and preserve the family unit if appropriate. The community mental health services program shall deliver services in a manner that demonstrates they are based upon recipient choice and involvement, and shall include wraparound services when appropriate.

330.1207 Diversion from jail incarceration.

Sec. 207. Each community mental health services program shall provide services designed to divert persons with serious mental illness, serious emotional disturbance, or developmental disability from possible jail incarceration when appropriate. These services shall be consistent with policy established by the department.

330.1208 Individuals to which service directed; priorities; denial of service prohibited.

Sec. 208. (1) Services provided by a community mental health services program shall be directed to individuals who have a serious mental illness, serious emotional disturbance, or developmental disability.

(2) Services may be directed to individuals who have other mental disorders that meet criteria specified in the most recent diagnostic and statistical manual of mental health disorders published by the American psychiatric association and may also be directed to the prevention of mental disability and the promotion of mental health. Resources that have been specifically designated to community mental health services programs for services to individuals with dementia.
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. [MCL 330.1205]
- 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.

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 program. This means less personnel/administrative expense.
- 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 Board of Commissioners still appoints the Board members.
- 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 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.
- Section 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.

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) [MCL 124.501 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.

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.

January 2001
COMMUNITY MENTAL HEALTH AUTHORITY STATUS: 
AN OPTION FOR CMH BOARDS AND COUNTIES IN MICHIGAN 
David A. LaLumia, Executive Director

To improve clinical and administrative practice, it has been a longstanding position of CMH boards in Michigan that there should be maximum flexibility in the relationship to both the state and county. Flexibility is essential so that the service delivery system can rapidly and effectively respond to changing service needs and evolving practices for delivering both primary and behavioral health care services. CMH authority status, as described in SB 525, would provide such flexibility and prepare CMH Boards to operate more effectively in the future.

This is not a new concept. It was introduced in Governor Milliken’s 1980 report on unification of the public mental health system and was referred to as mental health entity status. Governor Milliken’s report indicated that local mental health authorities should have broader responsibilities and more autonomy than do existing CMH programs in areas of single point of entry, provision of clinically effective services and in the financial, personnel and information resources needed to support the system. David Mechanic of Rutgers University, a leading researcher on comprehensive mental health systems, has also strongly advocated for mental health authorities as being an effective way to unify programmatic and financial resources to serve persons with severe and persistent mental illness (“Strategies for Integrating Public Mental Health Services,” David Mechanic, Ph.D., Hospital and Community Psychiatry, August 1991). Mechanic says that strong local authorities are needed to weave together the diverse funding streams and multiple health and human services available in a community to ensure that comprehensive and coordinated services are provided to persons with severe and persistent mental illness.

CMH authority status, as included in SB 525, is modeled after the Urban Cooperation Act under which seven boards (serving 22 counties) are currently organized. Many of the features of CMH authority status included in SB 525, (i.e. ability to carry forward funding, operate under generally accepted accounting principles, employ staff, own property) are currently in place for the Au Sable Valley, Clinton-Eaton-Ingham, Copper Country, Manistee-Benzie, Northeast, Northpointe and West Michigan CMH boards who are currently organized under the Urban Cooperation Act. CMH authority status as enabled by SB 525 would permit single county CMH boards to enjoy the same critical flexibilities enjoyed by those boards who have organized under the Urban Cooperation Act.

During the 1980s and 1990s, Michigan’s public mental health system was transformed from an institutional to a community-based system of care. For the past ten years, elements of health care reform have been introduced to the delivery of mental health services. Managed care systems are commonplace in the private sector. In the public sector, federal and state governments are moving
infancy. It was a convenience and an efficiency for the county to be the employer. Today, many of the CMH programs are larger in size than the county governments to which they are attached. It makes sense that it should be clarified that they are the employer of their staff.

The contribution of counties and county boards of commissioners to mental health services over the years has been a significant one, in terms of their financial contribution and their advocacy for quality services. The key elements of this longstanding partnership are preserved in SB 525. In addition, no CMH authority will be created without county approval. These amendments balance what has worked well in the past with what will serve the CMH system, the county and ultimately the consumer of services well in the future.

Today, each of the 52 CMH boards have entered into full management contracts: each serves as the single point of entry for public mental health services; each is a certified provider of Medicaid clinic services and offers the required comprehensive range of services; each provides 24 hour emergency/crisis response services addressing the needs of consumers of both the mental health and substance abuse systems; and each is the focal point in their respective communities for services to persons with severe and persistent mental illnesses and developmental disabilities.

Delivering more effective services and operating at all levels more proficiently and efficiently are the intended outcomes of creating the CMH authority status option. The Mental Health Code was written for a different environment than we have today. All the changes proposed including creation of CMH authority status will enhance the ability of the public mental health system to serve children and adults with severe and persistent mental illnesses and developmental disabilities in Michigan.

Thank you.
AUTHORITY STATUS CONSIDERATIONS FOR COMMUNITY MENTAL HEALTH OF ST. JOSEPH COUNTY

ADVANTAGES:

- Saves interest the county currently receives on our money. Approximately $135,000 at 10% per year.
- Cultural change. We are in business and that business is health care.
- Own property. Equipment depreciation.
- Can still share services with county like Blue Cross Insurance.
- Social Security opt-out.
- Freezes county match.

DISADVANTAGES:

- Not for the light hearted. We will be in business. This means doing business differently. Need Managers and staff to be accountable and responsible.
- Freezes county match.
- DCH – Entered into Managed Care Contract with a shared risk corridor of 15%. (CMH share 7.5%)

WHAT IT DOES NOT DO:

- Change relationship with DCH.
- Change clinical services.
- Offer business opportunities that you can’t do now except be a property holder and equipment depreciation

LIABILITY:

- Still can be sued.
- County does not have the liability.
- Need good Risk Insurance coverage. Currently contract with MMRA.
- Maintain current benefit package.
- Maintain union contract for one year unless during a negotiation year in which the newly signed contract would prevail.

Note: Attorney still questions the suing issue. It is a state mandate to provide mental health services, the counties have made it a local level issue. If anyone
gets sued, it would ultimately fall to the state. However this has never been tested.

WHAT IS IN IT FOR CMH?

- Means a culture shift from being a “service” agency to being a “business.
- We would keep the interest on our money instead of the county.
- Create a different relationship with the county.

Note: The County Commissioners have the right to make us an Authority Status without our agency’s approval.

Changes to the Mental Health Code that are slated for Fall 1999
There are three top issues that are priority for legislature to consider in regards to the Mental Health Code that will allow CMH’s to be placed on a level playing field with the private sector. After discussion with DCH - there are multiple issues but feel the following are top priority.

1. Resolve the issue of borrowing money.
2. Board make-up to be equal representation from counties. Example - if three counties merge then each county would have four board members.
3. Allow governmental agencies to bid on a managed care contract, current status does not allow CMH’s to bid. This issue to allow CMH’s to bid in the “bid out”.
MEMORANDUM

August 10, 1998

TO: Kristine Kirsch, Executive Director
   Community Mental Health Services Board of St. Joseph County

From: David L. Short, President
       Combined Management & Marketing Services, Inc.

Section 204 (1) of the Public Act 258 of 1974, as amended (hereinafter referred to as the "Michigan Mental Health Code") reads as follows:

"A community mental health services program established under this chapter shall be a county community mental health agency, a community mental health organization, or a community mental health authority. A county community mental health agency is an official county agency. A community mental health organization or a community mental health authority is a public governmental entity separate from the county or counties that establish it."

Section 204a of the Michigan Mental Health Code reads as follows:

"Two or more counties may organize and operate a community mental health services program by creating a community mental health organization under the urban cooperation act of 1967, Act No. 7 of the Public Acts of the Extra Session of 1967, being sections 124.501 to 124.512 of the Michigan Compiled Laws."

Section 205 of the Michigan Mental Health Code includes the following provisions:

"(1) A community mental health agency or a community mental health organization that is certified by the department under
section 232a may become a community mental health authority as provided in this section through an enabling resolution adopted by the board of commissioners of each creating county after at least 3 public hearings held in accordance with the open meetings act, Act 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws....

...(4) In addition to other powers of a community mental health services program as set forth in this act, a community mental health authority has all of the following powers, whether or not they are specified in the enabling resolution:

...(b) To make purchases and contracts.

...(c) To transfer, divide, or distribute assets, liabilities, or contingent liabilities, unless the community mental health authority is a single-county community mental health services program and the county has notified the department of its intention to terminate participation in the community mental health services program....

...(e) To acquire, own, operate, maintain, lease, or sell real or personal property. Before taking official action to sell residential property, however, the authority shall do all of the following:

...(i) Implement a plan for alternative housing arrangements for recipients residing on the property.

...(ii) Provide the recipients residing on the property or their legal guardians, if any, an opportunity to offer their comments and concerns regarding the sale and planned alternatives.

...(iii) Respond to those comments and concerns in writing.

...(l) To do the following in its own name:

...(i) Enter into contracts and agreements....

...(ii) Acquire, construct, manage, maintain, or operate buildings or improvements.

...(iv) Subject to subdivision (e), acquire, own, operate, maintain, lease, or dispose of real or personal property, unless the community mental health authority is a single-county community mental health services program and the county has notified the department of its intention to terminate participation in the community mental health services program....

...(v) Incur debts, liabilities, or obligations that do not constitute the debts, liabilities, or obligations of the creating county or counties....

...(7) A community mental health authority shall not levy any type of tax or issue any type of bond in its own name or financially obligate any unit of government other than itself....
During this fiscal year, some community mental health services programs have sought uniform determinations from the applicable departments of the state on the meanings and applications of the above-cited sections of the Michigan Mental Health Code in reference to the incurring of obligations (bonds, notes, and other evidences of indebtedness), given requirements of municipal corporations under other Michigan laws, including the Municipal Finance Act and the Uniform Budgeting and Accounting Act.

The Assistant in Charge (hereinafter referred to as the "Assistant Attorney General") of the Municipal and Military Affairs Division of the Michigan Department of Attorney General recently has provided legal advisement to representatives of the Michigan Department of Treasury and the Michigan Department of Community Health pertaining to meanings and applications of Sections 204a and 205 of the Michigan Mental Health Code.

In a memorandum (dated April 3, 1998) to a representative of the Local Audit and Finance Division of the Michigan Department of Treasury, the Assistant Attorney General indicated that, in general, obligations (bonds, notes, and other evidences of indebtedness) of a municipal corporation are not reviewed by the State Treasurer under the Municipal Finance Act unless expressly required by law, or the obligations are general obligations of the public issuer, or the indebtedness pledges the full faith and credit of the public issuer or is payable primarily or secondarily from taxes or special assessments or both.

The Assistant Attorney General advised that the phraseology, in the prohibition in Subsection 7 of Section 205 from issuing "any type of bond in its own name", seems to be all-encompassing in its scope and appears to prohibit issuance of notes and other evidences of indebtedness as well as bonds.

According to that Assistant Attorney General, a community mental health authority is not subject to the review of the State Treasurer under Section 205 of the Michigan Mental Health Code and a community mental health authority does not appear to be authorized to incur the types of obligations that are subject to the review of the State Treasurer under the Municipal Finance Act.

That Assistant Attorney General made those advisements in relation to community mental health authorities not established under the urban cooperation act. Since the Newaygo County Board of Commissioners is considering the establishment of a single county community mental health authority, advisements of that Assistant Attorney General related to community mental health organizations or community mental health authorities established via the urban cooperation act are not addressed here.

In effect, that Assistant Attorney General is maintaining that a community mental health authority of a single county may not incur the types of
obligations (bonds, notes, and other evidences of indebtedness) common to other municipal corporations. The Assistant Attorney General claims that such types of obligations (bonds, notes, and other evidences of indebtedness) include mortgages and a line of credit (loan) from a bank, for example.

That Assistant Attorney General has stated that any community mental health authority, as a municipal corporation, may have the power to enter into (real or personal property) purchase contracts which are specifically excepted from regulation under Section 1, Chapter III of the Municipal Finance Act as follows:

"...The making of a contract for the purchase of real or personal property or leasing of real or personal property with or without an option to purchase is not determined the borrowing of money. The contract or lease, or note or other obligation given in connection with the contract or lease, is not subject to this act."

Given the above-cited advisements of the Assistant Attorney General, the views of various lawyers for various counties and/or community mental health services programs are not uniform as to whether a community mental health authority could enter into a land contract (an installment purchase contract) or a third party installment sales contract (with a bank as the third party, for example). It should be noted that the Michigan Mental Health Code does not include a provision which specifies that a community mental health authority has the power to enter into installment purchase contracts.

In his communications to representatives of the Local Audit and Finance Division of the Michigan Department of Treasury, that Assistant Attorney General has emphasized that his comments on these matters represent his advice as a lawyer and not the opinion of the Attorney General of Michigan. That Assistant Attorney General made those advisements after inquiries from the Local Audit and Finance Division of the Michigan Department of Treasury and the Michigan Department of Community Health.

Those inquiries were made in response to some community mental health authorities seeking state approval to enter into types of obligations (bonds, notes, and other evidences of indebtedness), recent discovery by representatives of the Local Audit and Finance Division of the Michigan Department of Treasury of a community mental health organization having entered into obligations without prior Treasury approval, and in response to clarifications sought by some community mental health agencies for county(ies) which are considering the creation of a community mental health authority.

This consulting firm advised executives of various community mental health services programs, prior to enactment, that provisions in Section 205 of the Michigan Mental Health Code were problematic and undoubtedly would cause difficulties as to financial applications of the law and that, preferably, the Code should be amended in order to address the flaws in Section 205.
The Local Audit and Finance Division of the Michigan Department of Treasury reportedly plans to abide by the above-cited advisements of the Assistant Attorney General now. Upon discovery of current obligations (bonds, notes, and other evidences of indebtedness) via review of an independent audit report by a certified public accounting firm on a community mental health authority of a single county, the Local Audit and Finance Division of the Michigan Department of Treasury undoubtedly would address the community mental health authority and the Michigan Department of Community Health for a resolution, as applicable.

Also, upon discovery of current (or previous) obligations (bonds, notes, and other evidences of indebtedness) via review of such an independent audit report and/or a state finance audit of a community mental health authority of a single county, finance auditors and/or other representatives of the Michigan Department of Community Health undoubtedly would address the community mental health authority for a resolution, as applicable.

A community mental health authority of a single county should not enter new financing transactions whereby it would incur the types of obligations (bonds, notes, and other evidences of indebtedness) common to other municipal corporations, until these statutory matters are resolved.

It is the position of this consulting firm that the ability to maintain a limited line of credit (loan) from a bank, for example, as a normal business practice would be of importance for cash flow purposes to any community mental health authority.

However, our consultation to executives and governing board members of prospective and current community mental health authorities has included a uniform recommendation that they refrain from commitments to acquire real estate, in general. Recently, you indicated to me that acquiring real estate would not be an immediate goal or recommendation of your administration under the status of a community mental health authority, if created by the County.

Reportedly, William J. Allen, MDCH Deputy Director of Mental Health and Substance Abuse Services has indicated recently that new legislation would be necessary to address current problems with and limitations on implementing Section 205 of the Michigan Mental Health Code.

This consulting firm is advising that all community mental health authorities and community mental health agencies for county(ies), which are considering the creation of a community mental health authority, seek the support of the Michigan Department of Community Health and members of the Michigan Legislature to amend the Michigan Mental Health Code as soon as possible in order to address the current flaws in Section 205.
M.C.L.A. § 257.603

Sec. 603. (1) The provisions of this chapter applicable to the drivers of vehicles upon the highway ** ** apply to the drivers of all vehicles owned or operated by the United States, this state, or a county, city, township, village, district, or any other political subdivision of the state, subject to the specific exceptions ** ** set forth in this chapter with reference to authorized emergency vehicles.

(2) The driver of an authorized emergency vehicle when responding to an emergency call, but not while returning from an emergency call, or when pursuing or apprehending a person who has violated or is violating the law or is charged with or suspected of violating the law may exercise the privileges set forth in this section, subject to the conditions of this section.

(3) The driver of an authorized emergency vehicle may do any of the following:

(a) Park or stand, irrespective of ** ** this act.

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.

(c) Exceed the prima facie speed limits as long as he or she does not endanger life or property.

(d) Disregard regulations governing direction of movement or turning in a specified direction.

(4) The exemptions granted in this section to authorized emergency vehicles ** ** apply only when the driver of the vehicle while in motion sounds an audible signal by bell, siren, air horn, or exhaust whistle as may be reasonably necessary, except as provided in subsection (5), and when the vehicle is equipped with at least 1 lighted lamp displaying a flashing, oscillating, or rotating red or blue light visible under normal atmospheric conditions from a distance of 500 feet in a 360 degree arc unless it is not advisable ** ** to equip a police vehicle operating as an authorized emergency vehicle with a flashing, oscillating, or rotating light, ** ** visible in a 360 degree arc. In those cases, a police vehicle shall display a flashing, oscillating, or rotating red or blue light ** ** visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle. Only police vehicles that are publicly owned shall be equipped with a flashing, oscillating, or rotating blue light that when activated is visible under normal atmospheric conditions from a distance of 500 feet in a 360 degree arc.

(5) A police vehicle shall retain the exemptions granted in this section to an authorized emergency vehicle without sounding an audible signal if the police vehicle is engaged in an emergency run in which silence is required.

(6) The exemptions provided for by this section ** ** apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway but do not apply to those persons and vehicles when traveling to or from work. The provisions of this chapter governing the size and width of vehicles do not apply to vehicles owned by public highway authorities when the vehicles are proceeding to or from work on public highways.

M.C.L.A. § 257.303 Note

Section 2. This amendatory act shall take effect June 1, 1997.

M.C.L.A. § 257.303 Note

Section 3. This amendatory act shall not take effect unless Senate Bill No. 378 of the 88th Legislature is enacted into law.


Filed January 21, 1997.

2258

M.C.L.A. § 330.1152

The People of the State of Michigan enact:


1. Section 330.1152.

M.C.L.A. § 330.1205

Sec. 205. (1) A county community mental health agency or a community mental health organization that is certified by the department under section 212a-3 may become a community mental health authority as provided in this section through an enabling resolution adopted by the board of commissioners of each creating county after at least 3 public hearings held in accordance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.276 of the Michigan Compiled Laws. The resolution must be adopted if it is approved by a majority of the commissioners elected and serving in each county creating the authority. The enabling resolution is not effective until it has been filed with the secretary of state and with the county clerk of each county creating the authority. If any provision of the enabling resolution conflicts with this act, this act supersedes the conflicting provision.

(2) All of the following shall be stated in the enabling resolution:

1. Section 330.1156.
revenue-producing service unit costs with total charges not exceeding total costs. All revenue over cost generated in this manner shall be utilized to provide services to priority populations.

(5) In addition to other duties and responsibilities of a community mental health services program as set forth in this act, a community mental health authority shall do all of the following:

(a) Provide to each county creating the authority and to the department a copy of an annual independent audit performed by a certified public accountant in accordance with governmental auditing standards issued by the comptroller of the United States.

(b) Be responsible for all executive administration, personnel administration, finance, accounting, and management information system functions. The authority may discharge this responsibility through direct staff or by contracting for services.

(6) A county that has created a community mental health authority is not liable for any intentional, negligent, or grossly negligent act or omission, for any financial affairs, or for any obligation of a community mental health authority, its board, employees, representatives, or agents.

This subsection applies only to county government.

(7) A community mental health authority shall not levy any type of tax or issue any type of bond in its own name or financially obligate any unit of government other than itself.

(8) An employee of a community mental health authority is not a county employee. The community mental health authority is the employer with regard to all laws pertaining to employee and employer rights, benefits, and responsibilities.

(9) As a public governmental body, a community mental health authority is subject to the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.276 of the Michigan Compiled Laws, and the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws, except for those documents produced as a part of the peer review process required in section 143a and made confidential by section 740(9).1

Section 330.1212.
Section 330.1213.
Section 330.1143.
Section 330.1748.

M.C.L.A. § 330.1219

Sec. 219. (1) A county having an established community mental health services program may elect to merge with an established community mental health services program in an adjoining county. A merger shall be approved by a majority vote of the board of commissioners of each participating county, and becomes effective on the first day of January, April, July, or October immediately following the date of final approval. The merger and creation of a community mental health authority shall be in accordance with this section and section 216.

(2) The board of commissioners of each participating county may elect by a majority vote to appoint 1 or more of the community mental health services board members to the new board, even if that section would result in a size or composition of the board that is different than that provided for in sections 212, 214, and 222.

(3) If the board of commissioners of 1 or more participating counties does not agree to permit appointment of members to the new board in the manner provided in subsection (2), the new board shall be appointed in the manner provided in sections 212, 214, and 222.

(4) A new board that is different in size or composition than that provided for in sections 212, 214, or 222 shall be brought into compliance with those sections within 3 years after the date of merger.

Section 330.1205.

M.C.L.A. § 330.1226

Sec. 226. (1) The board of a community mental health services program shall do all of the following:

2262 Changes are indicated by underline: deletions by asterisks ...
(a) The purpose and the power to be exercised by the community mental health authority shall be to comply with and carry out the provisions of this act.

(b) The duration of the existence of the community mental health authority and the method by which the community mental health authority may be dissolved or terminated by itself or by the county board or boards of commissioners. These provisions shall comply with section 220.

(c) The manner in which any net financial assets originally made available to the authority by the participating county or counties will be returned or distributed if the authority is dissolved or terminated. All other remaining assets net of liabilities shall be transferred to the community mental health services program or programs that replace the authority.

(d) The liability of the community mental health authority for costs associated with real or personal property purchased or leased by the authority for the community mental health services program to the extent necessary to discharge the financial liability if desired by the county or counties.

(e) The manner of employing, compensating, transferring, or discharging necessary personnel subject to the provisions of applicable civil service and merit systems, and the following restrictions:
   (i) Employees of a community mental health authority are public employees. A community mental health authority and its employees are subject to Act No. 336 of the Public Acts of 1947, being sections 423.201 to 423.217 of the Michigan Compiled Laws.
   (ii) Upon the creation of a community mental health authority, the employees of the former community mental health services program shall be transferred to the new authority and appointed as employees subject to all rights and benefits for 1 year. Such employees of the new community mental health authority shall not be placed in a worse position by reason of the transfer for a period of 1 year with respect to workers' compensation, retirement, seniority, wages, sick leave, vacation, health and welfare insurance, or any other benefit that the employee enjoyed as an employee of the former community mental health services program. Employees who are transferred shall not by reason of the transfer have their accrued pension benefits or credits diminished.
   (iii) If the former county community mental health agency or community mental health organization was the designated employer or participated in the development of a collective bargaining agreement, the newly established community mental health authority shall assume and be bound by the existing collective bargaining agreement. The formation of a community mental health authority shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreement. For purposes of this provision, participation in the development of a collective bargaining agreement means that a representative of the community mental health agency or organization actively participated in bargaining sessions with the employer representative and union or was consulted with during bargaining process.
   (f) Any other matter consistent with this act that is necessary to assure operation of the community mental health authority as agreed upon by the creating county or counties.

(3) If a county community mental health agency or a community mental health organization becomes a community mental health authority pursuant to this section, both of the following apply:
   (a) All assets, debts, and obligations of the county community mental health agency or community mental health organization, including but not limited to equipment, furnishings, supplies, cash, and other personal property, shall be transferred to the community mental health authority.
   (b) All the privileges and immunities from liability and exemptions from laws, ordinances, and rules that are applicable to county community mental health agencies or community mental health organizations and their board members, officers, and administrators, and county elected officials and employees of county government are retained by the authority and the board members, officers, agents, and employees of an authority created under this section.

(4) In addition to other powers of a community mental health services program as set forth in this act, a community mental health authority has all of the following powers, whether or not they are specified in the enabling resolution:
   (a) To fix and collect charges, rates, rents, fees, or other charges and to collect interest.
   (b) To make purchases and contracts.
   (c) To transfer, divide, or distribute assets, liabilities, or contingent liabilities, unless the community mental health authority is a single-county community mental health services program and the county has notified the department of its intention to terminate participation in the community mental health services program. During the interim period between notification by a county under section 220 of its intent to terminate participation in a multi-county community mental health services program and the official termination of that participation, a community mental health authority's power under this subdivision is subject to any agreement between the community mental health authority and the county that is terminating participation, if that agreement is consistent with the enabling resolution that created the authority.
   (d) To accept gifts, grants, or bequests and determine the manner in which those gifts, grants, or bequests may be used consistent with the donor's request.
   (e) To acquire, own, operate, maintain, lease, or sell real or personal property. Before taking official action to sell residential property, the authority shall do all of the following:
      (i) Implement a plan for alternative housing arrangements for recipients residing on the property.
      (ii) Provide the recipients residing on the property or their legal guardians, if any, an opportunity to offer their comments and concerns regarding the sale and planned alternative.
      (iii) Respond to those comments and concerns in writing.
   (f) To do the following in its own name:
      (i) Enter into contracts and agreements.
      (ii) Employ staff.
      (iii) Acquire, construct, manage, maintain, or operate buildings or improvements.
   (g) Subject to subdivision (e), acquire, own, operate, maintain, lease, or dispose of real or personal property, unless the community mental health authority is a single-county mental health services program and the county has notified the department of its intention to terminate participation in the community mental health services program. During the interim period between notification by a county under section 220 of its intent to terminate participation in a multi-county community mental health services program and the official termination of that participation, a community mental health authority's power under this subdivision is subject to any agreement between the community mental health authority and the county that is terminating participation, if that agreement is consistent with the enabling resolution that created the authority.
   (h) Incur debts, liabilities, or obligations that do not constitute the debts, liabilities, or obligations of the creating county or counties.
   (i) Commence litigation and defend itself in litigation.
   (j) To invest funds in accordance with statutes regarding investments.
   (k) To set up reserve accounts, utilizing state funds in the same proportion that state funds relate to all revenue sources, to cover vested employee benefits including but not limited to accrued vacation, health benefits, the employee payroll portion of accrued sick leave, if any, and worker's compensation. In addition, an authority may set up reserve accounts for depreciation of capital assets and for expected future expenditures for an organizational retirement plan.
   (l) To develop a charge schedule for services provided to the public and utilize the charge schedule for first and third-party payers. The charge schedule may include charges that are higher than costs for some service units by spreading nonrevenue service unit costs to
Section 302 (1) of Chapter 3 of the Michigan Mental Health Code reads as follows:

"Sec. 302. (1) Except as otherwise provided in this chapter and in subsection (2), a county is financially liable for 10% of the net cost of any service that is provided by the department, directly or by contract, to a resident of that county.

(2) This section does not apply to the following:

(a) Family support subsidies established under Section 156.

(b) A service provided to any of the following:

...[i] An individual under criminal sentence to a state prison.

...[ii] A criminal defendant determined incompetent to stand trial under section 1032.

...[iii] An individual acquitted of a criminal charge by reason of insanity, during the initial 60-day period of evaluation provided for in section 1050."

Section 304 of Chapter 3 of the Michigan Mental Health Code reads as follows:

"Sec. 304. For the purpose of section 302, net cost means: the operating cost of providing the service to the individual minus that part of operating cost paid for by federal and private funds and minus that amount received by the state as reimbursement from those persons and insurers who are financially liable for the cost of such service."

Sections 306 and 307 of Chapter 3 of the Michigan Mental Health Code read as follows:

"Sec. 306. (1) For the purpose of section 302, an individual's county of residence is the county in which the individual maintained his or her primary place of residence at the time he or she entered 1 of the following:

(a) A dependent living setting.

(b) A boarding school.

(c) A facility.

(2) A community mental health services program shall not deny or delay requested services to an individual for the reason that the individual's county of residence, as determined by this section, is in the service area of another community mental health services program.

Sec. 307. Financial responsibility for services to an individual
whose county of residence has been determined under Section 306 may be transferred from 1 county to another if both community mental health service programs, the individual or his or her plenary guardian, if applicable, and the department agree to the transfer. If a transfer is made pursuant to this section, the department shall transfer from the original county of residence to the new county of residence 100% of the cost of the services agreed upon by both community mental health programs. County matching funds are not required services to an individual whose county of residence has been transferred under this section."

Section 309 of Chapter 3 of the Michigan Mental Health Code reads as follows:

"Sec. 309. Except as otherwise provided in this chapter, and subject to the constraints of funds actually appropriated by the legislature, the state shall pay all of the costs of a specialized residential service that are eligible for state financial support and approved by the department and that are not otherwise paid for by federal funds, state funds, or reimbursements from persons and insurers who are financially liable for the cost of services, and that meet all of the following conditions:

(a) The service is established and administered under the authority of the board of the community mental health services program and in accordance with chapter 2.

(b) The service did not exist as part of the community mental health services program before March 31, 1981.

(c) The service is approved by the department and operated in conformance with departmental policies and guidelines governing specialized residential programs."

Subsection A.1 of PART IV ("SPECIFICATION OF SERVICES, FUNDING LEVELS AND RELATED REPORTING REQUIREMENTS") of the 1996-97 and 1997-98 (by amendment extensions) master contract offered by the MDCH to every community mental health services program (hereinafter also referred to as a "CMHSP" or a "cmhsp" has included the following essential sentence:

"...Local and County match obligations for programs which are mental health authorities are capped consistent with section 308 (2) of the Mental Health Code."

Section 308 (1), (2) and (3) of Chapter 3 of the Michigan Mental Health Code read as follows:

"Sec. 308. (1) Except as otherwise provided in this chapter and subsections (2) and (3) and subject to the constraint of funds actually appropriated by the legislature for such purpose, the state shall pay 90% of the annual net cost of a community mental health services program that is established and administered in accordance with chapter 2."
(2) Beginning in the fiscal year after a community mental health services program becomes a community mental health authority under section 205, if the department increases the amount of state funds provided to community mental health services programs for the fiscal year, all of the following apply:

(a) The amount of local match required of a community mental health authority for that fiscal year shall not exceed the amount of funds provided by the community mental health services program as local match in the year in which the program became a community mental health authority.

(b) Subject to the constraint of funds actually appropriated by the county or county board of commissioners, the amount of county match required of a county or counties that have created a community mental health authority shall not exceed the amount of funds provided by the county or counties as county match in fiscal year 1994-95 or the year the authority is created, whichever is greater.

(c) If the local match provided by the community mental health services program is less than the level of local match provided in the year in which the program became a community mental health authority, subdivision (a) does not apply.

(d) The State is not obligated to provide additional state funds because of the limitation on local funding levels provided for in subdivisions (a) and (b).

(3) The state shall pay the family support subsidies established under Section 156."

Section 310 of Chapter 3 of the Michigan Mental Health Code reads:

"Sec. 310. For the purpose of section 308, "net cost" means:

(a) For a community mental health services program expenditures eligible for state financial support and approved by the department that are not otherwise paid for by federal funds, or reimbursements from persons and insurers who are financially liable for the cost of services.

(b) Except as provided in subdivision (a), the total of all community mental health services program expenditures eligible for state financial support and approved by the department that are not otherwise paid for by federal funds or state funds."

If all other conditions are met, Section 308 (2) first would be applicable in the fiscal year after a community mental health program (hereinafter also referred to as "cmhsp" or "CMHSP") becomes a community mental health authority under section 205.

As a result, this consulting firm has advised chief executive officers of community mental health authorities established in 1995-96 or 1996-97 that they should seek MDCH concurrence on applications of Section 308 (2) principles in MDCH/CMHSP master contract (spending plan) amendments and revenue and expenditure reports for cost settlement for the 1997-98 fiscal year.
Quixotically, the MDCH has not implemented new, uniform formats for MDCH/CMHSP master contract (spending plan) amendments and revenue and expenditure reports designed to incorporate financial applications of Section 308 (2) in the 1996-97 or 1997-98 fiscal year, as applicable by community mental health authorities.

In order to execute financial applications of Section 308 (2) in such MDCH/CMHSP master contract (spending plan) amendments and revenue and expenditure reports for cost settlement, community mental health authorities need annual MDCH concurrence that the specific conditions in the Michigan Mental Health Code have been met accordingly.

It is our understanding that said condition in Section 308 (2) pertains to whether the MDCH increases the amount of state funds provided to community mental health services programs in statewide total (i.e., said condition is not based individually on whether the amount of state funds provided to a particular community mental health services program was increased) for the fiscal year.

As in other counties, the primary method for meeting the statutory requirements for local funding of the Community Mental Health Services Program of St. Joseph County is an annual appropriation of general funds by the county board of commissioners. Other sources of local funding, which meet the requirements set forth within the MDCH Financing Guidelines in an Attachment to the MDCH/CMHSP master contract, also are utilized the Community Mental Health Services Program of St. Joseph County.

General fund appropriations from the St. Joseph County Board of Commissioners plus certain other local funds have been sufficient to meet the statutory requirements for annual local funding to match state funding of the actual net costs of community-based programs of the Community Mental Health Services Program of St. Joseph County and of state services to County residents.

Section 314 of Chapter 3 of the Michigan Mental Health Code reads as follows:

"Sec. 314. In each county having a community mental health services program, the county's annual appropriation for the costs of services provided by the state and for the county's cost of supporting the community mental health services program shall be made in a single appropriation to the board of the community mental health services program. The county's annual single appropriation may be made by line item."

When the CMHSP of St. Joseph County had "shared management" contracts with the MDCH, the St. Joseph County Board of Commissioners had
to annually appropriate general funds to it for matching net costs of community-based programs while also maintaining a separate appropriation to pay County general funds to match state funds for the net costs of state-provided (or state-contracted) inpatient, day program, and residential services provided to County residents in state facilities.

Since the CMHSP of St. Joseph County converted to "full management" contracts with the MDCH, the St. Joseph County Board of Commissioners has had to combine without distinction those two different annual appropriations into a single appropriation to be managed by the CMHSP.

If all other conditions are met, the amount of county general funds, according to Section 308 (2) (b) of the Michigan Mental Health Code, required of the county board of commissioners to provide to a community mental health authority in said cmha’s fiscal year for local match funding shall not exceed the amount of funds provided by the county or counties as county match in fiscal year 1994-95 or the year the authority is created, whichever is greater.

For purposes of financial applications of the above-cited Section 308 (2) (b), the term "provided" therein should mean the amount of county general funds actually appropriated by the county board of commissioners and actually received by the community mental health services program for the 1994-95 fiscal year of the cmhsp or the (cmhsp fiscal) year in which the community mental health authority is created, whichever is greater.

Aside from the annual appropriations of county general funds from St. Joseph County, a consistent source of local funding for the CMHSP of St. Joseph County has been that of "423" special funds (currently, recipient fees, Medicare and other third party insurance payments, excluding those of Medicaid and Supplemental Security Income, to the CMHSP for mental health services, in accordance with Public Act 423 of 1980 which served to amend the Michigan Mental Health Code).

In effect, a CMHSP can use MDCH-advanced State match funds and local match funds to pay for Michigan public mental health services and, in accordance with state law, utilize applicable "423 special fund" collections as local funding for mental health services.

Participation by a CMHSP in the "423" special fund is subject still to MDCH approval. Because the CMHSP of St. Joseph County has participated in the "423" special fund, its annual county general fund appropriations from St. Joseph County have had to fulfill statutory "maintenance of effort" requirements; i.e., county general fund appropriations to the CMHSP annually must remain at least equal to county appropriations made available and expended in the base fiscal year from October 1, 1979, through September 30, 1980.
Such statutory "maintenance of effort" requirements for "423" special fund are addressed now in Section 311 of Chapter 3 of the Michigan Mental Health Code which reads as follows:

"...Section 311. For those county community mental health boards that choose to create a special fund account pursuant to section 226a, the department shall not approve a budget under section 232 unless county funding for community mental health programs is provided at a dollar level at least equal to that made available to the county community mental health board in the fiscal year ending September 30, 1980."

If all other conditions are met, the amount of local match, according to Section 308 (2) (a) of the Michigan Mental Health Code, required of a community mental health authority for the fiscal year shall not exceed the amount of funds provided by the community mental health services program as local match in the year in which the program became a community mental health authority.

For purposes of financial applications of Section 308 (2) (a), the term "provided" therein should mean the amount of local match funds actually expended by the community mental health services program as local match for the (cmhsp fiscal) year in which the program became a community mental health authority.

However, said Section 308 (2) (a) is not applicable if, as specified in Section 308 (2) (c), the local match provided by the community mental health services program is less than the level of local match provided in the year in which the program became a community mental health authority.

For purposes of financial applications of Section 308 (2) (c), the term "provided" therein should mean the amount of local match funds actually expended by the community mental health services program as local match for the (cmhsp fiscal) year in which the program became a community mental health authority.

Lastly, for purposes of financial applications of both Section 308 (2) (a) and (c), the amount of local match funds actually expended by the community mental health services program as local match for the (cmhsp fiscal) year in which the program became a community mental health authority should not include local funds (excess local, local fund equity, or other local non-match funds) used to cover "local non-match" expenses. It is this consulting firm's technical assessment that such local funds (excess local, local fund equity, or other local non-match funds) used to cover local non-match expenses do not constitute local match funds thereunder.
THE ENABLING RESOLUTION MUST STATE THE FOLLOWING:

The purpose and power to be exercised by the Authority shall be to comply with and carry out the provisions of the Mental Health Code.

Duration of existence of the Authority and the manner by which it may be dissolved or terminated by itself or by the county Board of Commissioners.

The manner by which any net financial assets originally provided by the county will be returned or distributed if the Authority is dissolved or terminated.

The liability of the Authority for costs associated with real or personal property purchased or leased by the county for use by the CMH services program.

The manner of employing, compensating, transferring or discharging necessary personnel.
Mental Health Authority Status

Act 290 of the Public Acts of 1995 created an option for counties and CMH services programs to create a local "Mental Health Authority."

Requirements to Create an Authority:

- Certification by the Department of Community Health.
- Three (3) public hearings held in accordance with the Open Meetings Act.
- Board of Commissioners of each creating county adopt enabling resolution.
- Resolution filed with Secretary of State and clerk of each creating county.

The Enabling Resolution Must State the Following:

- The purpose and power to be exercised by the Authority shall be to comply with and carry out the provisions of the MH Code.
- Duration of existence of the Authority and the manner by which it may be dissolved or terminated by itself or by the county Board(s) of Commissioners.
- The manner by which any net financial assets originally provided by the county will be returned or distributed if the Authority is dissolved or terminated.
- The liability of the Authority for costs associated with real or personal property purchased or leased by the county for use by the CMH services program.
- The manner of employing, compensating, transferring or discharging necessary personnel.

Both of the Following Apply to the CMH Authority:

- All assets, debts and obligations of the county CMH agency or the CMH organization shall be transferred to the Authority.
- All privileges, immunities from liability and exemptions from laws, ordinances and rules which are applicable to CMH agencies and organizations are retained by the Authority.

An Authority Has All the Following Powers Whether or Not They Are Stated in the Enabling Resolution:

- To fix and collect charges, rates, rents and to collect interest.
- To make purchases and contracts in its own name.
MIDLAND COUNTY, MICHIGAN

ENABLING RESOLUTION

CREATING THE MIDLAND-GLADWIN COUNTY

COMMUNITY MENTAL HEALTH AUTHORITY

A regular meeting of the Midland County Board of Commissioners was held at the Midland County Services Building, 220 W. Ellsworth, Midland, Michigan, on the 8th day of September, 1998, at 9:00 o'clock A.m. Eastern standard time.

PRESENT: Commissioner(s): SULLIVAN, FILLMORE, FALKENSTEIN, STARNER, WILSON

BRADLEY, MCQUAID, WEAVER:

ABSENT: Commissioner(s): STAMAS.

The following preamble and resolution were offered by Commissioner FILLMORE and supported by Commissioner FALKENSTEIN

WHEREAS, the Midland County Board of Commissioners desire to provide the most effective mental health services available to the residents of the County of Midland; and

WHEREAS, pursuant to the provisions of Act 258 of the Michigan Public Acts of 1974, the counties of Midland and Gladwin previously established the Midland-Gladwin Community Mental Health Services Board; and

WHEREAS, recent amendments of the Michigan Mental Health Code, Act 290 of the Public Acts of 1995, create an option for participating Counties to form a Community Mental Health Authority with the powers and duties defined by the amendment to said Act; and

1
WHEREAS, the Board of Commissioners have conducted three (3) separate public hearings with notice pursuant to the Act on the issue of creation of a Community Mental Health Authority; and

WHEREAS, the Board of Commissioners after due deliberation have determined that it is in the best interest of the public to create a Community Mental Health Authority for the purpose of providing mental health services in the County of Midland.

NOW THEREFORE, BE IT RESOLVED

(A) **Creation:** There is hereby created a Community Mental Health Authority pursuant to the Michigan Mental Health Code, specifically Act 290 of the Public Acts of 1995; MCL 330.1205. The existing Community Mental Health Organization is dissolved upon the effective date of this resolution as defined herein. Existing Board Members of the Community Mental Health Organization are transferred and appointed as Board Members of the Community Mental Health Authority and shall serve in accordance with the provisions of the Act and for the balance of their existing terms upon the effective date of this resolution.

(B) **Purpose and Power:** The purpose and the power to be exercised by the Community Mental Health Authority shall be to comply with and carry out the provisions of the Mental Health Code.

(C) **Duration and Termination:** The duration of the existence of the Community Mental Health Authority shall be perpetual unless terminated as hereinafter defined. Termination or dissolution may be accomplished by a resolution of the Community Mental Health Authority to dissolve or terminate, or by a resolution of both participating Counties to dissolve or terminate the Community Mental Health Authority.
Authority. In the event that one, but not both, of the participating Counties elect to terminate participation in the Community Mental Health authority, the same must be accomplished by an official notification from the County Board of Commissioners to the Michigan Department of Community Health and to all other participating County Boards of Commissioners. The date of termination in all instances, whether by withdrawal of a particular County or by total dissolution of the Community Mental Health Authority, shall be one (1) year following receipt of notification by the Michigan Department of Community Health, unless the director of the department consents to an earlier termination date. During the interim between notification and official termination, the respective County's participation in the Community Mental Health Authority program shall be maintained in good faith.

(D) *Return of Net Assets* In the event of termination or dissolution of the Community Mental Health Authority, for any reason, all the net assets of the Authority will be distributed to Midland County and Gladwin County. The assets to be distributed will be allocated between the two counties on the basis of their respective populations as determined in the most recent U.S. decennial census for which results are published prior to the date of distribution. If as of the date of distribution one of the participating Counties has withdrawn from participating in the Authority, then all assets will be distributed to the remaining County.

(E) *Return of Net Financial Liability:* In the event of termination or dissolution of the Community Mental Health Authority, or the withdrawal of a County, the Community Mental Health Authority shall be liable for costs associated with real or personal property purchased or leased by the County for use by the Community Mental
Health Authority to the extent necessary to discharge the financial liability associated therewith.

(F) **Employees of the Community Authority:** Employees of the existing Community Mental Health Services program as of the effective date of this enabling resolution shall be transferred to the Community Mental Health Authority and appointed as employees subject to all rights and benefits for one (1) year. The personnel policies and practices applicable to the former Community Mental Health Services program, which includes but is not limited to the manner of employing, compensating, transferring, discharging or laying off of personnel, shall be applicable to the Community Mental Health Authority, subject to revision or amendment by said Authority following the expiration of one (1) year from the date of inception.

Employees so transferred shall not be placed in a worse position by reason of the transfer during said one (1) year period with respect to Worker's Compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other benefit that the employee enjoyed as an employee of the former Community Mental Health Services program. Employees who are transferred shall not by reason of the transfer have their accrued pension benefits or credits diminished.

Employees of the Community Mental Health Authority are public employees and as such are subject to Act number 336 of the Public Acts of 1947, being Sections 423.201 to 423.217 of the Michigan Compiled Laws. An employee of the Community Mental Health Authority shall not be a County employee. The
Community Mental Health Authority shall be the employer with regard to all laws pertaining to employee and employer rights, benefits and responsibilities.

**Transfer of Assets:** Upon the effective date of the creation of the Community Mental Health Authority, all assets, debts, and obligations of the existing Community Mental Health Organization, including but not limited to equipment, furnishings, supplies, cash, and personal property, held on behalf of the Community Mental Health Organization by Midland County or Gladwin County, shall be transferred to the Community Mental Health Authority. In addition, the following parcels of real property shall be transferred to the Community Mental Health Authority by Midland County:

**2716 Jefferson, Midland, Michigan**

Beginning 40' East and 82.5' South of the Northwest Corner of the South one half (S ½) of the Northwest One Quarter (NW 1/4) of Section 15, running thence East 260', South 82.5' West 260', North 82.5' to the place of beginning, City of Midland, also known as 2716 Jefferson Street, Midland, Michigan.

**2720 Jefferson, Midland, Michigan**

Beginning 40' East of the Northwest Corner of the Southwest One-Quarter (SW 1/4) of the Northwest One-Quarter (NW 1/4) of Section 15, Township 14 North, Range 2 East; running thence E 260', South 82.5', West 260' North 82.5' to the place of beginning, being a part of the Southwest One-Quarter (SW 1/4), Section 15, Township 14 North, Range 2 East, also known as 2720 Jefferson Street, Midland, Michigan.

**401 E. Pine Street, Midland, Michigan**

The Southwesterly 108 feet of Lots Five (1) and Six (6), Block 71 of Carpenters Addition, according to the recorded plat thereof in Liber C of Deeds, Page A, Midland County Records, commonly known as 401 East Pine Street, Midland, Michigan.

The Mental Health Authority may use, modify, exchange or sell furnishings, equipment, personal and real property transferred under this resolution; provided
however that the Authority may not sell, convey, mortgage or encumber the above-described real property, unless prior approval of the Midland County Board of Commissioners is obtained.

Concurrently with the approval of this Resolution, the Midland County Board of Commissioners has approved the form of a lease of the Horizons Building located at 3611 North Saginaw Road, Midland, Michigan, to the Mental Health Authority.

On the effective date of the creation of the Mental Health Authority, the value of each security held in the Midland County Retirement Fund will be established based upon its closing price that day. Beforehand, the Fund’s actuary (Gabriel, Roder, Smith & Company) will have determined what percentage of total assets in the Fund support current employees of the Community Mental Health Organization. (See Exhibit “A” attached hereto and made a part hereof.) The total of such amount shall be transferred by the Trustees to the fund managers for the Mental Health Authority retirement fund, in immediately available funds. Employees of the existing Community Mental Health Organization whose employment ended prior to the effective date of this Resolution, who are vested in the Midland County Plan, but who are not yet drawing benefits, and who will not be employed by the Mental Health Authority, as well as retired employees of the Mental health Organization, will remain in the Midland County plan.

(H). Privileges and Immunities from Liability: All privileges and immunities from liability as set forth in the Act and otherwise provided by the laws of the State of
Michigan shall be applicable to the Community Mental Health Authority, its Board members, officers, agents and employees.

**Powers of the Community Mental Health Authority:** In addition to other powers of a Community Mental Health Services program as set forth in the Act and by law, the Community Mental Health Authority shall have all of the following powers provided by law:

1. To fix and collect charges, rates, rent, fees, or other charges and to collect interest.
2. To make purchases and contracts.
3. To transfer, divide, or distribute assets, liabilities, or contingent liabilities.
4. To accept gifts, grants, or bequests and determine the manner in which those gifts, grants, or bequests may be used consistent with the donor's request.
5. To acquire, own, operate, maintain, lease, or sell real or personal property. Before taking official action to sell residential property, however, the authority shall implement a plan for alternative housing arrangements, and provide recipients notice for comment with response by the Authority to such comment as defined in the Act.
6. Enter into contracts and agreements in the Authority's name.
7. Employ staff in the Authority's name.
8. Acquire, construct, manage, maintain, or operate buildings or improvements in the Authority's name.
(9) Acquire, own, operate, maintain, lease, or dispose of real or personal property in the Authority's name.

(10) Incur debts, liabilities, or obligations that do not constitute the debts, liabilities, or obligations of the creating Counties.

(11) Commence litigation and defend itself in litigation in the Authority's name.

(12) To invest funds in accordance with statutes regarding investments.

(13) To set up reserve accounts utilizing state funds in the same proportion that state funds relate to all revenue sources; to cover vested employee benefits including but not limited to accrued vacation, health benefits, the employee payout portion of accrued sick leave, if any, and Worker's Compensation. In addition, the Authority may set up reserve accounts for depreciation of capital assets and for expected future expenditures for an organizational retirement plan.

(14) To develop a charge schedule for services provided to the public and utilize the charge schedule for first and third party payers. The charge schedule may include charges that are higher than cost for some service units by spreading nonrevenue service unit costs to revenue producing service unit costs with total charges not exceeding total cost. All revenue over cost generated in this manner shall be utilized to provide services to priority populations as determined by the Michigan Department of Community Health and the Mental Health Code.
(J) **Duties and Responsibilities of the Community Mental Health Authority:** In addition to other duties and responsibilities of the Community Mental Health Authority as set forth in the Act, the Authority shall:

1. Provide to each County creating the Authority and to the Michigan Department of Community Health a copy of an annual independent audit performed by a Certified Public Accountant in accordance with Governmental Auditing Standards issued by the Comptroller of the United States.

2. Be responsible for all executive administration, personnel administration, finance, accounting, and management information systems functions. The Authority may discharge the responsibility through direct staff or by contracting for services.

(K) **Applicability of Open Meetings Act and Freedom of Information Act:** The Community Mental Health Authority, as a public governmental body, shall be subject to the Open Meetings Act, Act number 267 of the Public Acts of 1976, being Section 15.261 to 15.275 of the Michigan Compiled Laws, and the Freedom of Information Act, Act number 442 of the Public Acts of 1976, being Section 15.231 to 15.246 of the Michigan Compiled Laws, except for those documents produced as a part of the Peer Review Process required in Section 143A and made confidential by Section 748(9).

(L) **Conflict:** If any provision of this Enabling Resolution conflicts with the Act, the Act shall supersede.
(M) **Reservation of Powers:** All powers, duties, obligations, rights and protections not mentioned herein but otherwise provided by the Act are included herein by reference.

**BE IT FURTHER RESOLVED,** that the above Enabling Resolution shall not be effective until joined by like resolution approved by the Gladwin County Board of Commissioners together with the filing by Gladwin County of a respective Enabling Resolution with the Secretary of State and County Clerk of each County creating the Authority and upon Certification of the Department of Community Health. In any event however, the effective date of the Midland Gladwin Community Mental Health Authority shall not be sooner than October 1, 1998.

**AYES:** Members: FALKENSTEIN, STARNER, WILSON, BRADLEY, MCQUAID, SULLIVAN.

FILLMORE, WEAVER.

**NAYS:** Members: NONE.

**RESOLUTION DECLARED ADOPTED**

Karen A. Holcomb, Midland County Clerk

c:midland county/enableng.res
CERTIFICATION

I hereby certify the foregoing resolution was adopted at a regular meeting of the County Board of Commissioners on the 8th day of September, 1998, after three (3) properly notified public hearings were held on the issues contained therein and that said meetings were conducted and public notice of said meetings was given pursuant to and in full compliance with the Open Meetings Act, being Public Act 267 of the Public Acts of Michigan (1976), and that the minutes of said meetings were kept and will be or have been made available as required by said Act.

Date: September 8, 1998.

Karen A. Holcomb, Midland County Clerk
RESOLUTION NO. 28-2000

ST. JOSEPH COUNTY, MICHIGAN

RESOLUTION AMENDING RESOLUTION 24-2000 THAT CREATED A COMMUNITY MENTAL HEALTH AUTHORITY

WHEREAS, the St. Joseph County Board of Commissioners adopted Resolution 24-2000 on October 17, 2000 and have since determined it to be necessary to make two amendments to said resolution; and

WHEREAS, said amendments shall be as follows:

Add to Section J.
(3) Provide to St. Joseph County Board of Commissioners sixty (60) days advance written notice and/or obtain the approval by the Board of Commissioners to enter into any agreement that would create a new legal entity pursuant to the Urban Cooperation Act, Public Act 7 of 1967 being MCL 124.501 et seq.

Change the intended effective date from December 1, 2000 to December 31, 2000.

NOW, THEREFORE, BE IT RESOLVED that the St. Joseph County Board of Commissioners adopts this resolution and a copy be sent to the Secretary of State and the St. Joseph County Community Mental Health Agency.

MOVED: Commissioner Carter
SUPPORTED: Commissioner Girton
CARRIED:

[Signature]
St. Joseph County Clerk
I, the undersigned, the duly qualified and acting Clerk of the County of St. Joseph, Michigan (the “County”), do hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the Board of Commissioners of the County at a regular meeting held on the 21st day of November, 2000, the original of which is on file in my office. Public notice of said meeting was given pursuant to and in compliance with the Open Meetings Act, being Act No. 267, Public Acts of Michigan, 1976, as amended, including in the case of a special or rescheduled meeting notice by publication or posting at least eighteen (18) hours prior to the time set for the meeting.

IN WITNESS WHEREOF, I have hereunto affixed my signature this 22nd day of November, 2000.

Pattie S. Bender, Clerk
County of St. Joseph
RESOLUTION NO. ______
ST. JOSEPH COUNTY, MICHIGAN

RESOLUTION CREATING A COMMUNITY MENTAL HEALTH AUTHORITY

WHEREAS, the St. Joseph County Board of Commissioners desires to improve the quality of mental health services provided to its residents; and

WHEREAS, pursuant to the Mental Health Code, (hereinafter referred to as "Act") there is an option to create a Community Mental Health Authority with powers and duties as defined in Section 205, MCL 330.1205; and

WHEREAS, this Board of Commissioners has determined that the Mental Health Authority structure provided in MCL 330.1205 would better serve the County's residents by enhancing the effectiveness of mental health services; and

WHEREAS, this Board of Commissioners has conducted three (3) separate public hearings on the issue of creation of a Community Mental Health Authority, with notice of the hearings given pursuant to the Open Meetings Act, being MCL 15.275 et seq.

NOW, THEREFORE, BE IT RESOLVED THAT:

A. Creation: There is hereby created a St. Joseph County Community Mental Health Authority (hereinafter "Community Mental Health Authority" or "Authority") pursuant to the Mental Health Code, Section 205, MCL 330.1205 to carry out the requirements under the Mental Health Code. The existing St. Joseph County Community Mental Health Program (hereinafter "Community Mental Health Program") is dissolved upon the effective date of the creation of the Authority. The following persons are hereby appointed as Board Members of the Community Mental Health Authority and shall serve in accordance with the provisions of the Act for the terms noted.

<table>
<thead>
<tr>
<th>Name</th>
<th>Term Expiration</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Gerald E. Loudenslager</td>
<td>March 31, 2001</td>
</tr>
<tr>
<td>2. Don Peacock</td>
<td>March 31, 2001</td>
</tr>
<tr>
<td>4. Tim Carmichael</td>
<td>March 31, 2001</td>
</tr>
<tr>
<td>5. Lillian Carter</td>
<td>March 31, 2002</td>
</tr>
</tbody>
</table>
6. Roland Barkow  March 31, 2002
7. Barbara Parker  March 31, 2002
8. Alice Happel  March 31, 2002

B. Purpose and Power: The purpose and the power to be exercised by the Community Mental Health Authority shall be to comply with and carry out the provisions of the Mental Health Code.

C. Duration and Termination: The duration of the Community Mental Health Authority shall be perpetual unless terminated as hereinafter provided. Termination may be accomplished by a resolution passed by a majority of the St. Joseph County Board of Commissioners. The date of termination shall be set by the County Board of Commissioners' terminating resolution. If the terminating resolution made by the County Board of Commissioners would result in a termination of St. Joseph County's participation in community mental health program, then the date of termination shall be no sooner than one (1) year following receipt of notification by the State Department of Community Health (hereinafter referred to as "Department"), unless the director of the Department consents to an earlier termination date. During the interim between notification and official termination, the Community Mental Health Authority program shall be maintained in good faith subject to the requirements of the Act.

D. Return of Net Financial Assets: In the event of termination of the Community Mental Health Authority, all net financial assets originally made available to the Authority by St. Joseph County shall be returned to St. Joseph County. All assets not returned to St. Joseph County shall be transferred to the Community Mental Health Services program that replaces the Authority.

E. County Property: The Community Mental Health Authority shall be responsible for any and all costs, liabilities and expenses associated with real or personal property purchased or leased by the County for use by the Community Mental Health Authority, unless otherwise provided for differently in a negotiated lease agreement between the two parties.

F. Employees of the Community Mental Health Authority: Upon the creation of the Authority, the employees of the former community mental health services program shall be
transferred to the Authority and appointed as employees subject to all rights and benefits for one (1) year as required by State statute. Such employees of the Authority shall not be placed in a worse position by reason of the transfer for a period of one (1) year with respect to workers' compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other benefit that the employee enjoyed as an employee of the former community mental health services program as required by State law. Employees who are transferred shall not by reason of the transfer have their accrued pension benefits or credits diminished as required by State law.

An employee of the Community Mental Health Authority is not a County employee. The Community Mental Health Authority is the employer with regard to all laws pertaining to employee and employer rights, benefits and responsibilities.

G. Transfer of Assets: Upon the effective date of the creation of the Community Mental Health Authority, all assets, debts and obligations of the existing Community Mental Health Program including, but not limited to, equipment, furnishings, supplies, cash, and other personal property, shall be transferred to the Authority. The Authority shall indemnify and hold harmless the County from any and all liability in regard thereto. The fixed assets to be transferred to the St. Joseph County Mental Health Authority are valued at approximately $272,860.00, with documentation of individual asset valuations attached to this resolution. This fixed assets total will be adjusted to reflect the appraisal amounts for assets currently not valued.

All contracts regarding mental health services will be transferred to the Authority. The Authority may obtain a novation of contracts.

H. Privileges and Immunities from Liability: All the privileges and immunities from liability and exemptions from laws, ordinances, and rules that are applicable to county community mental health agencies or community mental health organizations and their board members, officers, and administrators, and county elected officials and employees of county government are retained by the Authority and the board members, officers, agents, and employees of an Authority created under Section 205.

I. Powers of the Community Mental Health Authority: In addition to other powers of a Community Mental Health Services program as set forth in the Act, the Authority has all of the following powers:

(1) To fix and collect charges, rates, fees or other charges and to collect interest.

(2) To make purchases and contracts.
(3) To transfer, divide, or distribute assets, liabilities or contingent liabilities.

(4) To accept gifts, grants or bequests that determine the manner in which those gifts, grants or bequests may be used consistent with the donor's request.

(5) To acquire, own, operate, maintain, lease or sell real or personal property, including the power to determine the location of property purchased, leased, and/or operated. Before taking official action to sell residential property, however, the Authority shall implement a plan for alternative housing arrangements, subject to the requirements of MCL 330.1205(4)(e)(ii) & (iii).

(6) Enter into contracts and agreements in the Authority's name.

(7) Employ staff in the Authority's name.

(8) Acquire, construct, manage, maintain, or operate buildings or improvements in the Authority's name.

(9) Acquire, own, operate, maintain, lease or dispose of real or personal property in the Authority's name.

(10) Incur debts, liabilities, or obligations in the Authority's name that do not constitute the debts, liabilities, or obligations of St. Joseph County.

(11) Commence litigation and defend itself in litigation.

(12) To receive and expend funds for the purposes of the Mental Health Authority.

(13) To invest funds in accordance with statutes regarding investments.

(14) To set up reserve accounts utilizing state funds in the same proportion that state funds relate to all revenue sources; to cover vested employee benefits, including but not limited to accrued vacation, health benefits, the employee payout portion of accrued sick leave, if any, and Workers' Compensation. In addition, the Authority may set up reserve accounts for depreciation of capital assets and for expected future expenditures for an organizational retirement plan.

(15) To develop a charge schedule for services provided to the public and utilize the charge schedule for first and third-party payers. The charge schedule may include charges that are higher than cost for some service units by spreading nonrevenue service unit costs to revenue-producing service unit costs with total charges not exceeding total cost. All revenue over cost generated in this manner shall be utilized to provide services to priority populations.
(16) To determine the method and extent to which the Community Mental Health Authority secures and maintains insurances, including but not limited to self-insurance and re-insurance.

J. Duties and Responsibilities of the Community Mental Health Authority: In addition to other duties and responsibilities of the Community Mental Health Authority as set forth in the Act, the Authority shall do all of the following:

(1) Provide to St. Joseph County and to the Department a copy of an annual independent audit performed by a Certified Public Accountant in accordance with Governmental Auditing Standards issued by the Comptroller of the United States.

(2) Be responsible for all executive administration, personnel administration, finance, accounting and management information systems functions. The Authority may discharge the responsibility through direct staff or by contracting for services.

K. Applicability of Open Meetings Act and Freedom of Information Act: To the extent required by law, the Community Mental Health Authority, as a public governmental body, shall be subject to the Open Meetings Act, Public Act 267 of 1976, being MCL 15.261 et seq., and the Freedom of Information Act, Public Act 442 of 1976, being MCL 15.231 et seq., except for those documents produced as a part of the Peer Review Process required in Section 143A and made confidential by Section 748(9).

L. Conflict: If any provision of this Resolution conflicts with the Act, the Act shall supersede.

M. Additional Powers: All powers, duties, obligations, rights and protections not mentioned herein but otherwise provided by the Act are included herein by reference.

N. Liability: St. Joseph County is not liable for any intentional, negligent, or grossly negligent act or omission, for any financial affairs, or for any obligation of the Community Mental Health Authority, its board, employees, representatives, or agents.

BE IT FURTHER RESOLVED, that this Resolution is not effective until filed with the Secretary of State and the St. Joseph County Clerk and until receipt of Certification from the Department, which effective date is intended to be ______________________.
RESOLUTION

to

ESTABLISH

the

COPPER COUNTRY
COMMUNITY MENTAL HEALTH SERVICES
AUTHORITY

Counties of

BARAGA
HOUGHTON
KEWEENAW
ONTONAGON

Michigan

August, 1996
RESOLUTION TO ESTABLISH
the
COPPER COUNTRY COMMUNITY
MENTAL HEALTH SERVICES AUTHORITY

WHEREAS, Copper Country Community Mental Health Services Board (the "Board") is a Community Mental Health Organization as defined in the Mental Health Code, MCL §§ 330.1001, et. seq. as amended (the "Code"), and

WHEREAS, the Counties of Baraga, Houghton, Keweenaw, and Ontonagon, Michigan (hereinafter the "Counties"), jointly created the Board by way of agreement pursuant to the Urban Cooperation Act of 1967, Act No. 7 of the Public Acts of the Extra Session of 1967 (the "Urban Cooperation Act"), and

WHEREAS, the Board has been certified by the Department of Community Health pursuant to Section 232A of the Code, and

WHEREAS, a certified Community Mental Health Organization as defined in the Act may become a Community Mental Health Authority under Section 205 of the Code, and

WHEREAS, the Counties desire that the Board become a Community Mental Health Authority under Section 205 of the Code,

NOW, THEREFORE, BE IT RESOLVED, that the Board is hereby established as an Authority pursuant to Section 205 of the Code, in accordance with the following which, when adopted by all of the Counties, shall constitute an agreement between the Counties in accordance with the Urban Cooperation Act:

ARTICLE I
ESTABLISHMENT

Section 1. Name. This municipal corporation shall be known as COPPER COUNTRY COMMUNITY MENTAL HEALTH SERVICES AUTHORITY, hereinafter referred to as the "Authority".

Section 2. Purpose and Powers. The purpose and the power to be exercised by the Authority shall be to comply with and carry out the provisions of the Mental Health Code, MCL §§ 330.1001, et seq., as amended (the "Code"). The Authority shall have all of the authority, powers, duties, and responsibilities granted
under the Code, whether or not specifically enumerated in this Agreement. The Authority shall be subject to the Open Meetings Act, Act 267 of the Public Acts of 1976, as amended, and the Freedom of Information Act, Act 442 of the Public Acts of 1976, as amended, except as otherwise provided by the Code.

Section 3. **Transfer of Assets.** All assets, debts, and obligations of the Board, including but not limited to equipment, furnishings, supplies, cash and other real and personal property shall be deemed transferred to, and assumed by the Authority without further act of the Counties, the Authority, or the Board, upon the effective date of this Agreement, as defined in Article X.

**ARTICLE II**

**TERM OF EXISTENCE AND TERMINATION**

Section 1. **Term of Existence.** The term of existence of the Authority shall be perpetual, unless terminated by all of the Counties in accordance with Section 2 of this Article II.

Section 2. **Termination.** Termination of any County's participation in this Agreement may be accomplished by an official notification from that County's Board of Commissioners to the Department of Community Health (hereinafter the "Department"), and to the Boards of Commissioners of the other Counties which remain as parties to this Agreement. Termination shall be effective one (1) year following the receipt of the notification by the Department, unless the Director of the Department consents to an earlier termination.

In the interim between notification and official termination, the withdrawing County's participation in the Authority shall be maintained in good faith.

**ARTICLE III**

**DISTRIBUTION OF ASSETS ON TERMINATION**

Section 1. **Assets Contributed by Counties.** Upon termination of a County's participation in the Authority, the unexpended balance of all net financial assets originally made available to the Authority by such withdrawing County, such as annual appropriations, shall be returned to the withdrawing County.
Section 2. **Other Assets.** All other remaining assets net of liabilities shall be transferred to the Community Mental Health Services Program or Programs, as defined in the Code, that replace the Authority. If no such program replaces the Authority, the remaining assets net of liabilities shall be transferred to the Department.

**ARTICLE IV**

**PROPERTY OWNED BY COUNTIES FOR USE BY THE AUTHORITY**

By adopting this Agreement, each of the Counties certifies that it does not own or lease any real or personal property which is being used by the Authority.

The Authority will not be obligated to reimburse a County for any costs incurred by the County for property owned or leased by the County for use by the Authority except as otherwise provided by specific agreement between the Authority and the County.

**ARTICLE V**

**BOARD OF DIRECTORS**

Section 1. **Power and Duties.** The property, business and affairs of the Authority shall be under the direction and control of a Board of Directors. The duties of the Board of Directors shall be as prescribed in the Code.

Section 2. **Number and Terms of Directors.** The Board of Directors shall consist of twelve (12) persons (hereinafter referred to as "members" or "Directors").

Each County shall be entitled to representation on the Board of Directors in approximately the same proportion its population, according to the most recent decennial census, bears to the total population of the member Counties, provided that each County shall be entitled to appoint at least one (1) Director. Initially, the Counties shall have the right to appoint the following number of directors: Baraga - 2, Houghton - 7, Keweenaw - 1, Ontonagon - 2. If a County should be entitled to greater representation as a result of a change in relative population among the Counties, that change in relative representation shall not occur except as vacancies occur in the delegation of the County or Counties whose representation will be reduced; that is, no Director's term will be shortened involuntarily to accommodate a change in proportional representation.
Terms of Directors will be staggered, with approximately one-third (1/3) of the Directors being appointed in each year. Terms shall commence on the first day of April and shall continue for three (3) years. In the case of a vacancy occurring because of death, resignation, or removal, the vacancy shall be filled for the unexpired remainder of the term in the same manner as for original appointments. Terms of Directors appointed prior to March 27, 1996, which under prior law would have expired on December 31 three (3) years following their appointment, shall expire three (3) calendar months later than would have occurred under prior law.

Section 3. Method of Election: Qualifications. Each County's Board of Commissioners shall, by majority vote, appoint Directors to represent its County who shall have attained the age of eighteen (18) years, and shall have their primary residence in the respective County they represent. Not more than one (1) Director from each County may also be a County Commissioner.

The composition of the Board of Directors shall be representative of providers of behavioral health care services, recipients or primary consumers of behavioral health care services, agencies and occupations having a working involvement with behavioral health care services, and the general public. No more than one-half (1/2) the total membership of the Board of Directors may be State, County, or local public officials, defined for this purpose as persons serving in an elected or appointed public office or employed more than twenty (20) hours per week by an agency of Federal, State, County, or local government.

Effective March 27, 1996, at least one-third (1/3) of the Directors shall be primary consumers or a parent, stepparent, spouse, sibling, child, or grandparent of a primary consumer, or an individual upon whom a primary consumer is dependent for at least one-half (1/2) of his or her financial support. Of that one-third (1/3), at least two (2) Directors shall be primary consumers. In order to meet this requirement without terminating the appointment of any Director serving on March 27, 1996, the size of the Board of Directors may be increased by the number of members necessary to fulfill the requirement, for a period not to exceed three (3) years after the appointment of the additional Directors, notwithstanding any other provision of this Agreement to the contrary.

No person who is one or more of the following shall be eligible to serve as a Director:

A. An employee of the Department;
B. An employee of the Authority;
C. Any person who is party to, or who administers or benefits financially from, a contract with the Authority; or
D. Any person serving in a policy-making position with an organization under contract with the Authority.

Section 4. **Removal from Office.** Any Director may be removed by the Board of Commissioners that appointed him or her for neglect of official duty or misconduct in office, after being given a written statement of reasons and an opportunity to be heard thereon. Three consecutive unexcused absences from regular meetings of the Board of Directors shall be considered an indication of the Director's inability to serve.

Section 5. **Compensation.** Directors shall receive compensation for each day during which official service is rendered as a Director, at a per diem rate to be established from time to time by the Board of Directors. Directors shall be entitled to reimbursement for out-of-pocket expenses incurred while on official business of the Board of Directors in accordance with policies established by the Board of Directors, provided that reimbursement for out-of-pocket expenses shall not exceed levels established from time to time by the State Officers Compensation Commission.

Section 6. **Conflicts of Interest.** If a Director is an employee or independent contractor in other than a policy-making position with an agency with which the Board of Directors is considering entering into a contract, the contract shall not be approved unless all of the following requirements are met:

A. The Director shall promptly disclose his or her interest in the contract to the Board of Directors;
B. The contract shall be approved by an affirmative vote of not less than two-thirds (2/3rds) of the membership of the Board of Directors in an open meeting without the vote of the Director in question.
C. The official minutes of the meeting at which the contract is approved shall contain the details of the contract, including but not limited to the names of all parties and the terms of the contract, and the nature of the non-voting Director's interest in the contract.

Section 7. **Transition.** All Directors serving at the effective date of this Agreement shall continue to serve under this Agreement for the remainder of the terms they were serving at the effective date of this Agreement, subject to any extension in such terms provided by this Agreement.
ARTICLE VI

STAFF

Section 1. Power to Employ. The Authority shall have the power to, in its own name, employ staff, who shall be considered employees of the Authority and not of the Counties for all purposes. The Board of Directors of the Authority shall have the power and authority to establish the terms and conditions of employment, including but not limited to rates of pay and the nature and extent of other benefits, subject to restrictions imposed by law and this Agreement.

Section 2. Staff as Public Employees. Employees of the Authority are public employees. The Authority and its employees are subject to Act 336 of the Public Acts of 1947, as amended.

Section 3. Transfer of Employees at Inception. All employees who were employed by the Board at the effective date of this Agreement, shall be employees of the Authority under the terms and conditions existing immediately prior to inception. Such employees shall not be placed in a worse position by reason of the transfer for a period of one (1) year from the effective date of this Agreement with respect to workers' compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other benefit that the employee enjoyed as an employee of the Board prior to the inception of this Agreement. Employees who are transferred shall not by reason of the transfer have their accrued pension benefits or credits diminished.

Section 4. Collective Bargaining Agreements at Inception. The Authority assumes and is bound by any collective bargaining agreement in which the Board was a party. Any existing rights and obligations contained in an existing collective bargaining agreement shall not be adversely affected by this Agreement.

Section 5. Executive Director. The Executive Director shall be the Chief Executive Officer of the Authority, and shall conduct the day-to-day operations of the Authority in accordance with policies established by the Board of Directors. The Board of Directors shall select the Executive Director from among persons meeting the qualifications established by law, regulation and such other qualifications as the Board of Directors deems appropriate. The Board of Directors and the Executive Director shall mutually agree upon the terms and conditions of employment for the Executive Director, which shall be specified in a written contract. The Board of Directors shall prescribe the general policy guidelines within which the Executive Director shall execute the programs of the Authority.
Unless otherwise provided by action of the Board of Directors and agreed to by the Executive Director, all employees of the Authority shall be subordinate to, subject to the direction and supervision of, and shall serve at the pleasure of, the Executive Director.

ARTICLE VII

FUNDING

Section 1. Maintenance of Effort. The Counties agree that each County will annually appropriate to the Authority funding in an amount sufficient to comply with the minimum local funding requirements specified in Section 311 of the Code.

Section 2. Maximum Annual Appropriation. In accordance with the Code, the Counties shall not be required to annually appropriate more than they appropriated to the Board for its fiscal year ended September 30, 1995 unless otherwise agreed by the Counties.

ARTICLE VIII

GENERAL PROVISIONS

Section 1. Authority: Conflicting Provisions. The Authority was established pursuant to the Michigan Constitution of 1963, Article 7, Section 28, the Code, and the Urban Corporation Act. If any irreconcilable conflict is found to exist between this Agreement and the preceding, then the inconsistent provisions of this Agreement shall be deemed of no effect.

Section 2. Accounting. The financial accounting records of the Authority shall be maintained in accordance with Act 2 of the Public Acts of 1968, as amended. The Authority shall have the power to create such separate funds and/or self-balancing groups of accounts as are necessary to comply with generally accepted accounting principles without further approval from the Counties. The Authority shall also have the power to establish and/or change accounting policies and procedures in a manner not inconsistent with Act 2 of the Public Acts of 1968, as amended, without further approval from the Counties.

Section 3. Depositories; Investments of Surplus Funds. All funds accruing to the Authority shall be handled and banked by the Authority. Surplus funds
of the Authority shall be invested in accordance with Act 20 of the Public Acts of 1943, as amended.

Section 4. Fiscal Year. The fiscal year of the Authority shall end on September 30 of each year. Changes in the fiscal year of the Authority required by applicable statute or regulation may be effected by the Board of Directors without further approval by the Counties, provided notification of the change in fiscal year is provided each County within thirty (30) days of such change.

Section 5. Counterparts. This Agreement may be executed in counterparts which, when combined, shall be equivalent to a single original.

ARTICLE IX
AMENDMENTS

Amendments to this Agreement shall be in writing and agreed to by a majority of each participating County’s Board of Commissioners.

ARTICLE X
EFFECTIVE DATE

This Agreement shall not take effect until each of the following conditions is satisfied:

A. At least three (3) public hearings shall have been held in combined jurisdiction of the Counties; and

B. All of the Counties have adopted this Agreement; and

C. This Agreement shall have been filed with the Michigan Secretary of State, and with the county clerk of each of the Counties.

Upon the effective date of this Agreement, the Second Amended Agreement For The Copper Country Community Mental Health Services Board, dated May 14, 1990, between the Counties shall terminate, and the transfer of assets described in Article I, Section 3 of this Agreement shall automatically occur.
By executing this Agreement in the spaces provided below, each County represents that this Agreement has been duly adopted by its Board of Commissioners, and is the valid and binding obligation of such County.

WHEREFORE, the Counties have approved and executed this Agreement on the respective dates provided below.

COUNTY OF BARAGA

Dated: Aug 12, 1996

By ____________________________

Its Chairman

COUNTY OF HOUGHTON

Dated: Aug 13, 1996

By ____________________________

Its Chairman

COUNTY OF KEWEENAW

Dated: Aug 13, 1996

By ____________________________

Its Chairman

COUNTY OF ONTONAGON

Dated: Aug 13, 1996

By ____________________________

Its Chairman
October 1, 1996

CERTIFIED No. P 650 079 061

Ms. Candice S. Miller, Secretary of State
State of Michigan
430 W. Allegan Street
Lansing, MI 48918-9900

Dear Ms. Miller:

Re: Copper Country Community Mental Health Services Authority

In accordance with Section 205 of the Mental Health Code, enclosed herewith is a fully executed Resolution to Establish the Copper Country Community Mental Health Services Authority for the Counties of Baraga, Houghton, Keweenaw, and Ontonagon.

Thank you for your attention to this matter.

Sincerely,

KURT R. BAKER, ACSW
Executive Director

KRB/ACP:p
Enclosure

xc: CMH Board Members
October 18, 1996

Mr. Kurt R. Baker, ACSW
Copper Country Mental Health Services
Rice Memorial Center
910 West Memorial Drive
Houghton, MI 49931-2492

Dear Mr. Baker:

This will acknowledge receipt and filing on October 7, 1996, an original copy of the Resolution to Establish the Copper Country Community Mental Health Services Authority for the Counties of Baraga, Houghton, Keweenaw and Ontonagon dated August 1996, pursuant to Act 258, of Public Acts of 1974, as amended, the originals of which are on file with this Department.

Sincerely,

Jackie A. Peña-Klanecky
Office of the Great Seal
(517) 373-2531
IONIA COUNTY, MICHIGAN

RESOLUTION AUTHORIZING PUBLIC HEARINGS ON THE ISSUE
OF THE CREATION OF A COMMUNITY MENTAL
HEALTH AUTHORITY

WHEREAS, the Ionia County Board of Commissioners is considering the creation of a Community Mental Health Authority pursuant to MCL § 330.1205, and

WHEREAS, pursuant to MCL § 330.1205 three public hearings must be held on the issue of the creation of a Community Mental Health Authority prior to the creation of the Authority; and

WHEREAS, MCL § 330.1205 requires that the aforementioned public hearings be held in accordance with the Open Meetings Act, MCL § 15.275 et seq.

NOW, THEREFORE, BE IT RESOLVED, that three public hearings be held on the issue of the creation of an Ionia County Mental Health Authority consistent with the draft resolution creating a mental health authority attached hereto on the following dates, times and locations:

1. 
2. 
3. 

BE IT FURTHER RESOLVED, that the three public hearings be held in accordance with the requirements of the Open Meetings Act, MCL § 15.175 et seq.

MOVED:
SUPPORTED:
CARRIED:

AUTHOR12NOT
IONIA COUNTY, MICHIGAN

RESOLUTION CREATING A COMMUNITY MENTAL HEALTH AUTHORITY

WHEREAS, the Ionia County Board of Commissioners desires to improve the quality of mental health services provided to its residents; and

WHEREAS, pursuant to an amendment to the Mental Health Code, Public Act 290 of 1995 (hereinafter referred to as "Act") there is an option to create a Community Mental Health Authority with powers and duties as defined in Section 205, MCL § 330.1205; and

WHEREAS, this Board of Commissioners has determined that the Mental Health Authority structure provided in MCL § 330.1205 would better serve the County's residents by enhancing the effectiveness of mental health services; and

WHEREAS, this Board of Commissioners has conducted three (3) separate public hearings on the issue of creation of a Community Mental Health Authority, with notice of the hearings given pursuant to the Open Meetings Act, being MCL § 15.275 et seq.

NOW, THEREFORE, BE IT RESOLVED THAT:

A. Creation: There is hereby created an Ionia County Community Mental Health Authority (hereinafter "Community Mental Health Authority" or "Authority") pursuant to the Mental Health Code, Section 205, MCL § 330.1205 to carry out the requirements under the Mental Health Code. The existing Ionia County Community Mental Health Program (hereinafter "Community Mental Health Program") is dissolved upon the effective date of the creation of the Authority. The following persons are hereby appointed as Board
Members of the Community Mental Health Authority and shall serve in accordance with the provisions of the Act for the terms noted.

<table>
<thead>
<tr>
<th>Name</th>
<th>Term</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

B. **Purpose and Power**: The purpose and the power to be exercised by the Community Mental Health Authority shall be to comply with and carry out the provisions of the Mental Health Code.

C. **Duration and Termination**: The duration of the Community Mental Health Authority shall be perpetual unless terminated as hereinafter provided. Termination may be accomplished by a resolution passed by a majority of the Ionia County Board of Commissioners. The date of termination shall be set by the County Board of Commissioners' terminating resolution. If the terminating resolution made by the County Board of Commissioners would result in a termination of Ionia County's participation in a community mental health program, then the date of termination shall be no sooner than one (1) year following receipt of notification by the State Department of Community Health (hereinafter referred to as "Department"), unless the director of the Department consents to an earlier termination date. During the interim between notification and official
termination, the Community Mental Health Authority program shall be maintained in good
faith subject to the requirements of the Act.

D. **Return of Net Financial Assets:** In the event of termination of the Community
Mental Health Authority, all net financial assets originally made available to the Authority
by Ionia County shall be returned to Ionia County. All assets not returned to Ionia County
shall be transferred to the Community Mental Health Services program that replaces the
Authority.

E. The Community Mental Health Authority shall be responsible for any and all
costs, liabilities and expenses associated with real or personal property purchased or
leased by the County for use by the Community Mental Health Authority.

F. **Employees of the Community Mental Health Authority:** Upon the creation of
the Authority, the employees of the former community mental health services program shall
be transferred to the Authority and appointed as employees subject to all rights and
benefits for one (1) year. Such employees of the Authority shall not be placed in a worse
position by reason of the transfer for a period of one (1) year with respect to workers'
compensation, pension, seniority, wages, sick leave, vacation, health and welfare
insurance, or any other benefit that the employee enjoyed as an employee of the former
community mental health services program. Employees who are transferred shall not by
reason of the transfer have their accrued pension benefits or credits diminished.

An employee of the Community Mental Health Authority is not a County employee.
The Community Mental Health Authority is the employer with regard to all laws pertaining
to employee and employer rights, benefits and responsibilities.

G. **Transfer of Assets:** Upon the effective date of the creation of the Community
Mental Health Authority, all assets, debts and obligations of the existing Community Mental Health Program including, but not limited to, equipment, furnishings, supplies, cash, and other personal property, shall be transferred to the Authority. The Authority shall indemnify and hold harmless the County from any and all liability in regard thereto. The fixed assets to be transferred to the Ionia County Mental Health Authority are valued at approximately $797,544.24, with documentation of individual asset valuations attached to this resolution. This fixed assets total will be adjusted to reflect the appraisal amounts for assets currently not valued.

All contracts regarding mental health services will be transferred to the Authority. This includes, but is not limited to, including the fiscal year ending September 30, 1996, the following contractual obligations and entitlements with a breakdown of individual amounts attached to this resolution. The Authority, where possible, shall obtain a novation of contracts.

**CONTRACTUAL OBLIGATIONS**

<table>
<thead>
<tr>
<th>Specialists</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Dietician:</td>
<td>$10,932.00</td>
</tr>
<tr>
<td>Medical Doctors:</td>
<td>$2,550.00</td>
</tr>
<tr>
<td>Occupational Therapists:</td>
<td>$47,050.00</td>
</tr>
<tr>
<td>Physical Therapists:</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>Psychiatrists:</td>
<td>$172,005.00</td>
</tr>
<tr>
<td>Psychologists:</td>
<td>$27,087.60</td>
</tr>
<tr>
<td>Speech/Language Pathologists:</td>
<td>$24,638.28</td>
</tr>
<tr>
<td>Transportation:</td>
<td>$31,781.70</td>
</tr>
<tr>
<td>Other:</td>
<td>$923,460.16</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Residential</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Specialized Residential - DD:</td>
<td>$352,322.14</td>
</tr>
<tr>
<td>Specialized Residential - MI:</td>
<td>$77,484.35</td>
</tr>
<tr>
<td>Specialized Residential - Hab Wvr:</td>
<td>$170,564.68</td>
</tr>
</tbody>
</table>
Inpatient Hospitalization
The maximum funding obligations imposed upon Ionia County Community Mental Health Program are as follows:
- Mentally Ill Adults: $303,035.00
- Mentally Ill Children: $44,314.00
- Developmentally Disabled: $470,514.00

The current outstanding contracts for inpatient hospitalization are as follows:
- St. Mary's Hospital: $4,664.00
- Carson City Hospital: $38,164.00

Building Leases
- Phil & Diane O'Mara: $24,000.00
- Orleans-Belding LLC: $62,223.66
- Portland United Methodist Church: $200.00

CONTRACTUAL ENTITLEMENTS
- Mt. Pleasant Center: $110,193.00
- Federal Block Grant: $87,461.00
- FIA - Step Down: $59,050.00
- FIA - Families First: $149,007.00
- FIA - String Families/Safe Children: $22,900.00
- FIA - WRAP Performance: $8,000.00
- DCH - Prevention Coordinator: $23,780.00
- DCH - Medicaid Gatekeeping: $3,750.00
- DCH - Medicaid Gatekeeping: $9,225.00

H. Privileges and Immunities from Liability: All the privileges and immunities from liability and exemptions from laws, ordinances, and rules that are applicable to county community mental health agencies or community mental health organizations and their board members, officers, and administrators, and county elected officials and employees of county government are retained by the Authority and the board members, officers, agents, and employees of an Authority created under Section 205.

I. Powers of the Community Mental Health Authority: In addition to other powers of a Community Mental Health Services program as set forth in the Act, the
Authority has all of the following powers:

1. To fix and collect charges, rates, fees or other charges and to collect interest.

2. To make purchases and contracts.

3. To transfer, divide, or distribute assets, liabilities or contingent liabilities.

4. To accept gifts, grants or bequests that determine the manner in which those gifts, grants or bequests may be used consistent with the donor's request.

5. To acquire, own, operate, maintain, lease or sell real or personal property, including the power to determine the location of property purchased, leased, and/or operated. Before taking official action to sell residential property, however, the Authority shall implement a plan for alternative housing arrangements, subject to the requirements of MCL § 330.1205(4)(e)(ii) & (iii).

6. Enter into contracts and agreements in the Authority's name.

7. Employ staff in the Authority's name.

8. Acquire, construct, manage, maintain, or operate buildings or improvements in the Authority's name.

9. Acquire, own, operate, maintain, lease or dispose of real or personal property in the Authority's name.

10. Incur debts, liabilities, or obligations in the Authority's name that do not constitute the debts, liabilities, or obligations of Ionia County.
(11) Commence litigation and defend itself in litigation.

(12) To receive and expend funds for the purposes of the Mental Health Authority.

(13) To invest funds in accordance with statutes regarding investments.

(14) To set up reserve accounts utilizing state funds in the same proportion that state funds relate to all revenue sources; to cover vested employee benefits, including but not limited to accrued vacation, health benefits, the employee payout portion of accrued sick leave, if any, and Workers' Compensation. In addition, the Authority may set up reserve accounts for depreciation of capital assets and for expected future expenditures for an organizational retirement plan.

(15) To develop a charge schedule for services provided to the public and utilize the charge schedule for first and third-party payers. The charge schedule may include charges that are higher than cost for some service units by spreading nonrevenue service unit costs to revenue-producing service unit costs with total charges not exceeding total cost. All revenue over cost generated in this manner shall be utilized to provide services to priority populations.

(16) To determine the method and extent to which the Community Mental Health Authority secures and maintains insurances, including but not limited to self-insurance and re-insurance.

J. **Duties and Responsibilities of the Community Mental Health Authority**: In addition to other duties and responsibilities of the Community Mental Health Authority as
set forth in the Act, the Authority shall do all of the following:

(1) Provide to Ionia County and to the Department a copy of an annual independent audit performed by a Certified Public Accountant in accordance with Governmental Auditing Standards issued by the Comptroller of the United States.

(2) Be responsible for all executive administration, personnel administration, finance, accounting and management information systems functions. The Authority may discharge the responsibility through direct staff or by contracting for services.

K. **Applicability of Open Meetings Act and Freedom of Information Act:** To the extent required by law, the Community Mental Health Authority, as a public governmental body, shall be subject to the Open Meetings Act, Public Act 267 of 1976, being MCL § 15.261 et seq., and the Freedom of Information Act, Public Act 442 of 1976, being MCL § 15.231 et seq., except for those documents produced as a part of the Peer Review Process required in Section 143A and made confidential by Section 748(9).

L. **Conflict:** If any provision of this Resolution conflicts with the Act, the Act shall supersede.

M. All powers, duties, obligations, rights and protections not mentioned herein but otherwise provided by the Act are included herein by reference.

N. Ionia County is not liable for any intentional, negligent, or grossly negligent act or omission, for any financial affairs, or for any obligation of the Community Mental Health Authority, its board, employees, representatives, or agents.

**BE IT FURTHER RESOLVED,** that this Resolution is not effective until filed with the
Secretary of State and the Ionia County Clerk and until receipt of Certification from the Department.

MOVED:
SUPPORTED:
CARRIED:

331C: data\ionia\cover.msp
PROCEDURES FOR FORMING AN AUTHORITY

Certification by the Department of Community Health.

Three public hearings held in accordance with the Open Meetings Act.

Board of Commissioners adopt enabling resolution.

Resolution filed with Secretary of State and clerk of the county creating the authority.
What does it take to become an Authority?

- three public hearings must be held;
- an enabling resolution must be adopted by all four counties;
- the CMH program must be accredited by a national accrediting body and the Department of Community Health must issue a certification;
- resolutions must be filed with all four county clerks, the Secretary of State and the Department of Community Health Director.

For our future: Northern Michigan Community Mental Health Authority

For more information about Mental Health Authority Status or Northern Michigan Community Mental Health, contact Alexis Kaczynski, Director, 616-347-7890.

Accredited by

Joint Commission
On Accreditation of Healthcare Organizations

Best for our Clients
Best for our Community
The following items should be reviewed prior to creating a Mental Health Authority:

- List of assets, including an inventory of property
- List of liabilities
- List of current leases, with the expiration date, the named party(ies), and the financial obligation
- List of current contracts, (both revenue generating and revenue depleting) with the expiration date, the named party(ies), and the financial obligation(s)
- A copy of the most recent Audit
- A copy of the current personnel manual
- A copy of any current union contract
- A list of bank accounts, including fund amounts
- Information detailing all insurance plans, including medical and liability
- A description of pension plans
- Determination of retirement plan, including FICA issue
KALAMAZOO COMMUNITY MENTAL HEALTH
ADMINISTRATIVE OFFICES
3299 Gull Road
P.O. Box 63
Nazareth, MI 49074–0063

EMPowering People to Succeed

FAX COVER LETTER

Fax Direct Dial Number: (616) 553–8012

Please Deliver To: Peggy St. John

Name

From: Steven Brounham

Name

616.553.8010

Phone #

Date: March 29, 2002

616.673.2738

Fax #

Department

Copy Code

Number of Pages 9 (including cover letter)

Special Instructions:
Peggy, Hope these checklists offer
some guidance in moving toward
Authority.
Any questions please call me!

Happy Easter

IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL THE STAFF MEMBER THAT SENT THE FAX AT THE ABOVE NUMBER OR AT (616) 553–8000 AS SOON AS POSSIBLE.

CONFIDENTIALITY NOTICE

The pages comprising this facsimile transmission contain confidential information from Kalamazoo Community Mental Health Services. This information is intended solely for use by the individual entity named as the recipient hereof. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this transmission is prohibited. If you have received this transmission in error, please notify us by telephone immediately so we may arrange to retrieve this transmission at no cost to you.

THANK YOU
MENTAL HEALTH AUTHORITY ISSUES
NOVEMBER, 1996

SPECIFIC CONSIDERATIONS FOR KALAMAZOO

1. AUTHORITY REGISTRATION WITH
THE STATE AND OTHERS:

   a. The Authority must apply for an
      Employer Identification Number early
      on in the process in order to be
      prepared for assuming the employer
      status, etc..

   b. Likewise, the Authority must apply for
      Medicaid, Medicare and other Provider
      Numbers early in order to avoid any
      disruption to the billing and cash flow
      processes.

   c. There may be other requirements
      identified during the process that will
      require action in order to be prepared
      for Authority status.

1a. Charles has submitted the appropriate
    application & the EIN was received in
    October, 1996.

1b. Charles and his staff have submitted the
    appropriate applications and provider
    numbers are expected to be received in early
    December, 1996.

1c. Charles has applied for a Sales Tax Number
    and registered with the State as an employer.
    CMII continues to be watchful of other tasks
    that must be addressed prior to January 1,
    1997.

2. TRANSFER OF ASSETS AND
   LIABILITIES:

   a. Transfer of the Mental Health Interest
      Reserve balance as well as other cash in
      banks and investments must occur.

   b. Any other transfers of assets and
      liabilities must be identified.

2a. Charles has held meetings with the County
    Treasurer and plans have been made to
    transfer all cash balances as of December 31,
    1996 to the Authority. Banking
    arrangements are in the final stages of being
    completed.

2b. All CMH furniture & equipment and other
    CMH assets will become an asset of the
    Authority on January 1, 1996.
3. PERSONNEL MANAGEMENT:

a. The Authority on January 1, 1997 will assume full responsibility for personnel management which will involve the following:

i. The Authority will develop and be responsible for its own personnel policies and procedures.

ii. The Authority will develop and be responsible for its own salary scales and position factoring.

iii. The Authority will be fully responsible as the Employer including but not limited to any collective bargaining, litigation, grievance procedures, etc.

c. When the Authority assumes responsibility for its personnel management, it must be determined what personnel information currently maintained by the County Human Resources Department can be transferred to the Authority. This will involve identifying the information that should be transferred to the Authority and allowing the Authority access to the individual personnel records.

3a. Steve Burnham has the primary responsibility for establishing and transitioning all CMH personnel systems.

3ai. This requirement is in process and Steve has the primary responsibility for completion of the manual.

3aii. The CMH Executive Team will be meeting with the County's HAY consultant and others in December, 1996.

3aiii. Code mandate.

3c. Steve has the primary responsibility for transitioning personnel records, etc. and he is working with the County Human Resources Department in this regard. We appreciate all the assistance that HRD staff have provided us to prepare for the transition.

4. FRINGE BENEFIT:

a. The Authority will assume sole responsibility for its employee's fringe benefit package.

b. The Authority will arrange for its own fringe benefit package (i.e. health insurance, vision, dental, life, etc.) which must not place staff in a worse position relative to the level of County benefits currently offered staff.

4a. CMH has enlisted the services of a consultant (Kushner) and bids for health, vision, dental and life coverage have been solicited and received. A full staff benefits meeting will be held on November 22, 1996. Steve has the primary responsibility for the fringe benefits transition and Charles will assist as necessary.

4b. The fringe benefit bids that have been received appear to be materially compatible with the current County benefits. Again, CMH appreciates the assistance that we have received from the County's HRD staff in addressing fringe benefits.
c. There are a number of resolutions that must be approved by the CMH Board relative to fringe benefits.

4c. The necessary resolutions are going to the CMH Board on November 18, 1996.

5. INSURANCE COVERAGE:

a. The Authority will assume responsibility for its own insurance coverage including the following:
   - Officers Errors & Omission Insurance
   - Employee Dishonesty Insurance
   - Workers Compensation Insurance
   - General Liability Insurance
   - Physician Malpractice Insurance
   - Professional Liability Insurance
   - Real and Personal Property Insurance
   - Unemployment Compensation

5a. Charles and Steve have the primary responsibility for securing and maintaining adequate insurance coverage.
   - Competitive bid has been received for $10 million dollars of coverage.
   - Competitive bid has been received for $1 million dollars of coverage.
   - Bid is expected by November 30, 1996.
   - Competitive bid has been received for $10 million dollars of coverage.
   - Current carrier and coverage will continue.
   - Competitive bid has been received for $10 million dollars of coverage.
   - Competitive bid has been received for $1 million dollars of coverage.
   - Application has been submitted to the State for direct billing (reimbursing) status.

6. AUDITS:

a. The Authority will be responsible for the selection of a CPA firm necessary to perform an annual audit of the operations of the Authority and reports shall be provided to the County and the Michigan Department of Mental Health.

b. The CPA firm selected shall be of sufficient size and sophistication to audit the Authority with adequate experience in such audits.

c. The CMH audit will be completed and issued by May 1st of the year following year-end of September 30th in order to meet County reporting time frames.

6a. Charles has the primary responsibility for annual audits and to see that established reporting deadlines are met. The first audit of the Authority will not occur until the last quarter of 1997 for the 1996/1997 fiscal year.

6b. The subsequent selection of a CPA audit firm will address this requirement. CMH will likely bid out the annual audit every three years.

6c. The reporting time frames shall be addressed as part of the audit planning.
7. **LEGAL REPRESENTATION:**

   a. CMH will provide for its own legal counsel.

   b. The Authority is responsible for employing its own counsel for either initiating litigation or for defending against litigation.

7a. CMH will employ an on staff attorney who shall serve as Corporate Counsel as well as the Director of Human Resources. That position will have primary responsibility for providing legal counsel.

7b. CMH has entered into a retainer agreement with a local legal firm of sufficient size and expertise to meet any future litigation matters.

8. **FINANCIAL AND ACCOUNTING SYSTEMS:**

   a. The Authority will assume responsibility for all of its financial and accounting systems.

   b. CMH’s move to an Authority will require the purchase and implementation of a fully integrated general ledger system.

   c. CMH will assume all payroll functions on January 1, 1997. The first CMH payroll will be made on January 10, 1997 for payroll period ending January 3, 1997.

8a. Charles has the primary responsibility for transitioning all CMH financial and accounting systems.

8b. CMH has purchased an integrated general ledger system and that software has been installed. CMH staff are currently configuring the system and on-line implementation will occur on January 1, 1997.

8c. CMH has the primary responsibility for the CMH payroll functions. The aforementioned general ledger software has a fully integrated payroll system and CMH staff are in the process of configuring that system including the input of employee withholding information.

9. **COUNTY TREASURER/INVESTMENTS:**

   a. The County Treasurer currently invests excess CMH funds in order to maximize interest earnings on those funds. CMH will assume these responsibilities on January 1, 1997.

9a. Charles has the primary responsibility for investments and cash flow. CMH has made tentative arrangements for its banking and investments to be handled by a banking institution that has significant experience in dealing with public funds. The bank was highly recommended by the County Treasurer’s office. Some investment
planning has occurred with the bank representatives and we will have the necessary procedures in place by January 1, 1997. Charles has met with the County Treasurer and plans are in place to make the transition.

10. SPACE ISSUES:

a. Currently, CMH pays for space at Nazareth according to the actual cost of that facility relative to the amount of space used. CMH recognizes the County's need for a commitment to lease the existing space at Nazareth and supports such a relationship.

b. A potential issue for the County and CMH is the amount of space needed for activities located at Nazareth will undoubtedly increase in the future. The County's space needs at Nazareth may also increase over time.

c. The CMH Board currently uses the County Board Chambers for its monthly Board meetings. The County wishes for CMH to make other arrangements for its Board meetings upon becoming an Authority.

d. The Health Building construction is well underway and we expect to move our Hanson Building staff to that facility by no later than May 1, 1997.

10a. The general agreement is incorporated. However, we need to have some discussion as to the specifics so that CMH and the County have a mutual understanding of what is expected.

10b. It is in the best interest of both the County and CMH to recognize that neither can be certain as to what their future space needs may be. Is it possible to have dialogue with the County should space become an issue in the future for either party?

10c. CMH is considering using the Health Building conference room for its future Board meetings. However, that can not be finalized until the Health Building construction has been completed. That project is expected to be completed by around May 1, 1997. Would it be possible for CMH to continue to use the County Board Chambers until the Health Building construction has been completed?

10d. CMH has received its copy of the Health Building appraisal and wishes to continue the discussions with the County relative to purchase of that facility.

11. OTHER COUNTY SERVICES:

a. CMH is currently evaluating its telephone systems which was prompted by the move from the Hanson Building to the Health Building.

11a. The CMH staff Telephone Committee has met with the County's Information Systems staff as well as several outside vendors. CMH expects to reach a decision on its telephone system by December 31, 1996.
12. OTHER ISSUES:

a. There are a number of existing leases covering group homes. Consideration needs to be given to how we will handle existing leases through the term of the existing contracts.

b. CMH is currently charged for a number of County services through the County Indirect Plan.

c. There are a number of existing contracts with CMH Psychiatrist and outside consultants that need to be transferred to CMH on January 1, 1997.

d. There may be some employees who have court ordered withholdings from their payroll checks.

12a. The County can let CMH know what it must do relative to the transfers of its leases and/or contracts.

12b. CMH over the years has ended up with an overpayment for County indirect costs and the County can let us know how they wish for us to handle this issue.

12c. The County can let CMH know what it must do relative to its physician and consultant contracts.

12d. CMH needs to know if we can continue to withhold such garnishments and if so, we will need to know who those employees are and the amount of withholding.

Participants In The Authority Preparation:

- Bob Houtman, County Board Chair
- Wes Freeland, County Administrator
- Duane Triemstra, Corporate Counsel
- Rick Kinas, HRD Director

- Fred Cunningham, Mental Health Board Chair
- Eugene Chatlin, CMH Executive Director
- Charles Widener, CMH Deputy Director
- Steve Burnham, Assistant Corporate Counsel
MENTAL HEALTH AUTHORITY ISSUES
MARCH, 1996

MENTAL HEALTH CODE REQUIREMENTS FOR AN AUTHORITY

1. At least three (3) public hearings must be held.
2. Requires approval by County Board and filing with the Secretary of State and County Clerk.
3. Duration of Mental Health Authority and method to dissolve by the County Board and/or the Authority.
4. How net financial assets will be returned to the County or the CMH program that replaces the Authority if the Authority is dissolved.
5. Liability of Authority for costs associated with real or personal property purchased or leased by the County for use by Community Mental Services to the extent necessary to discharge the financial liability if desired by the County.
6. The manner of employing, compensating, transferring, or discharging personnel subject to applicable civil service and merit systems, and the following restrictions:
   6a. Authority employees are public employees.
   6b. Authority employees shall maintain all rights and benefits for at least one year.
   6c. Any collective bargaining agreements shall become the responsibility of the Authority.
7. Any other matter consistent with the Act that is necessary to assure operation of the Authority.
8. All assets, debts, and obligations of Community Mental Health shall be transferred to the Authority including but not limited to equipment, furnishings, supplies, cash, and other personal property.
9. All the privileges and immunities from liability and exemptions from laws, ordinances and rules that are applicable to

1. Done.
2. Resolution has been approved by County Board.
3. Code mandate & included in Resolution.
4. Code mandate & included in Resolution.
5. Code mandate & included in Resolution.
6a. Code mandate.
6b. Code mandate.
6c. Not applicable.
7. Code mandate.
8. Code mandate & included in Resolution.
County elected officials and employees of County government are retained by the Authority except that those privileges granted under subsection (6) are not included.

10. In addition, the Authority shall have the following powers:

a. To fix and collect charges, rates, rents, fees, or other charges and to collect interest.

b. To make purchases and contracts.

c. To transfer, divide, or distribute assets and liabilities subject to conditions of agreement between the County and the Authority.

d. To accept gifts, grants, or bequests and to determine how those may be used consistent with the donor's request.

e. To acquire, own, operate, maintain, lease, or sell real or personal property subject to the following conditions.

i. Implement a plan for alternative housing for residents residing on the property.

ii. Provide for comments and concerns of recipients residing on the property.

iii. Respond to those comments and concerns in writing.

f. To do the following in the Authority's Name:

i. Enter into contracts & agreements.

ii. Employ staff.

iii. Acquire, construct, manage, maintain, or operate buildings or improvements.

iv. Acquire, own, operate, maintain, lease or dispose of real or personal property.

v. Incur debts, liabilities, or obligations that are not obligations of the County. Commence litigation, and defend itself in litigation.

g. To invest funds in accordance with statutes.
h. Set up reserve accounts (utilizing State funds in the same proportion of State funds to all other revenue sources) to cover vested employee benefits including but not limited to accrued vacation, health benefits, payout of accrued sick leave, workers compensation, depreciation of capital assets, and retirement plan.

i. To develop a charge schedule for services.

11. The Authority shall do all of the following:
   a. Provide the County and DCH an annual independent CPA audit.
   b. Be responsible for all executive administration, personnel administration, finance, accounting, and management information system functions.

12. The County is not liable for any intentional, negligent, or grossly negligent act or omissions, for any financial affairs, or for any obligation of the Authority, its Board, employees, representatives or agents.

13. The Authority shall not levy any type of tax or issue any type of bond or financially obligate any unit of government other than itself.

14. An Authority employee is not a County employee. The Authority is the employer with regard to all laws pertaining to employer rights, benefits, and responsibilities.

15. An Authority is subject to the Open Meetings Act and the Freedom of Information Act.

16. The purpose of the Authority shall be to provide a comprehensive array of mental health services which at a minimum shall include:
   a. Crisis stabilization and response including a 24-hour, 7-day per week, crisis emergency service.
   b. Identification, assessment, and diagnosis to determine the needs of the recipient and to develop an individual plan of services.
SUMMARY OF ESSENTIAL FUNCTIONS OF A "COMMUNITY MENTAL HEALTH AUTHORITY"

1. Executive administration and board governance for the community mental health services program are the responsibilities of a CMH Authority.
   - [ ] Current CMHS Agency/Board does these functions now.
   - [ ] These functions are not done by the current CMHS Agency/Board.

2. Personnel administration for the community mental health services program is the responsibility of a CMH Authority.
   - [ ] Current CMHS Agency/Board does these functions now.
   - [ ] These functions are not done by the current CMHS Agency/Board.

3. Purchasing administration for the community mental health services program is the responsibility of a CMH Authority.
   - [ ] Current CMHS Agency/Board does these functions now.
   - [ ] These functions are not done by the current CMHS Agency/Board.

4. Administration of Management Information Systems for the community mental health services program is the responsibility of a CMH Authority.
   - [ ] Current CMHS Agency/Board does these functions now.
   - [ ] These functions are not done by the current CMHS Agency/Board.

5. Payroll and Benefits Administration for the community mental health services program is the responsibility of a CMH Authority.
   - [ ] Current CMHS Agency/Board does these functions now.
   - [ ] These functions are not done by the current CMHS Agency/Board.

6. Finance Administration (accounting; accounts payable; accounts receivable; General Ledger; etc.) for community mental health services program is the responsibility of a CMH Authority.
   - [ ] Current CMHS Agency/Board does these functions now.
   - [ ] These functions are not done by the current CMHS Agency/Board.

7. Administration of the contracting process and contracts/leases for the community mental health services program is the responsibility of the CMH Authority.
   - [ ] Current CMHS Agency/Board does these functions now.
   - [ ] These functions are not done by the current CMHS Agency/Board.
SUMMARY OF ESSENTIAL CONSIDERATIONS ON WHETHER COUNTY COMMUNITY MENTAL HEALTH PROGRAM SHOULD BECOME A "COMMUNITY MENTAL HEALTH AUTHORITY"

* Subject to the constraint of funds actually appropriated by the county board of commissioners, the amount of county match required of a county creating a Community Mental Health Authority shall not exceed the amount of funds provided by the county as county match in fiscal year 1974-75 or the year that the Authority is created, whichever is greater.

[Explanatory Note: A requirement under Section 308. (2) (b) of Act 258 of Public Acts of 1974, as amended (hereinafter referred to as the "Michigan Mental Health Code") now.]

* All assets, debts, and obligations of the county community mental health agency, including but not limited to equipment, furnishings, supplies, cash and other personal property, shall be transferred to the Community Mental Health Authority.

* All the privileges and immunities from liability and exemptions from laws, ordinances, and rules that are applicable to a community mental health agency and its board members, officers, and administrators, and county elected officials and employees of county government are retained by the Community Mental Health Authority and the board members, officers, agents, and employees of said Authority.

[Explanatory Note: Both of these are requirements under Section 205. (3) (a) and (b) of the Michigan Mental Health Code.]

* A county that has created a Community Mental Health Authority is not liable for any intentional, negligent, or grossly negligent act or omission, for any financial affairs, or for any obligation of a Community Mental Health Authority, its board, employees, representatives or agents.

[Explanatory Note: A requirement under Section 205. (6) of the Michigan Mental Health Code. Said subsection of the Code applies only to county government.]

* A Community Mental Health Authority, at its own discretion, can hold its own liability insurance policy coverage with the Michigan Municipal Risk Authority or any private insurance carrier.

[Explanatory Note: Currently, the county community mental health program and its board can be covered under a liability insurance policy coverage in its own name or under the county's liability insurance policy coverage with the Michigan Municipal Risk Authority or any private insurance carrier.]

* An employee of a Community Mental Health Authority is not a county employee. The Community Mental Health Authority is the employer with regard to all laws pertaining to employee and employer rights, benefits, and responsibilities.

[Explanatory Note: A requirement under Section 205. (8) of the Michigan Mental Health Code.]
* Employees of a Community Mental Health Authority are public employees. A Community Mental Health Authority and its employees are subject to Act No. 336 of the Public Acts of 1947.

* Upon the creation of a Community Mental Health Authority, the employees of the former community mental health services program shall be transferred to the new Authority and appointed as employees subject to all rights and benefits for 1 year. Such employees of the new Community Mental Health Authority shall not be placed in a worse position by reason of the transfer for a period of 1 year with respect to workers' compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other benefit that the employee enjoyed as an employee of the former community mental health services program. Employees who are transferred shall not by reason of the transfer have their accrued pension benefits or credits diminished.

* If the former community mental health agency or the former community mental health organization was the designated employer or participated in the development of a collective bargaining agreement, the newly established Community Mental Health Authority shall assume and be bound by the existing collective bargaining agreement. The formation of a Community Mental Health Authority shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreement. For purposes of this provision, participation in the development of a collective bargaining agreement means that a representative of the community mental health agency or organization actively participated in bargaining sessions with the employer representative and union or was consulted with during the bargaining process.

  [Explanatory Note: These are requirements (i) (ii) and (iii) under Section 205. (2) (c) of the Michigan Mental Health Code.]

* A Community Mental Health Authority shall be responsible for all executive administration, personnel administration, finance, accounting, and management information system functions. The Community Mental Health Authority may discharge this responsibility through direct staff or by contracting for services.

* Any county creating a Community Mental Health Authority and the Michigan Department of Community Health shall receive from the Community Mental Health Authority a copy of an annual independent audit performed by a certified public accountant in accordance with governmental auditing standards issued by the comptroller of the United States.

  [Explanatory Note: Both of these are requirements under Section 205. (5) (a) and (b) of the Michigan Mental Health Code.]

* To become a Community Mental Health Authority, a county community mental health agency must be certified by the Michigan Department of Community Health.

  [Explanatory Note: A requirement under Section 205. (1) of the Michigan Mental Health Code.]

* Rules promulgated by the Michigan Department of Community Health to establish standards for certification and the certification review process have to be issued formally.

  [Explanatory Note: A requirement under Section 232a, subject to Section 114a, of the Michigan Mental Health Code.]

2
• To become a Community Mental Health Authority, a county community mental health agency certified by the Michigan Department of Community Health must have an enabling resolution adopted and approved by a majority of the county board of commissioners after at least 3 public hearings held in accordance with Michigan's Open Meetings Act and filed with the Michigan Secretary of State's Office and the county clerk's office.

[Explanatory Note: Requirements under Section 205. (1) of the Michigan Mental Health Code.]

• Such an enabling resolution of the county board of commissioners must include specific statements, as specified in the Michigan Mental Health Code.

[Explanatory Note: A requirement under Section 205. (2) of the Michigan Mental Health Code. See the attachment hereto.]

• A Community Mental Health Authority has powers specified in the Michigan Mental Health Code regardless of whether or not such powers are stated in the enabling resolution of the county board of commissioners.

[Explanatory Note: A requirement under Section 205. (4) of the Michigan Mental Health Code. See the attachment hereto.]

• A Community Mental Health Authority cannot levy any type of tax or issue any type of bond in its own name or financially obligate any unit of government other than itself.

[Explanatory Note: A requirement of Section 205. (7) of the Michigan Mental Health Code.]

• The Michigan Department of Community Health's financing requirements for CMHSPs need to be revised in order to specifically address Community Mental Health Authority status.

[Explanatory Note: The Department still is in the process of determining financial requirements for the 1998-99 fiscal year.]

3
INTRODUCTION

Newly formed units of government are automatically exempted from Social Security coverage if they maintain some other form of qualified retirement plan. While most affected groups do maintain such qualified retirement plans, the law does allow for a “waiver of exemption” for employers who desire to offer Social Security, but only after a referendum vote of affected employees.

There are two main parts to the Social Security System, namely Old Age Survivors and Disability Insurance (OASDI), also known as Social Security, and Hospital Insurance (Medicare). Both Employer and Employee pay a 6.2% payroll tax for Social Security. The maximum taxable wage base for Social Security changes periodically – it is $65,400 for 1997, and $67,800 for 1998. The medicare tax of 1.45% is paid by both the employer and employee and is paid on all wages.

Confidence in the Social Security System continues to waver as concerns about the long term financial solvency come to the forefront. As we reach the point where there are more people drawing benefits than those paying into the system, the system must either fold or be made solvent by significantly higher taxes. Given this fact, newly formed governments and their employees have an exciting opportunity and most feel they can provide for greater benefits with the same expenditures.

While employers who maintain qualified retirement plans are not required to offer any form of replacement plan, most are considering allowing their employees to vote on the issue of adopting Social Security, or implementing an alternative plan. The following questions and answers should prove helpful to all involved.

Q. What retirement benefits might I expect under Social Security or the Alternative Plan?
A. The maximum Social Security payment for 1997 to an eligible Individual / Couple is $484 / $726. If retiring prior to age 65 but after age 62, this amount is reduced. To estimate your alternative plan benefits, we would suggest using the Public Employers Retirement Trust’s calculation on the world wide web at www.pertlink.com. Simply enter the information requested to get an estimate of funds available at any age you might wish to retire (it does not have to be age 62 or 65 as with Social Security.) While these dollars can be accessed however you wish, we would suggest simply taking 8% of the total and dividing by 12 to compare with your projected Social Security benefits. Taking your alternative benefits in this manner, or by transferring to an I.R.A., and assuming at least an 8% return on assets, you could preserve the funds to pass on to your heirs/estate.

Q. Even if my employer does not participate in Social Security, is it possible for me to still get both Social Security, Medicare, and Alternative Plan Benefits?
A. Yes. Most employees should receive both. First, both employee and employer will continue to pay the
medicare tax so certainly you will receive medicare. Most employees will also already have their required 40 quarters to qualify for Social Security. Even younger employees who do minimum part time work with another covered employer can easily earn their 4 credits per year. Further, all employees with the employers regular retirement plan and Social Security Alternative plan will find themselves retiring much earlier than age 62, with plenty of time to increase their Social Security wage base to further increase those benefits.

Q. How do I qualify for Social Security Disability payments, and will my employer offer an alternative plan?
A. Like Social Security, you qualify for benefits based on credits earned, however, this is based on your age. If you become disabled at age 31 through 42 you need 20 credits. Thereafter, you need one additional credit for each year past age 42 through age 62 where you need 40 credits. In addition, your employer will offer a long-term disability plan which generally provides 66 2/3% of your salary until age 65. Just as with Social Security, most employees should be eligible for both benefits.

Q. What about other Social Security Benefits such as Survivors Benefits and the $255 one-time death benefit.
A. Other than Social Security, Medicare, and Disability, most other FICA features are easily duplicated with additional Life Insurance. A base life insurance package usually in increments of salary will be provided by your employer. Additional supplemental life may be acquired through the plan. Once again, most employees will be eligible for all benefits based on credits earned.

Q. Can my employer ever come back under the FICA if it is deemed appropriate?
A. Yes. Even after ten or twenty years, if a referendum vote of the employees were held, you could still come under the system. In fact, social security alternative dollars could be used to buy back credits for up to five years.

There is no time frame in which to make your decision. Until that decision is made, you should withheld all dollars in the previous manner, submitting both the employer/employee 1.45% medicare tax and placing the 6.2% in an escrow account. Take your time. This is a very important decision.

For a no-obligation consultation, please contact:

Governmental Benefits Group, Inc.
at (517) 349-9520.

Q & A
Questions and Answers

Social Security or an Alternative Plan???

Developed exclusively for:

Michigan Community Mental Health Organizations
To: Peggy St. John
From: Bev Gibson
Date: 9/10/01
RE: Authority Status/Social Security Opt-Out

I read over the materials in the packet, which gave rise to a number of questions and concerns. I also noted that most of the material is dated from 1995 to 1998. Is this the most current information on the subject? Because the tax laws change annually, I'm left feeling that I may or may not have current information to make an informed decision one way or another.

Questions:

- Are there any advantages to ACCMHS as an authority to decide to Opt-Out of Social Security versus remaining the way it has been—pay FICA taxes to IRS?

- The Q and A booklet on Social Security or an Alternative consistently states “most employees will be eligible for Social Security Benefits” suggesting that you may not qualify. I would like more concrete information on eligibility requirements.

- Booklet “Comprehensive Retirement Plan Package” states that upon becoming an authority “You are automatically removed from MERS if you already participate in that plan.” Further on it states “MERS also can be adopted at any time in the future.” What does that mean for those who remained in the Defined Benefit program? For those in the Defined Contribution Plan? What would ACCMHS' intent be regarding MERS?

- Since LTD coverage is planned to be dropped by the Agency for FY 2001-02, would this be reinstated if the Opt-Out were chosen? At what level of coverage?

- Would ACCMHS match the 6.2% of Social Security Tax currently withheld from employees, or would a portion of the match be used toward other benefits (i.e., LTD, Life Insurance)? What would the percentages be for each?

- Would staff be allowed to vote on the Opt-Out, or would it be determined by the Board?

- What happens with Part-Time and Temporary employees? Is Part-Time considered 20 hours or less per week or anything less than 40?
If ACCMHS went with the Opt-Out, who would have ownership of the money — ACCMHS or the employee? If ACCMHS, how long before ownership of the money would pass to the employee?

Would there be a vesting period before an employee can access both employee and employer contribution? How long? (This is assuming that the employee’s portion is immediately available to the employee.)

Who would manage the money? ACCMHS or a Third Party Administrator?

Some of these questions are for later in the process, should ACCMHS decide to become an authority. I just wanted to note all questions that came up as I went through the documents. I’ll let you know if any additional questions come to mind. Thanks for sharing the information that you have.
TO: Committee to Research Alternatives to Social Security
    Finance Directors of Community Mental Health Boards
FROM: Jim Wise, Associate Director of Finance
SUBJECT: Alternatives to FICA

Here are the responses received from my survey of CMHSP Boards concerning the process of selecting an alternative plan to FICA. I thank all of you who responded.

1. Do you have, or are you planning to have, a pension plan that meets the safe harbor guidelines to permit your Board to opt out of FICA requirements?

   Berrien: Yes, Have already implemented one.
   Branch: (Pines Behavioral Health Services) Not yet become an authority
   Gratiot: Yes, Currently have pension plan @ 7% of gross p/r.
   Hiawatha: Yes
   Huron: Yes, we have opted out.
   Lapeer: We are not yet an "Authority", but are seriously considering and opt out
   when we become one.
   Lenawee: Is just starting to look into issue. We are an Authority, but have continued to
   contributed to SS.
   Monroe: * attached to their response is a letter from Depart. Of Management & Budget.
   Montcalm: Yes. Cloned the County's defined benefit pension plan for our own when we
   became an authority.
   Newaygo: Yes
   Northern Michigan: Yes
   Saginaw: Planning to have.
   Sanilac: Yes; came about due to Authority Status
   St. Joseph: Not an Authority
   Shiawassee: Just beginning to explore alternative possibilities.
   Tuscola: Yes; Our MERS plan met the guidelines.

2. If you meet the safe harbor guidelines to remain outside of FICA, will covered staff be given a choice to get back into FICA or will the CMHSP Board make the decision?

   Berrien: It will be a joint decision by simple majority.
   Gratiot: Staff choice by vote. PEBSCO, SS & Other vendors to present to staff
Alternative to FICA Survey Results
The Montcalm Center for Behavioral Health  March 9, 1999  Page 2

Hiawatha: Staff Choice
Huron: Yes, employees made the decision.
Lapeer: Unsure
Livingston: Would have to be a decision made by vote of all employees.
Monroe: Staff choice.
Montcalm: Yes, staff will be given the choice.
Newaygo: Staff will vote.
Northern Michigan: Staff will be given a choice to get back into FICA
Saginaw: I do not know of any way staff can be given a way to chose to get back into SS
Sanilac: No; Staff will vote.
Tuscola: Employee vote made the decision

3. Is your Board giving staff the opportunity to make input into an alternative FICA plan?

Berrien: Yes
Gratiot: Maybe limited, but should have input to funds they want to contribute to.
Hiawatha: Yes, they will choose plan & level of participation
Huron: Yes, we had a committee assigned to this.
Lapeer: That is the intent when the time comes
Livingston: Yes, We had many meetings to give and receive input from and to staff.
Monroe: Yes
Montcalm: Yes, have formed a committee to investigate and make a recommendation to the Board for their approval.
Newaygo: Maybe.
Northern Michigan: As a committee, staff are able to give input.
Saginaw: Yes
Sanilac: Yes, Union.
Tuscola: No; plan was chosen through our insurance broker.

4. If you meet the safe harbor guidelines, what do you plan on doing with the amounts formerly considered FICA, both employee and employer shares?

Berrien: Are investing in mutual funds
Gratiot: Board has passed a resolution to keep full % of pension, FICA, "EE" FICA "ER" intact
Hiawatha: Invest in defined contribution plan.
Huron: Employee share and a portion of employer share is contribution to the plan + additional life insurance and long term disability with a portion of employer share
Lapeer: Unsure
Livingston: The majority (11.89% of 12.4%) is being invested in a PEBSCO “Money Purchase Plan”. The remainder of the amount (.5%) is being invested in life and long term disability insurance.

Monroe: 6% employee contribution to 401A/MPP; 5% employer contribution to 401A MPP. Remainder used to purchase life and disability insurance.

Montcalm: We have set up an escrow account at a local bank into which we deposit what was both employer and employee shares of FICA for each payroll since we became an authority on September 30, 1998. Pending results of referendum on May 12th, 1999 funds will either be sent to Social Security or placed in the FICA alternative plan.

Newaygo: Alternative investment plan less LTD cost.

Northern Michigan: These funds will be put into the alternative FICA plan, and a portion of Employer FICA will used to purchase additional Life Insurance for all staff.

Saginaw: Will remain FICA

Sanilac: Deferred Comp plan & better disability plan

5. Have you requested approval from the Office of Retirement Systems in Lansing to hold the Section 218 election?

Berrien: No
Gratiot: No, We currently do not qualify to be out of SS.
Hiawatha: Yes
Huron: Yes
Lapeer: No, not yet.
Livingston: After many educational meetings, a vote was taken involving all employees and a majority elected to stay out of SS.

Monroe: Yes
Montcalm: Yes, approval given December 9th, 1998.
Newaygo: Yes
Northern Michigan: We are going through an informal process. ORS has given us their OK, as well as the IRS and SSA.

Saginaw: No
Sanilac: Yes
Tuscola: Election has been held.

6. Have you held a Section 218 election, and if so, what was the outcome?

Berrien: No
Gratiot: No
Hiawatha: Not yet. Informal vote was tied
Huron: Yes. We had 62 eligible voters/53 voted. 31% voted to return to SS & 55% voted not to.
Alternative to FICA Survey Results
The Montcalm Center for Behavioral Health  March 9, 1999  Page 4

Livingston: See above.
Monroe: Yes. Private Pension Plan
Newaygo: Not yet.
Northern Michigan: Our informal vote was 54% our of FICA and 46% in FICA.
Saginaw: No
Sanilac: No. Huron Co. did recently opt out of SS
Tuscola: Employees voted NOT to be covered through SS

7. Did you experience any problems in preparing for and holding the election?

Berrien: N/A
Gratiot: Had a “straw poll” and results were nearly 50/50. Possible problem with information supplied to staff.
Hiawatha: N/A
Huron: No
Livingston: No. We distributed educational information and held meetings with a PEBSCO and SS Rep.
Monroe: No
Montcalm: N/A
Newaygo: N/A
Northern Michigan: Yes, SSA Representative suffered health problems 1 week before his presentation of SSA benefits and we had to delay the vote.
Saginaw: N/A
Sanilac: No, not as yet.
Tuscola: Time delays due to SS office were the only problems.

8. How did you go about educating the staff prior to the election?

Berrien: Meetings and other means of internal communications
Gratiot: PESCO & SS representatives. SS poorly prepared.
Hiawatha: Brought in reps from SSA, MERS, LTD, and 3 other plans on several occasions at all sites. Also produced Q&A newsletters
Huron: We had a representative from SS come and 2 from alternative plans.
Livingston: See above
Monroe: See attached information
Montcalm: Have not done yet, but by April 2nd, 1999 we plan on holding staff meetings with representatives from Social Security and the FICA alternative plan.
Newaygo: (?) 
Northern Michigan: We had a representative give several presentations with examples regarding FICA alternative. We also had SSA information and representative give a
Alternative to FICA Survey Results  
The Montcalm Center for Behavioral Health  March 9, 1999  

presentation and question and answer session afterward.

- Saginaw: N/A  
- Sanilac: Speakers and handouts. The Union also educated their members.  
- Tuscola: Information from SS give to staff & representatives from private companies.

9. What was your process for determining an alternative to FICA?

- Berrien: Interviewed several vendors/had presentations to staff including staff from SSA  
- Gratiot: N/A  
- Hiawatha: Put out RFP, used standardized instrument to evaluate & brought top 3 plans to staff  
- Huron: We worked with legal counsel and sent out RFP’s to 4 companies.  
- Livingston: We had a few agencies present their alternative plans and through a process of elimination chose PEBS CO  
- Monroe: Employee elected committee with appointments from personal and finance  
- Montcalm: Formed a committee of 8 staff. Solicited proposals from 6 vendors. Selected 3 vendors to present their proposal to the committee. We are now in the process of reviewing the 3 proposals. The committee will then recommend 1 vendor to the Executive Director to present for approval of the Board. This will be the alternative to FICA the staff will have should they choose to remain out of Social Security.  
- Newaygo: May use staff committee  
- Northern Michigan: We utilized a consultant by the name of Dean Holefca, 248-370-0300, as well as ERISA attorneys. We also solicited bids for our new 403(b) plan. We are in the process of reviewing the 17 big proposal package now.  
- Saginaw: Develop comparable benefits plans similar to FICA but paid for by funds which otherwise would be paid to FICA  
- Sanilac: Committee of management and union.  
- Tuscola: Based on recommendations of Insurance consultant.

10. If you chose an alternative plan to FICA, what is it? What benefits are offered? What benefits continue with the employee should they terminate employment with the Board? Are there any benefits that the employee could continue to contribute to after leaving employment with the Board?

- Berrien: Benefits = money; With selected funds staff have full control. 100% immediately investing - full portable at separation. + LTD & STD + enhanced level of life of life insurance.  
- Gratiot: (?) Most likely a benefit program similar to FICA with contributions instantly vesting. Haven’t gotten this far.  
- Hiawatha: Don’t know yet.  
- Huron: We chose Principal Financial Group. $50,000 life insurance portable if terminate + long term disability (contribution ceases with termination)
Livingston: All of the 6.2% of the employees’ share goes to the Money Purchase Plan. 5.7% of the employer’s share goes to the Money Purchase Plan and the remaining .5% goes to purchase long term and life insurance to replace SS benefits. Employees can convert insurance if they desire upon leaving the agency.

Monroe: Prudential 401A 100% vested after one hour of employment.

Montcalm: We are in the process of selecting a plan from 3 proposals:
1) PERT - placing the entire 12.4% in a 401(a) plan with a 414(h) rider for employee share;
2) PEBSCO - placing the funds into 3 parts: a 401(a) plan for a money purchase plan for 10%, a Post Employment Health Plan for .9%, and additional LTD and life insurance for 1.5%. We would keep our present defined benefit pension plan and also our two 457 plans;
3) The Principal Financial Group - Put the entire 12.4% in a 401(a) plan and use our current cafeteria plan for staff to purchase additional life insurance.

Northern Michigan: 403(b) plan, $100,000 Life Insurance, currently offer Long Term Disability and AD & D.

Saginaw: Not done at this time.

Sanilac: Have not developed at this time. Straw vote says we will stay in SS.

Tuscola: Principal Financial Group.

11. Were pre vs post tax considerations made in selecting the alternative plan? What are the tax consequences of your alternative plan? What type of IRS approved plan is it? Does the plan replace your current plan?

Berrien: Our contributions are pre-taxed/tax deferred. It did not replace existing plans.

Gratiot: N/A

Hiawatha: N/A

Huron: The Plan is a 401 A with 414H & does not replace our MERS plan.

Livingston: The Money Purchase Plan is a 401 A and the money invested is pre-tax. + MERS 457.

Monroe: Requirements of a 401A: 457-not changed or replaced.

Montcalm: Have not chosen a plan yet, but would like most, if not all pre-tax.

Northern Michigan: Currently we have a 403 (b) plan, and we will be replacing it with another 403 (b) plan.

Saginaw: N/A

Sanilac: Tax deferred plan; IRS approved. Attorney drafted and sent to union’s tax counsel.

Tuscola: 414H

12. What have you done with FICA contributions since the date you became an authority?

Berrien: First escrowed until decision. None invested in stock market.
Alternative to FICA Survey Results
The Montcalm Center for Behavioral Health
March 9, 1999

Gratiot: Continued contributing to FICA/IRS
Hiawatha: Put in Trust Account
Huron: We sent it in to SS and are in the process of filing for a refund.
Livingston: We became an Authority 10/97 and continued paying FICA until 1/1/99. During that time, we educated employees, held the vote in 10/98 and employees than had 6-8 weeks to make a decision on investments within the PEBSCO plan.

Monroe: Escrowed.
Montcalm: Escrowed
Newaygo: Escrow
Northern Michigan: We have continued to pay into Social Security until the FICA Alternative is implemented, otherwise we may face a fine for not paying FICA.
Saginaw: Are being paid into FICA
Sanilac: Nothing; continue to deduct and send to SSA
Tuscola: Continued to contribute to SS. We are still attempting to get our money refunded.

13. If you did not continue to send in FICA contributions to the Social Security Administration once you became an authority, but continued to withhold the FICA rate from covered employees, what do you do with the funds if an employee terminates employment before the Section 218 election is held?

Berrien: Held all the funds until decision to go in particular direction. Forwarded earned interest to employees
Gratiot: N/A
Hiawatha: Hold for election results
Livingston: N/A
Monroe: Escrowed fund. Remained in escrow for all full time employees and terminated employees.
Montcalm: Return former employees’ share after the election if the vote is in favor of remaining our to Social Security.
Newaygo: Return employees’ share.
Northern Michigan: N/A
Saginaw: N/A
Sanilac: N/A

14. If you stopped withholding FICA contributions to the Social Security Administration once you became an authority, what are your plans should the Section 218 election results be to rejoin FICA?

Berrien: N/A
Gratiot: N/A
Hiawatha: Replace funds into SS and distribute % earned back to staff
Livingston: N/A
Monroe: N/A
Montcalm: Take the funds placed in escrow for the employee and employer shares of FICA and send them to the Social Security Administration.
Newaygo: N/A
Northern Michigan: Reduce Life Insurance to previous levels as appropriate, stay with 401 (b) plan, but make appropriate adjustments to the plan.
Saginaw: N/A
Sanilac: N/A

15. Have your changed your mind after electing to opt out of Social Security?

Berrien: No
Gratiot: No
Hiawatha: N/A
Huron: No, but we can return to SS if a vote of the employees favor this.
Livingston: No. Everyone seems quite excited by the chance to control their own investments.

Monroe: No
Montcalm: N/A
Newaygo: N/A
Northern Michigan: No.
Saginaw: N/A
Sanilac: N/A
Tuscola: Have only heard positive feedback from employees.
SOCIAL SECURITY OPT OUT

AFSCME

1. The present pension plan is at 5%, not the required 7.5% to be a qualifying plan. Therefore, AFSCME employees would not be automatically OUT of Social Security.

2. A new enhanced pension plan could be negotiated wherein a portion or all of the combined 12.4% of FICA tax money could be reallocated to the pension plan to become effective on the date of authority status, dependent on whether the employees decided to stay out of Social Security. The minimum would have to be 7.5%.

3. If that pension plan were in place on the date of authority status, the following would apply.
   A. If the employees wished to participate in Social Security, a Social Security Resolution to apply for a 218 agreement would have to be submitted. Even if they did not wish to participate, the Resolution would have to be submitted in order to have a referendum as required by federal law.
   B. It takes 6-9 months or longer for the Attorney General to act on the application.
   C. 12.4% (FICA employee and employer share) would be put in escrow until such time as 218 Agreement is received or such time as the referendum showed that they wanted to OPT OUT and therefore invest this money in an enhanced pension plan.
   D. Federal law requires that a governmental employer having a qualifying retirement plan in existence prior to adopting social security coverage must hold a referendum among the employees. Instructions and procedures necessary to follow in conducting the referendum are sent upon the state’s receipt of the resolution. After the successful results (to opt back in) have been certified to the State, a 218 Agreement will be prepared and submitted for CMH review and signature. Otherwise, the results are used to document employees’ desire to opt out.
   E. Participants in the election are ALL employees who are eligible for the qualifying pension plan and therefore out of Social Security. Simple majority vote prevails. All employees must go with the majority.

4. It has been suggested that a straw vote be conducted before investing the time and effort into drawing up a new enhanced pension plan which would indicate employee interest in being OUT of Social Security.

5. For AFSCME employees, it would be entirely possible to do nothing and keep things status quo; however, then the opportunity for greater retirement earnings than Social Security would be lost.
SOCIAL SECURITY OPT OUT

MANAGEMENT

1. Upon becoming an authority board, managers will automatically be out of Social Security because they have a qualifying pension plan at 9.5%.

2. If they wished to participate in Social Security, a Social Security Resolution to apply for a 218 agreement would have to be submitted. Even if they did not wish to participate, the Resolution would have to be submitted in order to have a referendum as required by federal law.

3. It takes 6-9 months or longer for the Attorney General to act on the application.

4. 12.4% (FICA employee and employer share) would be put in escrow until such time as 218 Agreement is received or such time as the referendum showed that they wanted to OPT OUT and therefore invest this money in an enhanced pension plan.

5. Federal law requires that a governmental employer having a qualifying retirement plan in existence prior to adopting social security coverage must hold a referendum among the employees. Instructions and procedures necessary to follow in conducting the referendum are sent upon the state’s receipt of the resolution. After the successful results (to opt back in) have been certified to the State, a 218 Agreement will be prepared and submitted for CMH review and signature. Otherwise, the results are used to document employees’ desire to opt out.

6. Participants in the election are ALL employees who are eligible for the qualifying pension plan and therefore out of Social Security. Simple majority vote prevails. All employees must go with the majority.

AFSCME

1. The present pension plan is at 5%, not the required 7.5% to be a qualifying plan. Therefore, AFSCME employees would not be automatically OUT of Social Security.

2. A new enhanced pension plan could be negotiated wherein a portion or all of the combined 12.4% of FICA tax money could be reallocated to the pension plan to become effective on the date of authority status, dependent on whether the employees decided to stay out of Social Security. The minimum would have to be 7.5%.

3. If that pension plan were in place on the date of authority status, the above #2-#6 would apply.

4. It has been suggested that a straw vote be conducted before investing the time and effort into drawing up a new enhanced pension plan which would indicate employee interest in being OUT of Social Security.

5. For AFSCME employees, it would be entirely possible to do nothing and keep things status quo; however, then the opportunity for greater retirement earnings than Social Security would be lost.
GOVERNMENTAL BENEFITS GROUP, inc.
P.O. BOX 1586, EAST LANSING, MI. 48826 (517) 349-9320

NEWS RELEASE

THE 1997 TAXPAYER RELIEF ACT

GOOD NEWS GETS EVEN BETTER

First, CMH's were automatically removed from Social Security, and where applicable, MERS, when becoming an authority, and ...

NOW COMES CONGRESS'S MOST RECENT ACTION.

After many years of postponing the required effective date of state and local government non-discrimination provisions of ERISA, the 1997 Taxpayer Relief Act makes permanent the moratorium on compliance with the coverage and non-discrimination rules of the code for government plans.

This very important change allows your governing board to recognize key personnel and other highly compensated individuals of their choosing by providing supplemental retirement benefits without fear of violating the law.

The supplemental benefits can be extended whether you now offer a defined benefit or defined contribution plan, but are most cost efficient and less complex from a Section 415 standpoint if you maintain a defined contribution plan.

Should you be considering any changes to your various retirement plans, and wish to avail yourself of the expertise of Michigan's leading governmental plan expert, please call us at the above number.
"THE SOCIAL SECURITY OPT-OUT AND THE IMPACT OF AUTHORITY STATUS ON COLLECTIVE BARGAINING AGREEMENTS"

January 23, 1998
Kellogg Center (MSU)
East Lansing, Michigan

Sponsored by:
MACMHB

Prepared by:
Peter A. Cohl, Esq.
David G. Stoker, Esq.
January 23, 1998

TO: Michigan Association of Community Mental Health Boards Conference Participants
FROM: Peter A. Cohl and David G. Stoker

I. SOCIAL SECURITY AND MEDICARE COVERAGE AS IT RELATES TO MENTAL HEALTH AUTHORITIES

A. Social Security/Medicare Historical Overview.

1. 1935 -- The original Social Security Act as adopted in 1935 did not include public employees based upon concerns relating to the constitutionality of the federal government taxing state and local governmental entities.

2. 1951 -- Amending legislation from 1950 became effective in 1951 permitting participation in social security coverage by public employees if they were not covered by a public retirement system.

3. 1955 -- Amendments were made in the social security legislation permitting state and local public employees participation in social security coverage even if they participated in another public retirement system, thereby permitting both social security and public retirement system coverage.

4. 1965 -- The federal Medicare provisions were enacted.

5. 1983 -- Prior to 1983 public employers who participated in social security under a Section 215 agreement could opt out of social security coverage. After April 20, 1983, the public employer under a Section 218 agreement was required to continue social security coverage even if qualifying retirement plan was subsequently made available for that local governmental entity's employees.
6. 1986 -- The Medicare legislation was amended to require participation of all public employees, excepting only those public employees in "continuous" employment, since March 31, 1986, with their current public employer, that were not otherwise covered by social security.

7. 1987 -- The social security collection procedures in relation to local governments was transferred to the Internal Revenue Service rather than the Federal and State Social Security Administration. "Social security contributions" were thereafter referred to as social security taxes and commonly referred to as "FICA taxes."

8. 1991 -- Legislation was adopted in 1991 providing that all state and local governmental employees were thereafter required to be covered by social security unless they were covered by a public retirement system or expressly excluded in the legislation.

9. 1994 -- Several modifications were made to social security exclusions relating to public entities, including those relating to election officials and certain police and firefighters.

B. Who Must Participate in Social Security Coverage?

1. Since the 1991 amendments, all local governmental employees who are not participants in a qualifying retirement plan must participate in social security/Medicare coverages.

2. Other than public retirement plan participants, the legislation provides only limited express statutory exclusions, including those relating to election workers, patients or inmates working for their hospital or institution, certain short term emergency workers relating to disasters, certain employees working under special state or federal programs to avoid unemployment, and provisions relating to certain alien workers.

C. What is a Qualifying Retirement Plan?

1. Qualifications of the retirement plan to permit exclusion from mandatory social security coverage are based upon interpretations of the Federal Internal Revenue Service. In general, a qualifying public retirement plan must provide the employee participants benefits equivalent to what they would receive under "old age benefits" under social security coverage. Specific criteria as to what consists of a qualifying plan is covered in detail by the Internal Revenue Service's Revenue Procedure 91-40. The specifics of each particular plan should be evaluated by benefits expert or tax attorney in light of the safe harbor formulas established in this Revenue Procedure and the IRS regulations. In general terms, the review for
eligibility is based upon a review of two (2) types of retirement plans, being "defined benefit plans" and "defined contribution plans."

2. **Defined Benefit Plans.** A defined benefit plan generally is a plan established and maintained by an employer to provide systematically for the payment of definitely determinable benefits to the employer's employees over a period of years, usually for life after retirement. In general terms, a defined benefit plan will qualify under the safe harbor requirements if the benefit under the system is at least 1.5% of the average compensation during the employee's last three (3) years of employment, multiplied by his/her years of service. If more than the final three (3) year period is utilized in calculating the benefit, the revenue procedure includes a sliding scale formula for the multiplier on the final average compensation factor as follows:

<table>
<thead>
<tr>
<th>Final Salary Average Period</th>
<th>Average Compensation Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>36 months</td>
<td>1.5%</td>
</tr>
<tr>
<td>37 - 48 months</td>
<td>1.55%</td>
</tr>
<tr>
<td>49 - 60 months</td>
<td>1.60%</td>
</tr>
<tr>
<td>61 - 120 months</td>
<td>1.75%</td>
</tr>
<tr>
<td>Over 120 months</td>
<td>2.00%</td>
</tr>
</tbody>
</table>

However, the specifics of each plan should be reviewed by an appropriate consultant.

3. **Defined Contribution Plan.** A defined contribution plan is a plan that provides an individual account for each participant and the benefits are based solely on the amount contributed to the participant's account and any income, expenses, gains, and losses. Again, defined contribution plans are similarly subject to federal regulations as to whether they would permit exclusion from mandatory social security coverage. Generally a pension, annuity, retirement, or similar fund which receives an allocation of at least 7.5% of employees' compensation for services during the period will meet these requirements. This may include combinations of employer or employee contributions to reach the 7.5%, but would exclude interest and earnings on the contributions in the plan. Federal requirements would also require a reasonable interest rate on the employee's account or a separate trust subject to fiduciary standards and credited with actual earnings. The definition of "compensation" for calculating whether a defined contribution
plan meets the 7.5% threshold can be no less inclusive than the employee's "base wages."

D. Who is a Eligible Participant in a Qualifying Retirement Plan that may be Excluded from Mandatory Social Security Coverages?

1. In the case of a "defined benefit plan," the employee will generally only be considered a participant in the retirement plan when they are eligible for plan participation. Thus, if a plan requires completion of a certain service period or hours worked criteria before accruing retirement credits, an employee will not be construed as a participant in the retirement plan. However, an employee's vesting period will not disqualify their participating status as long as they are in fact eligible to accrue retirement credit during this vesting period. Exceptions also exist in relation to certain employees who are re-hired and employees actually drawing retirement benefits from the retirement system.

2. Participants in a "defined contribution plan" must likewise be employees actually eligible to participate in the plan and must also actually have contributions equal to the minimum threshold levels being deposited within the system. If an employee may elect to move in and out of contributing status under a qualified plan, they would not be construed as participating unless their contributions for the period at issue equal the minimum threshold amounts.

3. Part-time/Seasonal/Temporary Employees. Special rules apply as to part-time, seasonal and temporary employees as to clarifying whether they are participants in a "qualifying retirement plan" as they are generally excludable under most public pension systems. To be considered as a participant under the qualifying plan, these employees must be fully vested in the retirement plan. A special vesting requirement is considered met if the part-time, seasonal or temporary employee has the right to receive upon separation from employment the payment of at least 7.5% of compensation earned (plus interest) while covered under the retirement system.

E. Medicare/Hospitalization Coverage.

1. The Medicare program was adopted in 1965 to provide health insurance coverage for persons over 65 years of age and younger persons that would qualify social security disability benefits.

2. The OBRA '86 federal legislation made state and local government employees hired after March 31, 1986, subject to mandatory Medicare coverage. Additionally, all employees covered by a Section 218 agreement
providing for FICA taxation payments and employees that are subject to FICA taxation as they are not participants in a qualifying public retirement system would also be subject to Medicare taxes, which is a portion of the FICA taxes.

3. The only substantial exception in the public sector employees from mandatory Medicare coverage relates to employees hired before April 1, 1986, by a state or local governmental employee and who have performed regular and substantial services for renumeration for that state employer or political subdivision employer on a continuous basis since that date. This exception would NOT include employees who are transferred to or hired into a new entity created after 1986 and, therefore, this exception to mandatory Medicare coverage would not be applicable to mental health authorities. Therefore, the only exclusions from the Medicare portion of FICA taxes would be pursuant to the limited expressed statutory exclusions, such as persons hired to perform services to relieve herself/himself from unemployment, inmates or patients hired to perform services in their hospital, home or institution, persons hired on a temporary basis in the case of natural disaster emergencies, and certain election workers.

F. Who is a Mental Health Authority "Employee"?

1. The public sector in general, as well as mental health agencies, have on occasion ran into difficulty differentiating between who in fact is a public "employee" versus who is an "independent contractor." This distinction between an employee and independent contractor will impact the agency in a number of areas, including liability issues, worker's compensation, unemployment compensation, state and federal income taxes, as well as the requirements for social security and Medicare coverages. Failure to designate persons as "employees" and instead erroneously classifying them as "independent contractor" can result in interest and penalty charges under many of these legislative schemes. The erroneous designation of a employee as an independent contractor in the context of social security and Medicare and failure to make the appropriate withholding may require the employer to be responsible for both the employer and employee FICA taxes. Additional penalties may also be incurred if persons misclassified as independent contractors are not furnished IRS Form 1099's.

2. Determining Employee or Independent Contractor Status. Because of the substantial penalties in FICA taxes, as well as in other areas, extreme care should be exercised in construing any person performing services as a "independent contractor." While each case may vary based on the nature of the services and the contracted arrangement with the specific individual, general guidelines have been established by the Internal Revenue Service
for characterizing persons as "contract employees" rather than "independent contractors," which should be reviewed in each case.

G. Effect of Social Security/Medicare Laws on New Mental Health Authorities.

1. Pursuant to the Mental Health Code, newly created mental health authorities are construed as new separate local governmental entities. Therefore, each new authority should obtain new employer identification numbers (EIN's) to identify tax returns for that agency.

2. As all mental health authorities are new entities created after 1986, all employees hired or transferred to the mental health authorities would be subject to mandatory Medicare tax withholdings.

3. All employees of a mental health authority not eligible to participate in a qualifying retirement plan would be subject to the full FICA withholdings, including both the social security and Medicare taxes.

4. Employees who are eligible for participation in a qualifying retirement plan are NOT covered by social security withholdings unless a Section 218 agreement is entered into with the State.

5. A Section 218 agreement may only be entered into after a state approved election of those employees eligible to participate in the qualifying retirement plan. Arrangements for such an election should be made through the State Office of Retirement Systems at the following address:

   Office of Retirement Systems
   Attn: Carol Baubie
   P.O. Box 30171
   Lansing, Michigan 48909

   This State Office will need copies of the organization's papers [enabling resolution(s) creating the authority] and a copy of the authority's Retirement Plan to start this process. The process includes a review of the organizational documents and Retirement Plan by the Attorney General and a formal election with a 90 day notice period. Anticipate at least 6 to 9 months for this process to be completed.

6. The mental health authority legislation expressly provides that employees "transferred" to authorities are not to receive a reduction in benefits for at least the first year of their authority employment. Based on this legislation, it would appear mandatory that mental health authorities petition for an election to determine if employees desire to continued participation in the social security benefit system.
7. During the interim period, pending a Section 218 election, newly created mental health authorities face several dilemmas in dealing with the social security withholdings. Several possible options include:

a. One option is to continue the social security payments to the Internal Revenue Service along with the Medicare payments. If the employees then subsequently elect to continue social security participation, no further adjustments will be necessary. If the employees vote to not participate in social security, the authority can seek a refund of the excess social security contributions from the Internal Revenue Service pursuant to Internal Revenue Service procedures.

b. A second option is to cease withholding the social security portion of the FICA tax pending the election on the social security participation pursuant to a Section 218 agreement. However, under this procedure, difficulties may exist in funding the coverage from the date of the authority's inception through the date of the election. While social security legislation permits employees to pick up retroactive coverage for up to five (5) years, funds may not be available for the employee's contribution to cover this period as the funds would not have been withheld. Authorities could, as an alternative under this procedure, elect to include social security benefits prospectively from the election only. However, this could be construed as a reduction of benefits and inconsistent with the mental health code authority legislation.

c. The third option in dealing with social security is to escrow both the employer and employee social security withholdings from the date of the authority's inception through the date of the election. Under this mechanism, the escrowed funds could then be deposited with the IRS if the employees elect to approve a Section 218 agreement, and could be utilized to provide other employee benefits in the event a Section 218 agreement is rejected. However, as there would then be no statutory authorization for withholding from the employees' paychecks, individual deduction authorizations may be required to permit these deductions pending the election pursuant to Michigan statute (MCL 408.477).
II. THE IMPACT OF THE REVISED MENTAL HEALTH CODE UPON COLLECTIVE BARGAINING AFTER THE CREATION OF AN AUTHORITY.


1. Employees of a community mental health authority are public employees. A community mental health authority and its employees are subject to Act No. 336 of the Public Acts of 1947, being sections 423.201 to 423.217 of the Michigan Compiled Laws.

2. Upon the creation of a community mental health authority, the employees of the former community mental health services program shall be transferred to the new authority and appointed as employees subject to all rights and benefits for 1 year. Such employees of the new community mental health authority shall not be placed in a worse position by reason of the transfer for a period of 1 year with respect to workers' compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other benefit that the employee enjoyed as an employee of the former community mental health services program. Employees who are transferred shall not by reason of the transfer have their accrued pension benefits or credits diminished.

3. If the former county community mental health agency or community mental health organization was the designated employer or participated in the development of the collective bargaining agreement, the newly established community mental health authority shall assume and be bound by the existing collective bargaining agreement. The formation of a community mental health authority shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreement. For purposes of this provision, participation in the development of a collective bargaining agreement means that a representative of the community mental health agency or organization actively participated in bargaining sessions with the employer representative and union or was consulted with during the bargaining process.

B. State Law Covering Public Employees.

1. Public Employment Relations Act (PERA) MCL 423.201, et seq.
2. Labor Mediation Act (LMA), MCL 423.1, et seq.
3. Michigan Employment Relations Commission (MERC) administers the above statutes

C. Bargaining Units.

1. Supervisors must be in unit of all Supervisors
2. Professionals and Non-Professionals
3. Confidential Employees are excluded
4. Temporary and Substitute Employees should be excluded

D. Preparing for Negotiations and Negotiation Techniques.
1. The Employer Bargaining Team
2. Authority of Negotiators
3. Strategies (timing)
   a. Retroactive pay increases
   b. Arbitration termination
   c. Dues deduction termination
4. Costing
   a. paid time off
   b. health and dental insurance
   c. step increases
   d. longevity
   e. FICA
   f. retirement costs
5. Union Security Clause (trade offs)
6. Communication by Management to Employees

E. Protecting Management Rights.
1. Don't Give It Away
2. Duty to Negotiate in Good Faith on Mandatory Subjects only
3. Layoffs (Local 1277 AFSCME v Centerline, 414 Mich 642 (1982) held that initial decision to layoff is not a mandatory subject)
4. Management Rights Clause
5. Arbitration Clause vs. Employee at Will
6. Election of Remedies
7. "Zipper" Clause
8. Past Practice Clause
9. Subcontracting Clause
10. Use of Temporary Employees
11. Other Contract Clauses

F. Mediation.

G. Fact Finding.

H. Impasse.
Social Security Coverage

Are the services covered by a Section 218 Agreement?

YES

Social Security and Medicare should be withheld.

NO

Are the services covered by a public retirement system?

NO

FICA taxes should not be withheld— withheld Medicare-only if hired after March 31, 1986.

YES

Were the services excluded from coverage under the voluntary agreement or under mandatory Social Security?

NO

YES

Auth is a new employee so no income is req.
**Determining Worker Status**

- **Is the worker an Employee?**
  - **YES**
    - Are the services covered under a Section 218 Agreement?
      - **YES**
        - Employer should be withholding for FICA or for Medicare-only depending upon the terms of the Agreement.
      - **NO**
    - **NO**
      - Individual is an independent contractor. Do not withhold FICA, file Form 1099-MISC if at least $600 is paid for services during the year.

- **Are the services covered under a Section 218 Agreement?**
  - **YES**
    - Determine if FICA, Medicare-only or public retirement system coverage is applicable.
  - **NO**
Are the employee's services covered for full Social Security under a Section 218 Agreement for FICA purposes?

Yes

Is the employee a member of a Public Retirement System?

No

Withhold Social Security and Medicare taxes for this employee.

The employee's services are covered for full Social Security, but not under a Section 218 Agreement for FICA purposes?

Is the employee a member of a Public Retirement System?

Yes

Has the employee been in continuous employment by the state or local government since before April 1, 1986?

No

Withhold Social Security and Medicare taxes for this employee.

No

Withhold Medicare tax for this employee.

Yes

Has the employer voluntarily elected Medicare-only coverage for all or some employees' positions under a Social Security Section 218 Agreement?

No

Do not withhold Medicare for this employee.

Yes

Yes
Paperwork Reduction Act Notice
We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us this information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: recordkeeping, 34 hr., 55 min., learning about the law or the form, 6 min. and preparing and sending the form to IRS, 40 min. If you have comments concerning the accuracy of these time estimates or suggestions for making this form more simple, we would be happy to hear from you. You can write to both the Internal Revenue Service, Attention: Reports Clearance Officer, T:FP, Washington, DC 20224; and the Office of Management and Budget, Paperwork Reduction Project (1545-0004), Washington, DC 20503. DO NOT send the tax form to either of these offices. Instead, see General Information for where to file.

Purpose
Employers and workers file Form SS-8 to get a determination as to whether a worker is an employee for purposes of Federal employment taxes and income tax withholding.

Name of firm (or person) for whom the worker performed services

Name of worker

Address of firm (include street address, apt. or suite no., city, state, and ZIP code)

Address of worker (include street address, apt. or suite no., city, state, and ZIP code)

Trade name

Trade name

Telephone number (include area code)

Telephone number (include area code)

Check type of firm for which the work relationship is in question:

Individual

Partnership

Corporation

Other (specify)

Important Information Needed to Process Your Request

This form is being completed by:  ☐ Firm  ☐ Worker

If this form is being completed by the worker, the IRS must have your permission to disclose your name to the firm.

Do you object to disclosing your name and the information on this form to the firm?  ☐ Yes  ☐ No

If you answer "Yes," the IRS cannot act on your request. DO NOT complete the rest of this form unless the IRS asks for it.

Under section 6110 of the Internal Revenue Code, the information on this form and related file documents will be open to the public if any ruling or determination is made. However, names, addresses, and taxpayer identification numbers must be removed before the information can be made public.

Is there any other information you want removed?  ☐ Yes  ☐ No

If you check "Yes," we cannot process your request unless you submit a copy of this form and copies of all supporting documents showing, in brackets, the information you want removed. Attach a separate statement telling which specific exemption of section 6110(c) applies to each bracketed part.

This form is designed to cover many work activities, so some of the questions may not apply to you. You must answer ALL items or mark them "Unknown" or "Does not apply." If you need more space, attach another sheet.

Total number of workers in this class. (Attach names and addresses. If more than 10 workers, attach only 10.)  

This information is about services performed by the worker from  (month, day, year)  to  (month, day, year)

The worker still performing services for the firm?  ☐ Yes  ☐ No

If "No," what was the date of termination?  (month, day, year)

Cat. No. 16106T
1a Describe the firm's business
   b Describe the work done by the worker

2a If the work is done under a written agreement between the firm and the worker, attach a copy.
   b If the agreement is not in writing, describe the terms and conditions of the work arrangement
   c If the actual working arrangement differs in any way from the agreement, explain the differences and why they occur

3a Is the worker given training by the firm? □ Yes □ No
   If "Yes": What kind?
   How often?
   b Is the worker given instructions in the way the work is to be done (exclusive of actual training in 3a)? □ Yes □ No
   If "Yes," give specific examples.
   c Attach samples of any written instructions or procedures.
   d Does the firm have the right to change the methods used by the worker or direct that person on how to do the work? □ Yes □ No
   Explain your answer

4a The firm engages the worker:
   □ To perform and complete a particular job only
   □ To work at a job for an indefinite period of time
   □ Other (explain)
   b Is the worker required to follow a routine or a schedule established by the firm? □ Yes □ No
   If "Yes," what is the routine or schedule?
   □ Yes □ No

   c Does the worker report to the firm or its representative? □ Yes □ No
   If "Yes": How often?
   For what purpose?
   In what manner (in person, in writing, by telephone, etc.)?
   Attach copies of report forms used in reporting to the firm.
   d Does the worker furnish a time record to the firm? □ Yes □ No
   If "Yes," attach copies of time records.

5a State the kind and value of tools, equipment, supplies, and materials furnished by:
   The firm
   The worker
   □ Yes □ No

   b What expenses are incurred by the worker in the performance of services for the firm?
   □ Yes □ No

   c Does the firm reimburse the worker for any expenses? □ Yes □ No
   If "Yes," specify the reimbursed expenses

6a Will the worker perform the services personally? □ Yes □ No
   b Does the worker have helpers? □ Yes □ No
   If "Yes": Who hires the helpers? □ Firm □ Worker
   If hired by the worker, is the firm's approval necessary?
   Who pays the helpers? □ Firm □ Worker
   Are social security and Medicare taxes and Federal income tax withheld from the helpers' wages? □ Yes □ No
   If "Yes": Who reports and pays these taxes? □ Firm □ Worker
   Who reports the helpers' incomes to the Internal Revenue Service? □ Firm □ Worker
   If the worker pays the helpers, does the firm repay the worker? □ Yes □ No
   What services do the helpers perform?
7. At what location are the services performed?  
   - Firm's  
   - Worker's  
   - Other (specify)

8a. Type of pay worker receives:  
   - Salary  
   - Commission  
   - Hourly wage  
   - Piecework  
   - Lump sum  
   - Other (specify)

   - Yes  
   - No

   Does the firm guarantee a minimum amount of pay to the worker?  
   - Yes  
   - No

   Does the firm allow the worker a drawing account or advances against pay?  
   - Yes  
   - No

   If "Yes": Is the worker paid such advances on a regular basis?  
   - Yes  
   - No

   How does the worker repay such advances?  
   - Yes  
   - No

9a. Is the worker eligible for a pension, bonus, paid vacations, sick pay, etc.?  
   - Yes  
   - No

   Does the firm carry workmen's compensation insurance on the worker?  
   - Yes  
   - No

   Does the firm deduct social security and Medicare taxes from amounts paid the worker?  
   - Yes  
   - No

   Does the firm deduct Federal income taxes from amounts paid the worker?  
   - Yes  
   - No

   How does the firm report the worker's income to the Internal Revenue Service?  
   - Yes  
   - No

   Attach a copy.

10a. Approximately how many hours a day does the worker perform services for the firm?  
   - Yes  
   - No

   Does the firm set hours of work for the worker?  
   - Yes  
   - No

   If "Yes," what are the worker's set hours?  
   - Yes  
   - No

   a. am/pm to  
   - Yes  
   - No

   (Circle whether am or pm)

   b. Does the worker perform similar services for others?  
   - Yes  
   - No

   If "Yes": Are these services performed on a daily basis for other firms?  
   - Yes  
   - No

   Percentage of time spent in performing these services for:  
   - This firm  
   - Other firms  
   - %  

   Does the firm have priority on the worker's time?  
   - Yes  
   - No

   If "No," explain  
   - Yes  
   - No

   c. Is the worker prohibited from competing with the firm either while performing services or during any later period?  
   - Yes  
   - No

   If "No," explain  
   - Yes  
   - No

11a. Can the firm discharge the worker at any time without incurring a liability?  
   - Yes  
   - No

   Can the worker terminate the services at any time without incurring a liability?  
   - Yes  
   - No

   If "No," explain  
   - Yes  
   - No

12a. Does the worker perform services for the firm under:  
   - The firm's business name  
   - The worker's own business name  
   - Other (specify)

   If "Yes," specify  
   - Yes  
   - No

   b. Does the worker advertise or maintain a business listing in the telephone directory, a trade journal, etc.?  
   - Yes  
   - No

   If "Yes," specify  
   - Yes  
   - No

   c. Does the worker represent himself or herself to the public as being in business to perform the same or similar services?  
   - Yes  
   - No

   If "Yes," how?  
   - Yes  
   - No

   d. Does the worker have his or her own shop or office?  
   - Yes  
   - No

   If "Yes," where?  
   - Yes  
   - No

   e. Does the firm represent the worker as an employee of the firm to its customers?  
   - Yes  
   - No

   If "No," how is the worker represented?  
   - Yes  
   - No

   f. How did the firm learn of the worker's services?  
   - Yes  
   - No

13. Is a license necessary for the work?  
   - Yes  
   - No

   If "Yes," what kind of license is required?  
   - Yes  
   - No

   By whom is it issued?  
   - Yes  
   - No

   By whom is the license fee paid?  
   - Yes  
   - No

14. Does the worker have a financial investment in a business related to the services performed?  
   - Yes  
   - No

   If "Yes," specify and give amounts of the investment  
   - Yes  
   - No

15. Can the worker incur a loss in the performance of the service for the firm?  
   - Yes  
   - No

   If "Yes," how?  
   - Yes  
   - No

16a. Has any other government agency ruled on the status of the firm's workers?  
   - Yes  
   - No

   If "Yes," attach a copy of the ruling.

   Is the same issue being considered by any IRS office in connection with the audit of the worker's tax return or the firm's tax return, or has it recently been considered?  
   - Yes  
   - No

   If "Yes," for which year(s)?  
   - Yes  
   - No
17. Does the worker assemble or process a product at home or away from the firm's place of business?  
   If "Yes":  
   Who furnishes materials or goods used by the worker?  □ Firm  □ Worker  
   Is the worker furnished a pattern or given instructions to follow in making the product?  □ Yes □ No  
   Is the worker required to return the finished product to the firm or to someone designated by the firm?  □ Yes □ No  

Answer items 18a through n only if the worker is a salesperson or provides a service directly to customers.

18a. Are leads to prospective customers furnished by the firm?  □ Yes □ No □ Does not apply  
   b. Is the worker required to pursue or report on leads?  □ Yes □ No □ Does not apply  
   c. Is the worker required to adhere to prices, terms, and conditions of sale established by the firm?  □ Yes □ No  
   d. Are orders submitted to and subject to approval by the firm?  □ Yes □ No  
   e. Is the worker expected to attend sales meetings?  □ Yes □ No  
   f. Does the firm assign a specific territory to the worker?  □ Yes □ No □ Does not apply  
   g. Who does the customer pay?  □ Firm  □ Worker  
   h. Does the worker sell a consumer product in a home or establishment other than a permanent retail establishment?  □ Yes □ No  
   i. List the products and/or services distributed by the worker, such as meat, vegetables, fruit, bakery products, beverages (other than milk), or laundry or dry cleaning services. If more than one type of product and/or service is distributed, specify the principal one.  
   j. Did the firm or another person assign the route or territory and a list of customers to the worker?  □ Yes □ No  
   k. Did the worker pay the firm or person for the privilege of serving customers on the route or in the territory?  □ Yes □ No  
   l. What factors were considered in determining the value of the route or territory?  
   m. How are new customers obtained by the worker? Explain fully, showing whether the new customers called the firm for service, were solicited by the worker, or both.  
   n. Does the worker sell life insurance?  □ Yes □ No  
   o. Is the selling of life insurance or annuity contracts for the firm the worker's entire business activity?  □ Yes □ No  
   p. If "No," list the other business activities and the amount of time spent on them.  
   q. Does the worker sell other types of insurance for the firm?  □ Yes □ No  
   r. If "Yes," state the percentage of the worker's total working time spent in selling other types of insurance.  
   s. At the time the contract was entered into between the firm and the worker, was it their intention that the worker sell life insurance for the firm:  □ on a full-time basis □ on a part-time basis  
   t. State the manner in which the intention was expressed.  
   u. Is the worker a traveling or city salesperson?  □ Yes □ No  
   v. If "Yes": From whom does worker principally solicit orders for the firm?  
   w. If the worker solicits orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments, specify the percentage of the worker's time spent in this solicitation.  
   x. Is the merchandise purchased by the customers for resale or for use in their business operations? If used by the customers in their business operations, describe the merchandise and state whether it is equipment installed on their premises or a consumable supply.  

19. Attach a detailed explanation of any other reason why you believe the worker is an independent contractor or is an employee of the firm.

Under penalties of perjury, I declare that I have examined this request, including accompanying documents, and to the best of my knowledge and belief, the facts presented are true, correct, and complete.

Signature ▶ Title ▶ Date ▶

If this form is used by the firm in requesting a written determination, the form must be signed by an officer or member of the firm.  
If this form is used by the worker in requesting a written determination, the form must be signed by the worker. If the worker wants a written determination about services performed for two or more firms, a separate form must be completed and signed for each firm.  

Additional copies of this form may be obtained from any Internal Revenue Service office or by calling 1-800-TAX-FORM (1-800-829-3676).  

# PAID TIME OFF

1997

**EMPLOYEE**  JOHN JONES

<table>
<thead>
<tr>
<th>Description</th>
<th>Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>Holidays</td>
<td>12</td>
</tr>
<tr>
<td>Vacation</td>
<td>15</td>
</tr>
<tr>
<td>Personal Days</td>
<td>3</td>
</tr>
<tr>
<td>Sick Days</td>
<td>12</td>
</tr>
</tbody>
</table>

**TOTAL DAYS OFF WITH PAY**  42

(8 & 2/5 weeks)

In addition, employees may have three (3) Funeral Days off with pay.

The Employer provides a sick and accident policy that pays employees two-thirds of their wages for six (6) months starting the first (1st) day of injury or the eighth (8th) day of illness.
# WAGES AND FRINGE BENEFIT SUMMARY

**Name of Employee:** JOHN JONES  
**Date Hired:** 2/8/84

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Wages (1997 wages)</td>
<td>$30,000.00</td>
</tr>
<tr>
<td>Overtime</td>
<td>800.00</td>
</tr>
<tr>
<td>Longevity</td>
<td>1,000.00</td>
</tr>
<tr>
<td><strong>Total Wages</strong></td>
<td><strong>$31,800.00</strong></td>
</tr>
<tr>
<td>1997 Dental-Health Insurance Cost</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>1997 Life-Disability Insurance Cost</td>
<td>100.00</td>
</tr>
<tr>
<td>Uniforms &amp; Cleaning Allowance</td>
<td>500.00</td>
</tr>
<tr>
<td>1997 Contribution to FICA (7.65%)</td>
<td>2,432.70</td>
</tr>
<tr>
<td>Sickness and Accident Insurance</td>
<td>250.00</td>
</tr>
<tr>
<td>Workers' Compensation</td>
<td>160.00</td>
</tr>
<tr>
<td>*Sick Hours Value</td>
<td>1,000.00</td>
</tr>
<tr>
<td>*Vacation Hours Value</td>
<td>1,300.00</td>
</tr>
<tr>
<td>*12 Holidays Value</td>
<td>1,200.00</td>
</tr>
<tr>
<td>1997 Contribution to Retirement (10%)</td>
<td>3,180.00</td>
</tr>
<tr>
<td><strong>Total Benefit Cost</strong></td>
<td><strong>$11,622.70</strong></td>
</tr>
<tr>
<td><strong>TOTAL WAGES AND BENEFIT COST</strong></td>
<td><strong>$46,922.70</strong></td>
</tr>
</tbody>
</table>

* Sick Hours Value, Vacation Hours Value and Holidays Value not included in Benefit Total, included in Total Wages.
BLUE CROSS/BLUE SHIELD RATES

For Years 1992 through 1996

**SINGLE**

<table>
<thead>
<tr>
<th>Year</th>
<th>Monthly</th>
<th>Annual</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992</td>
<td>$ 79.87</td>
<td>$ 958.44</td>
</tr>
<tr>
<td>1993</td>
<td>98.46</td>
<td>1,181.52</td>
</tr>
<tr>
<td>1994</td>
<td>125.44</td>
<td>1,505.28</td>
</tr>
<tr>
<td>1995</td>
<td>132.34</td>
<td>1,588.08</td>
</tr>
<tr>
<td>1996</td>
<td>160.87</td>
<td>1,930.44</td>
</tr>
</tbody>
</table>

From 1992 to 1996, the total dollar increase for single coverage was $972.00 or 101.41%.

**DOUBLE**

<table>
<thead>
<tr>
<th>Year</th>
<th>Monthly</th>
<th>Annual</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992</td>
<td>$178.48</td>
<td>$2,141.76</td>
</tr>
<tr>
<td>1993</td>
<td>219.16</td>
<td>2,629.92</td>
</tr>
<tr>
<td>1994</td>
<td>278.80</td>
<td>3,345.60</td>
</tr>
<tr>
<td>1995</td>
<td>294.10</td>
<td>3,529.20</td>
</tr>
<tr>
<td>1996</td>
<td>350.49</td>
<td>4,205.88</td>
</tr>
</tbody>
</table>

From 1992 to 1996, the total dollar increase for double coverage was $2,064.12 or 96.37%.

**FAMILY**

<table>
<thead>
<tr>
<th>Year</th>
<th>Monthly</th>
<th>Annual</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992</td>
<td>$189.10</td>
<td>$2,269.20</td>
</tr>
<tr>
<td>1993</td>
<td>232.41</td>
<td>2,788.92</td>
</tr>
<tr>
<td>1994</td>
<td>294.12</td>
<td>3,529.44</td>
</tr>
<tr>
<td>1995</td>
<td>309.96</td>
<td>3,719.52</td>
</tr>
<tr>
<td>1996</td>
<td>357.63</td>
<td>4,291.56</td>
</tr>
</tbody>
</table>

From 1992 to 1996, the total dollar increase for family coverage was $2,022.36 or 89.12%.
## AGES OF EMPLOYEES

<table>
<thead>
<tr>
<th>Age Range</th>
<th>AFSCME</th>
<th>Others</th>
<th>Management</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 – 25</td>
<td>1</td>
<td>1</td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>26 – 30</td>
<td>2</td>
<td></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>31 – 35</td>
<td>7</td>
<td>1</td>
<td></td>
<td>8</td>
</tr>
<tr>
<td>36 – 40</td>
<td>7</td>
<td></td>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td>41 – 45</td>
<td>6</td>
<td></td>
<td>5</td>
<td>11</td>
</tr>
<tr>
<td>46 – 50</td>
<td>9</td>
<td>1</td>
<td>1</td>
<td>11</td>
</tr>
<tr>
<td>51 – 55</td>
<td>5</td>
<td></td>
<td>1</td>
<td>6</td>
</tr>
<tr>
<td>56 – 60</td>
<td>2</td>
<td></td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>61 – 65</td>
<td>1</td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>65 +</td>
<td>1</td>
<td>1</td>
<td></td>
<td>2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>41</strong></td>
<td><strong>4</strong></td>
<td></td>
<td><strong>9</strong></td>
</tr>
</tbody>
</table>
Federal-State Reference Guide

In Conjunction With

For Social Security Coverage And FICA Reporting
By State/Local Government Employers

A Federal-State Cooperative Publication

July 1995
Introduction
Introduction

Social Security and Medicare (Hospital Insurance/HI) coverage and tax/withholding requirements for state and local government employees are unique. The Social Security and hospital insurance coverage required of public employers, therefore, vary from those of private employers due to the historical development of the law, especially the United States Social Security Act.

Historical Overview — State And Local Social Security

When initially enacted in 1935, the Social Security Act did not include public employees as eligible for Social Security because of the Constitutional question regarding the power of the federal government to tax state and local governments. Because many government employers did not have their own retirement systems, in 1950 the United States Congress amended the Social Security Act to allow states to voluntarily enter into agreements with the Social Security Administration (SSA), on behalf of the Department of Health and Human Services. This permitted state and local public employers to offer Social Security coverage to their employees, if the employers desired. These agreements are often called “Section 218 Agreements” because they are authorized by Section 218 of the Social Security Act. Social Security coverage was not mandated by the federal government at that time.

Subsequently, significant legal and political changes occurred which eventually resulted in mandatory Medicare coverage for some public employees (all newly hired state and local public employees, effective April 1, 1986); and resulted in mandatory Social Security and Medicare coverage for virtually all state and local public employees since July 2, 1991, who are not covered by a public retirement system, or are not already covered under a Section 218 Agreement.

Note: Prior to 1987, the Social Security taxes were referred to as Social Security contributions. After 1986, because of legislation, Social Security taxes are commonly referred to as FICA taxes.

Key Dates. Significant dates associated with state and local coverage are:

1. 1951. States could first elect Social Security coverage, voluntarily, for their public employees not covered under a retirement system, by entering into a Federal-State Agreement/Modification with the SSA through their State Social Security Administrator. (§ 2.1954) Beginning in 1955, employees under a retirement system could also be covered (Retirement System Coverage Groups) under both Social Security and the public retirement system.

2. April 20, 1983. Public employers under a Section 218 Agreement could opt out of Social Security coverage prior to this date either with respect to any coverage group or in its entirety. Since April 20, 1983, any public employer that entered into a Section 218 Agreement must continue under Social Security even if another qualifying retirement plan becomes available (unless the entity is legally dissolved).

3. April 1, 1986. Any public employee who was not in "continuous employment" since March 31, 1986, with their employer and was not covered by Social Security became subject to mandatory Medicare-only coverage unless specifically excluded by law. All employees covered by Social Security are covered by Medicare.

4. January 1, 1987. State Social Security Administrators were no longer responsible for collecting Social Security contributions from public employers in their states and no longer had liability for paying amounts over to the U.S. government. Since that date, public employers pay FICA taxes directly to the Internal Revenue Service (IRS). The FICA taxes include the Social Security and Medicare taxes imposed on employers and employees. Previously, SSA had been responsible for ensuring that each state paid the correct amount of Social Security contributions for all employees covered by its Section 218 Agreement. Additionally, State Social Security Administrators were responsible for ensuring that state/local government employers filed timely and accurate returns, and that the proper amounts of Social Security taxes were paid over.

5. July 2, 1991. All state or local government employees who are not (1) covered by a public retirement system, or (2) covered under a section 218 Agreement/Modification are subject to mandatory Social Security unless specifically excluded.

Introduction

31, 1995), this Act modifies the existing optional exclusions from Social Security coverage to apply to election workers with annual earnings of up to $1,000; and it modifies the existing optional Social Security coverage for police and firefighters that was available only in 24 states to apply to police and firefighters in all states.

Public Versus Private Employers' FICA Responsibilities

Since the early 1980's significant changes have been made to several major federal laws, including the Social Security Act and Internal Revenue Code (IRC), especially as they relate to state and local government employers. At the same time, the roles and responsibilities of the federal government (SSA and IRS) and state governments (as State Administrators of Social Security programs) have changed, but have not been concisely redefined.

Social Security coverage of state and local employees involves a complex set of laws and regulations that provide exceptions for unique coverage and tax/withholding requirements that do not apply to private employers. In addition, the legal responsibilities of state and local public employers have changed over the years, especially since 1983, so a public employees' status may not be the same now as it was in 1981, 1986, 1990, and so forth.

Important Considerations

♦ Do not assume you know the entity's FICA status (Section 218/Non-218), and, therefore, whether they are in compliance with all applicable laws or not, merely because you know the status of a similar entity either in the same or a different state.

♦ Regarding Section 218 Agreements:

1. When the state entered into a Section 218 Agreement or Modification to elect voluntary Social Security coverage for the particular political subdivision, what optional exclusions, and what "coverage groups" were listed in that agreement/modification?

2. Did the state or political subdivision opt out of Social Security voluntary coverage, in its entirety or with respect to any coverage group(s), before April 20, 1983?

♦ Outside Section 218 arrangements (Public Retirement Systems):

1. Does the state or political subdivision have a qualifying pension plan as defined by the IRC and Internal Revenue Regulations, which excludes the coverage group from mandatory Social Security coverage (effective for public employers July 2, 1991)?

   Note: 'This is to be distinguished from a "qualified pension plan." (See IRC section 3121(b)(7)(F) and the underlying Federal Employment Tax Regulations.)

2. Does the state or political subdivision have any employees who have been in "continuous employment" since March 31, 1986, who are exempt from contributing to mandatory Medicare?

   Note: State and political subdivisions collected and paid Social Security contributions directly to the Social Security Administration before December 31, 1986. State Social Security Administrators were responsible for ensuring timely payments were made. Since January 1, 1987, each state and local government employer is responsible for timely filing tax returns and paying FICA directly to the IRS.
Social Security Coverage
Social Security Coverage

Are the services covered by a Section 218 Agreement?

- YES
  - Social Security and Medicare should be withheld.

- NO
  - Are the services covered by a public retirement system?
    - NO
      - Were the services excluded from coverage under the voluntary agreement or under mandatory Social Security?
        - YES
          - FICA taxes should not be withheld— withholding Medicare—only if hired after March 31, 1986.
        - NO
    - YES
The information in this chapter is about Social Security coverage for state and local government employees and how it is obtained. Contact your State Social Security Administrator with any questions.

**General Coverage Rules**

*Federal Insurance Contributions Act (FICA) coverage (Social Security and/or Medicare) for employees of state and local governments can be determined three different ways:

1. States and their political subdivisions may extend full Social Security coverage to their employees through voluntary agreements with the SSA. The agreements are commonly referred to as "Section 218 Agreements."

2. State and local government employees who are not covered for FICA under a Section 218 Agreement and who were hired after March 31, 1986, are subject to mandatory Medicare-only coverage.

3. Effective for services performed after July 1, 1991, most state and local government employees who are not covered under a Section 218 Social Security Agreement or by a public employer's retirement system are covered by mandatory FICA.

**History**

*State And Local Social Security*

Prior to 1951, Social Security was not available to employees of states and their political subdivisions, i.e., "governmental/state entities," even on a voluntary basis. There was a Constitutional question regarding the power of the federal government to tax state and local governments. In January 1951, as a result of legislation enacted by Congress, it became possible to provide Social Security coverage to employees of a state or state political subdivision by means of an agreement between the federal government and the state as described in Section 218 of the *Social Security Act*. At first, only the services of employees whose positions were not covered by a public retirement system could be covered under Section 218 Agreement.

As a result of further legislation, beginning in 1955, services of employees in public retirement system positions could be covered. Under retirement system coverage, the employees had the option to decide, through an election (referendum), whether or not they wanted to be covered by Social Security. If at that time they voted to be covered by Social Security, they could be brought under coverage by means of a Section 218 Agreement. From that time on, any services performed by an employee of such an entity, not otherwise excluded, would be covered for Social Security (and Medicare taxes once it became available). The state was responsible for paying Social Security contributions which were the equivalent of the employer's and employee's share of FICA taxes.

**Agreement Termination**

Prior to April 20, 1983, state and local government employers could opt out of their Section 218 Agreements. On or after April 20, 1983, agreements could no longer be terminated.
Public Retirement Systems
Definition of Retirement System

According to data from the Employee Benefits Supplement to the May 1988 Current Population Survey (CPS), of the 12 million full-time state and local public employees, 10.2 million, or 85 percent, are covered by a pension plan. Coverage rates are the same for both state and local government employees.

In general, for purposes of mandatory Social Security coverage (but not Section 218 coverage), a pension, annuity, retirement or similar fund or system is not a retirement system with respect to an employee unless it provides a retirement benefit to the employee that is comparable to the benefit provided under the Old-Age portion of the Old-Age, Survivor and Disability Insurance (OASDI) programs of Social Security. Whether a retirement system meets this requirement is usually determined under the safe harbor benefit formulas established by Revenue Procedure 91-40 and the IRS regulations.

Whether service in the employ of a state or locality is excluded from mandatory Social Security coverage is determined based on membership in the state's or locality's retirement system. A retirement system includes any pension, annuity, retirement, or similar fund or system, that is maintained by a state, political subdivision, or instrumentality thereof to provide retirement benefits to its employees who are participants. Whether a plan is maintained to provide retirement benefits with respect to an employee is determined under the facts and circumstances of each case. For example, a plan providing only retiree health insurance or other deferred welfare benefits is not considered a retirement system. Nor is the Social Security system a retirement system.

Example: Under an employment arrangement, a portion of an employee's compensation is regularly deferred for five years. Because a plan that defers the receipt of compensation for a short span of time rather than until retirement is not a plan that provides retirement benefits, this arrangement is not a retirement system. 26 C.F.R. §31.3121(b)(7)-2(e)(1).

Example: An individual holds two positions with the same political subdivision. The wages earned in one position are subject to FICA tax pursuant to a Section 218 Agreement. Because the Social Security System is not a retirement system, the exception from Social Security coverage does not apply to service in the other position unless the employee is otherwise a member of a retirement system of such political subdivision. 26 C.F.R. §31.3121(b)(7)-2(e)(1).

Types of Qualifying Retirement Systems

Background

IRS determines what constitutes a retirement system for purposes of mandatory coverage, and what constitutes membership in such a retirement system. In general, the IRS addresses two concepts of retirement systems—the defined benefit system and the defined contribution system. Each of these systems is based on a type of retirement plan—a defined benefit plan or a defined contribution plan.

Retirement systems must provide a minimum benefit. Generally, any retirement system that satisfies the minimum benefit requirement is treated as a retirement system. "Qualified" status is irrelevant. The employee may be a member of any type of retirement system, including a non-qualified system (e.g., a so-called section 457 plan), as long as the employee earns at least a minimum benefit under that system. The specifications of the
Washington, D.C., November 20, 1995

Public Retirement Systems

minimum benefit requirement are contained in the regulations and in Revenue Procedure 91-40.

Defined Benefit Plans

A defined benefit plan generally is a plan established and maintained by an employer primarily to provide systematically for the payment of definitely determinable benefits to the employer’s employees over a period of years, usually for life, after retirement. Retirement benefits under a defined plan are measured by and based on various factors such as years of service rendered by the employee, compensation earned by the employee and the age of the employee at retirement.

Defined Benefit System

A defined benefit retirement system is a pension, annuity, retirement or similar fund maintained by the state or political subdivision that provides a retirement benefit to the employee that is comparable to the benefit provided under the Old-Age portion of the Old-Age, Survivor and Disability Insurance programs of Social Security. This determination can be made by applying the safe harbors in Revenue Procedure 91-40 and the IRS regulations to the retirement system’s benefits.

The Revenue Procedure 91-40 contains several safe harbor benefit formulas that may be used to determine if a defined benefit system meets the minimum benefit requirement. For example, a plan generally meets the requirement if the benefit under the system is at least 1.5 percent of average compensation during an employee’s last three years of employment, multiplied by her/his years of service.

Defined Contribution Plans

A defined contribution plan is a plan that provides for an individual account for each participant and for benefits based solely on the amount contributed to the participant’s account, and any income, expenses, gains and losses.

Defined Contribution Retirement System

A defined contribution retirement system (§401(a), 403(b) or 457 plans, for example) is also a state or political subdivision maintained pension, annuity, retirement or similar fund which must receive an allocation to the employee’s account of at least 7.5 percent of the employee’s compensation for services during the period. Combinations of employer and employee contributions may be used to arrive at the 7.5 percent, however, the 7.5 percent cannot include any earnings on the account. Matching contributions by the employer may be taken into account for this purpose. A plan consisting of employee only contributions (provided they are at least 7.5 percent of compensation) would also satisfy the minimum benefit requirement.

In order to be a qualifying defined contribution retirement system, the employee’s account must be credited with a reasonable interest rate or it must be held in a separate trust subject to fiduciary standards and credited with actual earnings. Further, the definition of compensation must generally be no less inclusive than the definition of the employee’s base pay.

Definition of Compensation

The definition of compensation used in determining whether a defined contribution retirement system meets the minimum retirement benefit requirement must generally be no less inclusive than the definition of the employee’s base pay as designated by the employer.
or the retirement system, provided such designation is reasonable under all the facts and circumstances. Thus, for example, a defined contribution retirement system will not fail to meet this requirement merely because it disregards for a purpose one or more of the following: overtime pay, bonuses, or single-sum amounts received on account of death or separation from service under a bona fide vacation, compensatory time or sick pay plan, or under severance pay plans. Any compensation in excess of the Social Security contribution wage base may also be disregarded.

**Example:** A political subdivision maintains an elective defined contribution plan that is a retirement system within the meaning of IRS regulations. The plan has a calendar year plan. In 1995, an employee contributes to the plan at a rate of 7.5 percent of base pay. Assume that the employee will reach the Social Security maximum contribution wage base in October 1995. The employee is a qualified participant in the plan for all of the 1995 plan year without regard to whether the employee ceases to participate at any time after reaching the maximum contribution base. 26 C.F.R. §31.3121(b)(7)-(e)(2)(iii)(B).

**Reasonable Interest Rate Requirement**

A defined contribution retirement system does not satisfy the minimum level of benefits requirement with respect to an employee unless the employee's account is credited with earnings at a rate that is reasonable under all the facts and circumstances, or employees' accounts are held in a separate trust that is subject to general fiduciary standards and are credited with actual earnings on the trust fund. Whether the interest rate with which an employee's account is credited is reasonable is determined after reducing the rate to adjust for the payment of any administrative expenses.

**Definition of Qualified Participant**

**Defined Benefit Systems**

For the purposes of excluding service in the employ of a state or locality from mandatory Social Security coverage, based on membership in the state or locality's retirement system, whether an employee is a qualified participant in a defined benefit retirement system is determined as services are performed. An employee is a qualified participant in a defined benefit retirement system with respect to services performed on a given day if, on that day, the employee is or ever has been an actual participant in the retirement system and, on that day, the employee actually has a total accrued benefit under the retirement system that meets the minimum retirement benefit requirement. An employee may not be treated as an actual participant or as actually having an accrued benefit for this purpose to the extent that such participation or benefit is subject to any conditions (other than vesting) that have not been satisfied, such as a requirement that the employee attain a minimum age, perform a minimum period of service, make an election in order to participate, or be present at the end of the plan year in order to be credited with an accrual.

**Example:** Where a state maintains a defined benefit plan that is a retirement system within the meaning of IRS regulations, and under the terms of the plan, employees in positions covered by the plan must complete six months of service before becoming participants, the exception from Social Security coverage does not apply to services of an employee during the employee's six months of service prior to her/his initial entry into the plan. The same result occurs even if, upon the satisfaction of this service requirement, the employee is given credit under
the plan for all service with the employer (i.e., if service is credited for the six-month waiting period). This is true even if the employee makes a required contribution in order to gain the retroactive credit. The same result also occurs if the employee can elect to participate in the plan before the end of the six-month waiting period, but does not elect to do so. 26 C.F.R. §31.3121(b)(7)-2(d)(1)(i).

Example: Where a political subdivision maintains a defined benefit plan that is a retirement system within the meaning of IRS regulations, and under the terms of the plan, service during a plan year is not credited for accrual purposes unless a participant has at least 1,000 hours of service during the year, benefits that accrue only upon satisfaction of this 1,000-hour requirement may not be taken into account in determining whether an employee is a qualified participant in the plan before the six-month requirement is satisfied. 26 C.F.R. §31.3121(b)(7)-2(d)(1)(ii).

Defined Contribution Systems

For the purpose of excluding service in the employ of a state or locality from Social Security coverage, based on membership in the state of locality's retirement system, whether an employee is a qualified participant in a defined contribution retirement system is determined as services are performed. An employee is a qualified participant in a defined contribution or other individual account retirement system with respect to services performed on a given day if, on that day, she/he has satisfied all conditions (other than vesting) for receiving an allocation to her/his account (exclusive of earnings) that meets the minimum retirement benefit requirement with respect to compensation during any period ending on that day, and beginning on or after the beginning of the plan year of the retirement system. This is the case regardless of whether the allocations were made or accrued before the effective date of 26 USCS §3121(b)(7)(F).

Example: Where a state-owned hospital maintains a nonelective defined contribution plan that is a retirement system within the meaning of IRS regulations, and under the terms of the plan, employees must be employed on the last day of a plan year in order to receive any allocation for the year, employees may not be treated as qualified participants in the plan before the last day of the year. However, assuming the same facts, except that, under the terms of the plan, an employee who terminates service before the end of a plan year receives a pro rata portion of the allocation she/he would have received at the end of the year, e.g., based on compensation earned since the beginning of the plan year, if the pro rata allocation available on a given day would meet the minimum retirement benefit requirement with respect to compensation from the beginning of the plan year through that day (or some later day), employees are treated as qualified participants in the plan on the day. 26 C.F.R. §31.3121(b)(7)-2(d)(1)(ii).

Example: A political subdivision maintains an elective defined contribution plan that is a retirement system within the meaning of IRS regulations. The plan has a calendar year plan year and two open seasons—in December and June—when employees can change their contribution elections. In December, an employee elects not to contribute to the plan. In June, the employee elects (beginning July 1) to contribute a uniform percentage of compensation for each pay period to the plan for the remainder of the plan year. The employee is not a qualified participant in the plan during the period January-June, because no allocations are made to the employee's account with respect to compensation during that time, and it is not certain at that time that any allocations will be made. If
Special rules apply to part-time, seasonal and temporary employees. In general, the benefits of these employees under the public employer's retirement system must be fully vested (i.e., may not be forfeitable). The special vesting requirement is considered to be met if the part-time, seasonal or temporary employee has the right to receive, by reason of separating from employment, a payment of at least 7.5 percent of compensation earned (plus interest) while covered under the retirement system.

**Note:** Under a special transition rule, in general, beginning after July 1, 1991, and ending on the last day of the plan year in 1992, the 7.5 percent amount is reduced to six percent. These requirements should not be confused with coverage groups under Section 218 Agreements.

**Part-Time Employee**

A part-time employee is any employee who normally works 20 hours or less per week. A teacher employed by a post-secondary educational institution (e.g., a community or junior college, post-secondary vocational school, college, university or graduate school) is not considered a part-time employee if she/he normally has classroom hours of one-half or more of the number of classroom hours designated by the educational institution as constituting full-time employment, provided that such designation is reasonable under all the facts and circumstances. 26 C.F.R. §31.3121(b)(7)-2(d)(2)(iii).

**Example:** A community college treats a teacher as a full-time employee if the teacher is assigned to work 15 classroom hours per week. A new teacher is assigned to work eight classroom hours per week. Because the assigned classroom hours of the teacher are at least one-half of the school's definition of full-time teacher, the teacher is not a part-time employee. 26 C.F.R. §31.3121(b)(7)-2(d)(2)(iii).
Seasonal Employee

A seasonal employee is any employee who normally works on a full-time basis less than five months in a year. Thus, for example, individuals who are hired by a political subdivision during the tax return season in order to process incoming returns and work full-time over a three-month period are seasonal employees. 26 C.F.R. §31.3121(b)(7)-2(d)(2)(iii).

Temporary Employee

A temporary employee is any employee performing services under a contractual arrangement with the employer of two years or less duration that is not likely to be extended, e.g., a teacher under an annual contract who has a history of contract extensions is not a temporary employee. Possible contract extensions may be considered in determining the duration of a contractual arrangement, only if, under the facts and circumstances, there is a significant likelihood that the employee's contract will be extended. Future contract extensions are considered likely to occur for purposes of this rule if, on average, 80 percent of similarly situated employees (i.e., those in the same or a similar job classification with expiring employment contracts) have had bona fide offers to renew their contracts in the immediately preceding two academic or calendar years. In addition, future contract extensions are considered significantly likely to occur if the employee has a history of contract extensions with respect to her/his current position. An employee is not considered a temporary employee for purposes of this rule solely because she/he is included in a unit of employees covered by a collective bargaining agreement of two years or less duration. 26 C.F.R. §31.3121(b)(7)-2(d)(2)(iii)(C).

Individuals Employed In More Than One Position

If an employee is a member of a retirement system with respect to service she/he performs in one position in the employ of a state, or a political subdivision or instrumentality of a state, the employee is generally treated as a member of a retirement system with respect to all service performed for the same state, political subdivision, or instrumentality in any other position. A state is a separate entity from its political subdivisions, and an instrumentality is a separate entity from the state or political subdivision by which it is owned for purposes of this rule. 26 C.F.R. §31.3121(b)(7)-2(e)(2).

Example: An individual is employed full-time by a county and is a qualified participant in its retirement plan with regard to such employment. In addition to this full-time employment, the individual is employed part-time in another position with the same county. The part-time position is not covered by the county retirement plan, and neither the service nor the compensation in the part-time position is considered in determining the employee's retirement benefit under the county retirement plan. Nevertheless, if the retirement plan meets the requirements of IRS regulations with respect to the individual, the exclusion from employment under section 3121(b)(7) applies to both the employee's full-time and part-time service with the county.

Whether an employee is a member of a retirement system is determined on an entity-by-entity rather than a position-by-position basis. If an employee is a member of a retirement system with respect to service she/he performs in one position, the employee is generally treated as a member of a retirement system with respect to all service performed for the same state, political subdivision or instrumentality in any other positions. 26 C.F.R. §31.3121(b)(7)-2(e)(2).
Determining Benefits

Whether an employee is a part-time, seasonal or temporary employee with respect to allocations or benefits under a retirement system is generally determined based on service in the position in which the allocations or benefits were earned, and does not take into account service in other positions with the same or different states, political subdivisions or instrumentalities thereof. All of an employee’s service in other positions with the same or different states, political subdivisions or instrumentalities thereof may be taken into account for purposes of determining whether an employee is a part-time, seasonal or temporary employee with respect to benefits under the retirement system provided that:

- the employee’s service in the other positions is or was covered by the retirement system;
- all service aggregated for purposes of determining whether an employee is a part-time, seasonal or temporary employee (and related compensation) is aggregated under the system for all purposes in determining benefits (including vesting); and
- the employee is treated at least as favorably as a full-time employee under the retirement system for benefit accrual purposes.

Example: Assume that an employee works 15 hours per week for a county and 10 hours per week for a municipality and that both of these political subdivisions contribute to the same state-wide public employee retirement system. Assume further that the employee’s service in both positions is aggregated under the system for all purposes in determining benefits (including vesting). If the employee is covered under the retirement system with respect to both positions and is treated for benefits accrual purposes at least as favorably as full-time employees under the retirement system, then the employee is not considered a part-time employee of either the county or the municipality for purposes of the nonforfeitable benefit requirement of IRS regulations. 26 C.F.R. §31.3121(b)(7)-2(d)(2)(iii)(D).

Alternative Lookback Rule

This rule allows the employer to determine an employee’s eligibility status to participate in a retirement plan based on past work experience or reasonable expectations as to meeting eligibility requirements during the first year of employment. (26 C.F.R. §31.3121(b)(7)-2(d)(2)(ii)) In general, the rules regarding qualified participants apply equally to former participants who continue to perform service for the same state, political subdivision or instrumentality thereof or who return after a break in service. Thus, for example, a former employee of a political subdivision with a deferred benefit under a defined benefit retirement system maintained by the political subdivision who is reemployed by the political subdivision, but does not resume participation in the retirement system, may continue to be a qualified participant in the system after becoming reemployed.
if the individual’s total accrued benefit under the system meets the minimum retirement benefit requirement (taking into account all periods of service, including current service, required to be taken into account). 26 C.F.R. section 31.3121(b)(7-2(d)(3)(iii).

Treatment of Re-Hired Annuitants

A person is deemed to be a qualified participant in the retirement system without regard to whether the person continues to accrue a benefit or whether the distribution of benefits under the retirement system has been suspended pending cessation of services if:

- the person is a former participant in a retirement system maintained by a state, political subdivision or instrumentality thereof,
- the person has previously retired from service with the state, political subdivision or instrumentality, and
- the person is either in pay status (i.e., is currently receiving retirement benefits) under the retirement system or has reached normal retirement age under the retirement system.

This rule also applies in the case of an employee who has retired from service with another state, political subdivision or instrumentality thereof that maintains the same retirement system as the current employer, provided the employee is a former participant in the system by reason of the employee’s former employment. Thus, for example, if a teacher who retires from service with a school district that participated in a state-wide teachers’ retirement system begins to receive benefits from the system, and later becomes a substitute teacher in another school district that participates in the same state-wide system, the employee is treated as a re-hired annuitant. 26 C.F.R. 31.3121(b)(7-2(d)(4)(ii).

Questions

1. What does it mean to be a member of a retirement system?

A member must actually participate in the system. If an employee is eligible to participate and decides not to, that individual will be subject to FICA taxes. One exception is individuals who “drop-out” because they have reached the maximum benefit level and cannot accrue additional benefits.

A special “lookback rule” allows the employer to determine an employee’s eligibility status to participate in a retirement plan based on past work experience or reasonable expectations as to meeting eligibility requirements during the first year of employment. For example, a part-time, seasonal or temporary employee may be treated as a member of a retirement system for a calendar year if the employee was a member of the retirement system on the last day of the plan year ending in the previous calendar year.
2. **What is a retirement plan?**

The definition follows the Social Security Act's description found in 42 U.S.C. Sec. 418(b)(4). A retirement plan is "a pension, annuity, retirement, or similar fund or system established by a state or by a political subdivision thereof." The final regulations clearly state that section 457 plans qualify as a "retirement system." In addition, retirement plans (both defined benefit and defined contribution) must meet the tests described below.

<table>
<thead>
<tr>
<th>Final Salary Averaging Period</th>
<th>Average Compensation Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>36 months</td>
<td>1.50 percent</td>
</tr>
<tr>
<td>37-48 months</td>
<td>1.55 percent</td>
</tr>
<tr>
<td>49-60 months</td>
<td>1.60 percent</td>
</tr>
<tr>
<td>61-120 months</td>
<td>1.75 percent</td>
</tr>
<tr>
<td>Over 120 Months</td>
<td>2.00 percent</td>
</tr>
</tbody>
</table>

3. **What are the benefit levels for a safe harbor defined benefit (DB) system?**

The general rule is that the plan must offer a "meaningful" benefit—that is, a benefit comparable to Social Security's primary insurance amount. Safe harbor rules in the Revenue Procedure 91-40 set up minimum DB retirement benefit tests based on the plan's formula. For example, a retirement system that provides a benefit at age 65 that is equal to 1.5 percent of average compensation for each year of credited service for a consecutive 36-month period would satisfy the test. The final three years can be used instead of the three highest years. Periods greater than three years can be used with a corresponding increase in the 1.5 percent multiplier. The Revenue Procedure contains the following chart. If the system caps the amount of income that can be used to calculate retirement benefits to less than the FICA wage base or base pay, the safe harbor must be adjusted.

4. **What are the benefit levels for a safe harbor defined contribution (DC) system?**

To qualify, DC systems are required to allocate at least 7.5 percent of a worker's annual compensation into the employee's account. The contribution may be entirely made by either the employer or employer, or may include an combination of before- or after-tax contributions made by the employer and/or the employee. Benefits can be provided through section 457 plans, section 403(b) tax-sheltered annuities or other DC arrangements.

If the plan existed prior to the passage of OBRA '90 (November 5, 1990), it can satisfy the contribution test with a 6 percent rate instead of 7.5 percent during the transition period through the end of 1992.

5. **How are part-time, seasonal and temporary workers defined for the purposes of qualifying public retirement systems?**

A part-time employee works 20 hours or less per week. A seasonal employee works full-time but less than 5 months a year, and a temporary employee performs services under a contractual arrangement of two years or less. In the case of teachers above the high-school level, part-time is defined as less than one-half the classroom hours designated as full-time. Possible contract extensions may be considered in determining the duration of a contractual arrangement if there is a significant likelihood that the employee's contract will be extended. Future contract extensions are
considered likely if (1) on average 80 percent of similarly situated employees have had bona fide offers to renew their contracts in the immediately preceding two academic or calendar years, or (2) the contract history of a particular employee indicates that the employee is not a temporary employee.

6. Are there special vesting rules for part-time, seasonal and temporary workers?

Part-time, seasonal and temporary employees must be immediately and fully vested (100 percent) in any employer-sponsored retirement arrangement for it to satisfy the rules. The vesting requirement is met if an employee has a nonforfeitable right to receive a payment equal to 7.5 percent of the compensation he or she earned while participating in the system plus a reasonable rate of interest when he or she quits, retires or is terminated. The regulations point to an index for long-term federal debt instruments, the Applicable Federal Rate, as a reasonable interest rate.

Involuntary distributions to an employee when she/he terminates do not violate the vesting requirement, as long as the amount involved is $3,500 or less.

These special rules for part-time, seasonal and temporary workers apply if they participate in the employer's general retirement plan or under a separate plan for part-time, seasonal and temporary employees.

7. If a local government participates in a statewide retirement system, is the plan considered "established" by the employer?

Yes. Even though the plan is not maintained by the local government, it is offered through the employer and would qualify. Nevertheless, each local government is a separate employer.

8. Is there any waiting period in which FICA taxes do not have to be paid?

Yes. If a full-time employee can be enrolled in the plan by the first day of the second calendar month of service, FICA taxes do not have to be paid during this interim period. This rule does not apply to part-time, seasonal and temporary employees.

9. How do the rules apply to volunteer firefighters?

If a volunteer firefighter is paid a nominal amount for each fire responded to and has no other benefits of employment, mandatory coverage does not apply. These individuals fall under the exception for temporary hiring of employees in the event of a disaster. Reimbursements for expenses must be properly accounted for.
March 19, 1997

ATTORNEY-CLIENT PRIVILEGE

Mr. Dave LaLumia
Executive Director
Michigan Association of Community Mental Health Boards
319 West Lenawee Street
Lansing, Michigan 48933

Re: Michigan Community Mental Health Boards

Dear Mr. LaLumia:

This is in response to your request for an opinion addressing the limitations placed on community mental health authorities when investing funds.

Community mental health authorities, as legal entities separate from their establishing county or counties, must operate all facets of their mental health program, including the investment of funds. The statutes governing the investment of surplus funds by government entities date back many years, with the most pertinent statute being the Investment of Surplus Funds Act, Public Act 20 of 1943, codified in MCL § 129.91 et seq. At the time this Act was created in 1943, separate legal entities such as "authorities" did not exist. As a result, authorities, while separate entities, were omitted from the definition of governmental entities subject to the Act's limitations.
Another statute, the Surplus Funds Investment Pool Act, Public Act 367 of 1982, codified in MCL § 129.111 et seq., having been enacted more recently in 1982, includes "authorities" within its definition of governmental entities subject to its regulation. Therefore, mental health authorities likely come within the definition of governmental entities regulated by the Surplus Funds Investment Pool Act, but may or may not fall within the definition of governmental entities regulated by the Investment of Surplus Funds Act. To decide whether a community mental health authority is governed by the provisions of the Investment of Surplus Funds Act, an opinion should be requested from the Michigan Attorney General's Office.

Mental health authorities are recommended to follow the limitations contained within the Surplus Funds Investment Act, while awaiting an opinion from the Attorney General. The following is a discussion of both the Surplus Funds Investment Act and the Surplus Funds Investment Pool Act, with the general requirements of each noted. However, each Act should be directly consulted for all the required details.

Surplus Fund, Investment Act

Public Act 20 of 1943, MCL § 129.91 et seq., governs the investment of surplus funds of political subdivisions. Pursuant to this Statute, the following are the general areas in which governmental entities may invest surplus funds:

(a) In bonds, securities, and other obligations of the United States, or an agency or instrumentality of the United States in which the principal and interest is fully guaranteed by the United States. This subdivision shall include securities issued or guaranteed by the government national mortgage association.

(b) In certificates of deposit, savings accounts, deposit accounts, or depository receipts of a bank which is a member of the federal deposit insurance corporation or a savings and loan association which is a member of the federal savings and loan insurance corporation or a credit union which is insured by the national credit union administration, but only if the bank, savings and loan association, or credit union complies with subsection (2).

(c) In commercial paper rated at the time of purchase within the 3 highest classifications established by not less than 2 standard rating services and which matures not more than 270 days after the date of purchase. Not more than 50% of any fund may be invested in commercial paper at any time.
(d) In United States government or federal agency obligation repurchase agreements.

(e) In bankers' acceptances of United States banks.

(f) In mutual funds composed of investment vehicles which are legal for direct investment by local units of government in Michigan.

While this Act imposes additional limitations upon counties, cities, villages, and townships, these additional limitations are not specifically imposed upon other entities.

As discussed previously, mental health authorities likely come within the definition of a "local unit" in the Surplus Funds Investment Pool Act, No. 367 of 1982, MCL § 129.111 et seq., as this act includes a governmental "authority." Under the Surplus Fund Investment Pool Act, local units are authorized to enter into contracts with financial institutions to place surplus funds into an investment pool. MCL § 129.113. Pursuant to MCL § 129.114, a contract with a financial institution placing surplus funds into an investment pool must contain the following provisions:

(a) The minimum amount of money which may be deposited in the investment pool.

(b) The procedure for the deposit and withdrawal of the money.

(c) The amount of the fee for managing the investment pool, if a management fee is to be charged of the participant by the financial institution.

(d) The terms for distribution of earnings in excess of any management fee, and for the allocation of losses, to participants, in a manner which equitably reflects the differing amounts of their respective investments and the differing periods of time for which such amounts were in custody of the investment pool.

When the financial institutions invest community mental health monies, the limitations imposed by Public Act 20 of 1943, MCL § 129.91 et seq., may apply to the investments made by the financial institutions on behalf of the mental health authority. However, as noted previously, the Attorney General should be requested to issue an opinion on whether mental health authorities are subject to the provisions of the Investment Surplus Funds Act, MCL § 129.116(2).

While the limitations imposed upon the investment of public funds may appear...
Mr. LaLumia  
March 19, 1997  
Page 4

burdensome to a newly created mental health authority, assistance with these investments may be available from the county treasurer within the territory of the authority.

If you have any questions, do not hesitate to contact us.

Very truly yours,

COHL, STOKER & TOSKEY, P.C.

Jeffrey M. Kaelin

JMK/paz
DATE:     February 11, 1998
TO:       County, City, Village and Township Treasurers
FROM:     Richard L. Baldermann, CPA, CGFM
          Administrator, Local Audit and Finance Division
SUBJECT:  Act 196 PA 1997--Amendments to Act 20 PA 1943

Act 196 PA 1997 was signed and took immediate effect on December 30, 1997. A copy of the Act
is attached. Following is a summary of the changes to the investment authority provided in the Act.

Section 1 (1) (a)--Eliminated the restriction that principal and interest be fully guaranteed by the United
States for US agency securities.

Section 1 (1) (c)--Changed the required rating from 3 highest to 2 highest classifications AND
eliminated the requirement that not more than 50% of any fund be invested in commercial
paper.

Section 1 (1) (d)--Repurchase agreement now agrees with authority in Section 1 (1) (a).

Section 1 (1) (f)--Added obligations of the State of Michigan or it political subdivisions which are rated
as investment grade as an investment option.

Section 1 (1) (g)--Clarified mutual fund language requiring the fund to be SEC regulated and indicating
that certain investment activities of the fund would not disqualify the fund.

Sections 1 (1) (h), (i) and (j)--Added a listing of existing investment authority of other acts to invest
in pools (Urban Cooperation Act MCL124.501; Financial Institution Investment Pools MCL
129.111; and Local Government Investment Pools MCL 129.141).

Section 1 (3)--Brought the acceptable assets for pledging to secure deposits in agreement with the
investing authority of the local unit.

Section 1 (5)--Added definitions of “governing body”, “funds”, “investment officer”, and “public
corporation”.

Section 2--Repealed.

Section 3--Retified and validated investments made before the effective date (December 30, 1997) of
the new act.
Section 5—Added a requirement that every local unit governing body must adopt an investment policy which includes specified matters. The policy must be adopted within 180 days after the end of the local unit's first fiscal year that ends after December 30, 1997. Required dates by which a policy must be adopted are:

<table>
<thead>
<tr>
<th>Year End</th>
<th>Effective date</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 31, 1997</td>
<td>June 30, 1998</td>
</tr>
<tr>
<td>March 31, 1998</td>
<td>September 30, 1998</td>
</tr>
<tr>
<td>June 30, 1998</td>
<td>December 31, 1998</td>
</tr>
<tr>
<td>September 30, 1998</td>
<td>March 31, 1999</td>
</tr>
</tbody>
</table>

If a local unit as of December 30, 1997 has adopted an investment policy that substantially complies with the minimum requirements in the Act, the local unit is not in violation of the requirement as long as that policy remains in effect.

Sections 6 (1) and (2)—A local unit, beginning on the effective date of the investment policy (but no later than the effective dates listed above), shall provide the financial intermediary, broker or dealer a copy of the local unit's investment policy before executing an order to purchase or trade the funds. The financial intermediary, broker or dealer shall acknowledge receipt of the policy and agree to comply with its terms. A sample form to accomplish this is attached to this letter.

Section 6 (3)—The investment officer shall annually provide a written report concerning the investment of funds to the governing body.

If you have any questions please contact:

Michigan Department of Treasury
Local Audit and Finance Division
Lansing, Michigan 48922
Telephone 517-373-3227.
ACT 20 PA 1943
as amended through June 30, 1997

129.91

Sec. 1. (1) The legislative or governing body of a county, city, village, township, or special assessment district, or an agency, board, or commission of a county, city, village or township, by resolution may authorize its treasurer or other chief fiscal officer to invest surplus funds belonging to and under the control of the political subdivision, special assessment district, or agency, board, or commission of a county as follows:

(a) In bonds, securities, and other obligations of the United States, or an agency or instrumentality of the United States in which the principal and interest is fully guaranteed by the United States. This subdivision shall include securities issued or guaranteed by the government national mortgage association.

(b) In certificates of deposit, savings accounts, deposit accounts, or depository receipts of a financial institution, but only if the financial institution complies with subsection (2).

(c) In commercial paper rated at the time of purchase within the 3 highest classifications established by not less than 2 standard rating services and which matures not more than 270 days after the date of purchase. Not more than 50% of any fund may be invested in commercial paper at any time.

(d) In United States government or federal agency obligation repurchase agreements.

(e) In bankers’ acceptances of United States banks.

Sec. 1. (1) Except as provided in section 5, the governing body by resolution may authorize its investment officer to invest the funds of the public corporation in 1 or more of the following:

(a) Bonds, securities, and other obligations of the United States or an agency or instrumentality of the United States.

(b) Certificates of deposit, savings accounts, deposit accounts, or depository receipts of a financial institution, but only if the financial institution complies with subsection (2).

(c) Commercial paper rated at the time of purchase within the 2 highest classifications established by not less than 2 standard rating services and that matures not more than 270 days after the date of purchase.

(d) Repurchase agreements consisting of instruments listed in subdivision (a).

(e) Bankers’ acceptances of United States banks.

(f) Obligations of this state or any of its political subdivisions that at the time of purchase are rated as investment grade by not less than 1 standard rating service.
Sec. 1(1)
(f) In mutual funds composed of investment vehicles which are legal for direct investment by local units of government in this state.

(2) A county, city, village, township, or special assessment district investing funds under subsection (1) shall not deposit or invest the funds in a financial institution which is not eligible to be a depository of surplus funds belonging to the state under section 6 of 1855 PA 105, MCL 21.146.

(3) Assets acceptable for pledging to secure deposits of public funds are limited to any of the following:
   (a)
   (b)
   (i)
   (ii)
   (iii)
   (c)

Sec. 1(1)
(g) Mutual funds registered under the investment company act of 1940, title I of chapter 686, 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-3 and 80a-4 to 80a-64, with the authority to purchase only investment vehicles that are legal for direct investment by a public corporation. However, a mutual fund is not disqualified as a permissible investment solely by reason of either of the following:
   (i) The purchase of securities on a when-issued or delayed delivery basis.
   (ii) The ability to lend portfolio securities as long as the mutual fund receives collateral all times equal to at least 100% of the securities loaned.
   (iii) The limited ability to borrow and pledge a like portion of the portfolio's assets for temporary or emergency purposes.
   (h) Obligations described in subdivisions (a) through (g) if purchased through an interlocal agreement under the urban cooperations act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.
   (i) Investment pools organized under the surplus funds investment pool act, 1982 PA 367, 129.111 to 129.118.
   (j) The investment pools organized under the local government investment pool act, 1985 PA 121, MCL 129.141 to 129.150.

(2) A public corporation that invests its funds under subsection (1) shall not deposit or invest the funds in a financial institution that is not eligible to be a depository of funds belonging to the state under a law or rule of this state or the United States.

(3) Assets acceptable for pledging to secure deposits of public funds are limited to assets authorized for direct investment under section (1).
As used in this section, "financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and which maintains a principal office or branch office in this state under the laws of this state or the United States.

Act 196 PA 1997 ADDED subsection (5) to Section 1 as follows:

(5) As used in this act:
(a) "Governing body" means the legislative body, council, commission, board or other body having legislative powers of a public corporation.
(b) "Funds" means the money of a public corporation, the investment of which is not otherwise subject to a public act of this state or bond authorizing ordinance or resolution of a public corporation that permits investment in fewer than all of the investment options listed in subsection (1) or imposes 1 or more conditions upon an investment in an option listed in subsection (1).
(c) "Investment officer" means the treasurer or other person designated by statute or charter of a public corporation to act as the investment officer. In the absence of statute or charter designation, the governing body of a public corporation shall designate the investment officer.
(d) "Public corporation" means a county, city, village, township, port district, drainage district, special assessment district, or metropolitan district of this state, or a board, commission, or another authority or agency created by or under an act of the legislature of this state.

Act 196 PA 1997 REPEALED Section 2 of Act 20 PA 1943.

Act 196 PA 1997 AMENDED Section 3 as follows:

Sec. 3. Investments made before the effective date of the amendatory act that repealed section 2 of the surplus funds, sinking funds, or insurance funds of a political subdivision of this state in bonds and other obligations of the United States or its instrumentalities or certificates of deposit or depository receipts of a bank that is a member of the federal deposit insurance corporation as provided under section 1 and former section 2 of this act are hereby ratified and validated.
INVESTMENT OF SURPLUS FUNDS OF POLITICAL SUBDIVISIONS
Act 20 PA 1943 as amended by Act 196 PA 1997

Act 196 PA 1997 ADDED Section 5 and 6 as follows:

Sec. 5.(1) Not more than 180 days after the end of a public corporation’s first fiscal year that ends after the effective date of the amendatory act that repealed section 2, a governing body, in conjunction with the investment officer, shall adopt an investment policy that, at a minimum, includes all of the following:
(a) A statement of the purpose, scope, and objectives of the policy, including safety, diversification, liquidity, and return on investment.
(b) A delegation of authority to make investments.
(c) A list of authorized investment instruments. If the policy authorizes an investment in mutual funds, it shall indicate whether the authorization is limited to securities whose intention is to maintain a net asset value of $1.00 per share or also includes securities whose net asset value per share may fluctuate on a periodic basis.
(d) A statement concerning safekeeping, custody, and prudence.
(2) A governing body that as of the effective date of the amendatory act that repealed section 2 has adopted an investment policy that substantially complies with the minimum requirements under subsection (1) is not in violation of this section as long as that policy remains in effect.

Sec 6.(1) Subject to subsection (2), before executing an order to purchase or trade the funds of a public corporation, the financial intermediary, broker, or dealer shall be provided with a copy of the public corporation’s investment policy and shall do both of the following:
(a) Acknowledge receipt of the investment policy.
(b) Agree to comply with the terms of the investment policy regarding buying or selling of securities.
(2) A public corporation is subject to subsection (1) beginning on the date that the investment policy of a public corporation takes effect or 180 days after the end of the public corporation’s first fiscal year ending after the effective date of the amendatory act that repealed section 2, whichever is earlier.
(3) The investment officer annually shall provide a written report to the governing body concerning the investment of the funds.
SAMPLE INVESTMENT POLICY
To Comply With Act 20 PA 1943, as amended

This sample policy is provided to assist in the development of a policy which meets the requirements of the Act. The statutory requirement and reasons for each section are in normal print while sample language is in italics. The blank lines are for the units name.

Purpose--An investment policy should state the reason it is established.

It is the policy of _________ to invest its funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow needs of the ________ and comply with all state statutes governing the investment of public funds.

Scope--An investment policy should state the funds to which the policy applies.

This investment policy applies to all financial assets of the _________. These assets are accounted for in the various funds of the _________ and include the general fund, special revenue funds, debt service funds, capital project funds, enterprise funds, internal service funds, trust and agency funds and any new fund established by the _________.

Objectives--safety, diversification, liquidity and return on investment

The primary objectives, in priority order, of the ________'s investment activities shall be:

Safety--Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to insure the preservation of capital in the overall portfolio.

Diversification--The investments will be diversified by security type and institution in order that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.

Liquidity--The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated.

Return on Investment--The investment portfolio shall be designed with the objective of obtaining a rate of return throughout the budgetary and economic cycles, taking into account the investment risk constraints and the cash flow characteristics of the portfolio.
SAMPLE INVESTMENT POLICY
To Comply With Act 20 PA 1943, as amended

Delegation of Authority to Make Investments

Authority to manage the investment program is derived from the following: (insert the board resolutions designating depositories, appropriate state statutes (County--County Treasurer per MCL 48.40; Township--Township Treasurer per MCL 41.76; Village Treasurer per MCL 64.9; Fourth Class City--City Treasurer per MCL 87.11; and Home Rule City--per charter provision) and or appropriate charter provisions). Management responsibility for the investment program is hereby delegated to the (County--County Treasurer per MCL 48.40; Township--Township Treasurer per MCL 41.76; Village Treasurer per MCL 64.9; Fourth Class City--City Treasurer per MCL 87.11; and Home Rule City--per charter provision), who shall establish written procedures and internal controls for the operation of the investment program consistent with this investment policy. Procedures should include references to: safekeeping, delivery vs payment, investment accounting, repurchase agreements, wire transfer agreements, collateral/depository agreements and banking service contracts. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the (title of the designated official) __________. The (title of the designated official) __________ shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials.

List of authorized investments--if mutual funds are authorized, a statement indicating whether the authorization is limited to securities whose intention is to maintain a net asset value of $1.00 per share or also includes securities whose net asset value per share may fluctuate on a periodic basis.

The __________ is limited to investments authorized by Act 20 of 1943, as amended, and may invest in the following:

(List the investments authorized by Act 20 which the governing body wants to allow the local unit's funds to be invested in)

Safekeeping and Custody--This provision will provide comfort that the securities are physically safe.

All security transactions, including collateral for repurchase agreements and financial institution deposits, entered into by the __________ shall be on a cash (or delivery vs payment) basis. Securities may be held by a third party custodian designated by the treasurer and evidenced by safekeeping receipts as determined by the treasurer.

Prudence

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

There are several additional matters which may be addressed in the investment policy, however, the provisions of the statute are met with those matters discussed above.
INVESTMENT POLICY

For additional information concerning investment policy provisions contact:

Municipal Treasurers' Association
Judy Volk, Treasurer
301 Washington Avenue
Bay City, Michigan 48708

Michigan Municipal Finance Officers Association
405 Utica Road
PO Box 8009
Sterling Heights, Michigan 48311-8809

SAMPLE ACKNOWLEDGMENT OF RECEIPT OF INVESTMENT POLICY
AND AGREEMENT TO COMPLY

I have read and fully understand Act 20 PA 1943, as amended, and the Investment Policy of ________________________________.

Any investment advice or recommendation given by ____________________, representing ____________________, to the __________________ shall comply with the requirements of Act 20 PA 1943, as amended, and the Investment Policy of ______________________________. Any existing investment not conforming with the statute or the policy will be disclosed promptly.

By: ____________________________________________

Title: ____________________________________________

Date: ____________________________________________
Description of Investments which comply with the requirements of Public Act 20 of 1943, as amended (MCL 129.91).

US Treasury Bills--obligations of the United States Government sold at a discount from par with a specific maturity date up to a maximum maturity of one year. Available in minimum denominations of $10,000 and increments of $5,000 thereafter, interest in discounted and calculated using actual number of days on a 360 day year.

US Treasury Notes--obligations of the United States Government bearing interest payable at six month intervals until maturity. Maturities are from one to ten years. Denominations, after a minimum of $5,000, are in $1,000 multiples.

US Treasury Bonds--similar to notes except original maturities are ten years and longer. Interest is generally payable on February and August 15 or May and November 15, comparable to US Treasury Notes.

US Treasury STRIPS--Separate Trading of Registered Interest and Principal of Securities

TINTS--Treasury Interest Securities

PRINS or STRIP Ps--Treasury Principal Securities

CUBES--Coupons Under Book Entry System.

US Government Agency Obligations

Certificate of Deposit--CD-- is a receipt of funds deposited in a financial institution for a specified period at a specified rate of interest. A negotiable receipt may be in bearer or registered form and can be traded in the secondary market. A non-negotiable receipt is always registered and has no secondary market. Denominations can be any agreed amount, and interest is normally calculated using actual number of days on a 360 day year. However, each financial institution's calculations vary, and the investor should ask to avoid misunderstanding.

Savings Deposit Receipt--a non-negotiable receipt evidencing a deposit with interest to be paid at a stated rate. Maturity may be fixed, but normally is subject to presentation by the depositor for payment. The amounts may be small or large but Federal Regulations will regulate the interest rate to be paid. This instrument is somewhat outdated due to popularity of regular passbook and statement savings accounts with daily interest.

Savings Account--a deposit evidenced by a passbook or monthly statement. Entries are made for each deposit and withdrawal and interest is paid in accordance with the policy of the financial institution. It is often used to accumulate small amounts of funds until a larger, higher yielding investment can be made.
Description of Investments which comply with the requirements of Public Act 20 of 1943, as amended (MCL 129.91). (continued)

Commercial Paper--Short term unsecured debt obligation issued by a bank holding company, finance company, utility or industrial company to raise short term cash.

Repurchase Agreement--is not a security but a contractual arrangement between a financial institution or dealer and an investor. The agreement normally can run for one to thirty days, but some can go longer. The investor puts up his funds for a certain number of days at a stated yield. In return he takes title to a given block of securities as collateral. At maturity the securities are returned and the funds repaid plus interest. Usual amounts are $500,000 or more, but some repurchase agreements can be smaller. Interest is calculated the same as certificates of deposit.

Extreme caution should be exercised to obtain an undivided interest in the securities under repurchase agreement. Furthermore, if the securities are held for you in safekeeping, they should be held in a customer-segregated safekeeping account, preferably by a third party.

The securities under repurchase agreement should also be "Marked-to-Market", meaning that the value of the securities should be maintained during the entire life of the agreement at levels equal to or greater than the amount advanced for the agreement.

Bankers' Acceptance--a negotiable time draft or bill of exchange drawn on and accepted by a commercial bank. Acceptance of the draft irrevocably obligates the bank to pay the bearer the face amount of the draft at maturity. Bankers' acceptances are usually created to finance the import and export of goods, the shipment of goods within the United States and the storage of readily marketable staple commodities. Bankers' acceptances are sold at a discount from par similar to US Treasury Bills, and, since an acceptance is tied to a specific loan transaction, the amount and maturity of the acceptance are fixed.

Investment Pools--Those investment pools organized under the authority of the urban cooperation act of 1967, 1967 (Ex Sess) PA.7 (MCL 124.501 to 124.512), the surplus funds investment pool act, 1982 PA 367 (129.111 to 129.118) and the local government investment pool act, 1985 PA 121, (MCL 129.141 to 129.150). Those pools are managed by contractual agreement contained in the interlocal agreement, banks and a county treasurer, respectively. All of the pools are limited to investments described in section 1 (1) (a) through (g).
Description of Investments which do not comply with the requirements of Public Act 20 of 1943, as amended (MCL 129.91).

The following potential investments are not securities but are contractual agreements between a broker or dealer and an investor. They are not investments in the underlying securities. Repurchase agreements are contractual agreements specifically authorized by the act, while these contractual agreements are not mentioned in the act and are therefore specifically excluded.

CATS--Certificates of Accrual on Treasury Securities were originated by Salomon Brothers in 1984.

COUGRs--Certificates on Government Receipts ("Cougars") were originated by A.G. Becker.

ETRs--Easy Growth Treasury Receipts ("Eaters") were issued by Dean Witter.

TBRs--Treasury Bond Receipts ("Teddy Bears") were originated by E.F. Hutton.

TIGRs--Treasury Investment Growth Receipts ("Tigers") were issued by Merrill Lynch.

TRs--Treasury Receipts, the generic form of zero coupons were issued by a group of dealers. "TRs" is also the generic term used to reference the family or "zoo" of Proprietary/Government-Guaranteed Receipts.

ZCTOs--Zero Coupon Treasury Obligations ("Zitcos") were originated by Lehman Brothers.

CMOs--pools (not mutual funds) of GNMA s packaged as a bond and are classical derivatives per the October 14, 1994 edition of the Wall Street Journal, "those arcane securities, whose returns are based on or derived from some underlying asset or index".

Certificate of Deposit--CD--Some brokers and dealers have programs whereby $100,000, federally insured, certificates of deposit from numerous institutions are packaged in million dollar multiples and sold on an average yield of all the institutions participating in the package. This type of arrangement does not fall under the authority for investment pools under the urban cooperations act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, the surplus funds investment pool act, 1982 PA 367, 129.111 to 129.118 or the local government investment pool act, 1985 PA 121, MCL 129.141 to 129.150 and is therefore NOT appropriate.
August 7, 1998
Letter No. 98-6
Community Mental Health Service Programs

TO: Community Mental Health Service Program
    Executive Directors

FROM: Richard L. Baldermann CPA
    Administrator
    Local Audit and Finance Division

REGARDING: Community Mental Health Agencies

The Mental Health Code (Act 258, PA of 1974, as amended) has been recently amended to allow for the establishment of certain Community Mental Health Authorities. Due to this change, Community Mental Health Authorities can now be established under either the Mental Health Code or the Urban Cooperation Act (Act 7, PA of 1967 (extra session), as amended). Borrowing power and audit filing requirements vary dependent upon the authorizing statute for the Authority.

Urban Cooperation Act Community Mental Health Agencies may issue obligations, bonds, notes, lines of credit, installment purchase agreements and other loans, if such obligations are authorized in the interlocal agreement. Prior approval of the Department of Treasury is required before any of these obligations can be issued, however, other provisions of the Municipal Finance Act (Act 202, PA of 1943, as amended) are not applicable to these obligations.

Mental Health Code Community Mental Health Authorities shall not issue bonds, notes and other evidences of indebtedness. They may enter into contracts, debt, liabilities or obligations pursuant to section 205(4)(f)(v) including normal business transactions and not including the borrowing of money. These normal business transactions (contracts, debt, liabilities or obligations pursuant to section 205(4)(f)(v)) will not be obligations of the creating counties and would not be subject to either prior approval nor exception from prior approval of the Department of Treasury.
Michigan Department of Treasury
Local Audit and Finance Division
Letter 98-6
August 7, 1998

A Community Mental Health Service Program originally organized under the Urban Cooperation Act and reorganized as a Mental Health Authority under the Mental Health Code is required to assume all debt created by the original Community Mental Health Service Program.

Statutorily authorized debt currently outstanding, issued by Urban Cooperation Act Community Mental Health Agencies that did not receive the prior approval of the Department of Treasury should contact the Department and make arrangements to have that debt authorized retroactively. An application form (Application for State Treasurer's Approval to Issue Bonds) is attached.

Neither the Urban Cooperation Act Community Mental Health Agencies nor the Mental Health Code Community Mental Health Authorities has the authority to use credit cards and enter into credit card debt. Act 266, PA of 1995, authorizing certain municipalities to use credit cards, does not include these agencies.

All Community Mental Health Authorities shall file audited financial statements with the Department of Treasury, annually, within 120 days of the end of their fiscal year (one 60 day extension can be granted).

All Community Mental Health Authorities shall comply with the requirements of Act 20 of the Public Acts of 1943, as amended (copy attached) in investment of authority funds. Act 40 of the Public Acts of 1932 (first extra session), as amended (copy attached) prescribes authorized depositories of authority funds.

If you need further assistance, please call Linda Rairigh at (517) 373-0660 or write our office: Michigan Department of Treasury, Local Audit and Finance Division, 4th Floor Treasury Building, 430 West Allegan Street, Lansing, Michigan 48922.

Attachments
APPLICATION FOR STATE TREASURER'S APPROVAL TO ISSUE BONDS

INSTRUCTIONS: Complete all parts of this application. The Department of Treasury may request additional information.
Direct questions to (517) 373-0660.
FILE WITH: Michigan Department of Treasury; Municipal Finance Division, Treasury Building, Lansing, MI 48922

The municipality identified below applies for permission to issue bonds under authority of the statute(s) and resolution as follows:

- Act 202, P.A. 1943, as amended
- Act

<table>
<thead>
<tr>
<th>LEGAL NAME OF MUNICIPALITY</th>
<th>LEGAL CLASSIFICATION</th>
<th>COUNTY(IES)</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>TITLE OF BOND ISSUE</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>AMOUNT OF BOND ISSUE</th>
<th>BOND ISSUE DATED</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>MUNICIPAL OFFICER — Person</th>
<th>Address and Telephone No.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>BOND COUNSEL — Person and Firm</th>
<th>Address and Telephone No.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>LOCAL ATTORNEY — Person and Firm</th>
<th>Address and Telephone No.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>FINANCIAL CONSULTANT — Person and Firm</th>
<th>Address and Telephone No.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>UNDERWRITER — Person and Firm</th>
<th>Address and Telephone No.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>ENGINEER OR ARCHITECT — Person and Firm</th>
<th>Address and Telephone No.</th>
</tr>
</thead>
</table>

CERTIFICATION: I, the undersigned, certify that this application and the attachments were authorized by the governing body of this municipality and that they are complete and accurate in all respects. I further certify that the funds hand (if any) listed on page 4 of this application are on hand and available for use on this project.

<table>
<thead>
<tr>
<th>TYPE NAME AND TITLE</th>
<th>SIGNATURE</th>
<th>DATE</th>
</tr>
</thead>
</table>
**PURPOSE**

Bonds maturing noncallable, callable on any interest payment date on or after accrual dates, plus a premium ranging from 5% to 10% in order.

**MATURED SCHEDULE**

<table>
<thead>
<tr>
<th>INTEREST</th>
<th>FIRST INTEREST PAYMENT DATE</th>
<th>INTEREST PAYMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>% Maximum</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**OPTIONAL BONDS**

Bonds maturing 19/ are non-callable.

Bonds maturing are callable on any interest payment date on or after at par and accrued interest, plus a premium ranging from % to % in order.

**SECURITY**

FULL FAITH AND CREDIT PLEDGE

- [ ] UNLIMITED TAX FULL FAITH AND CREDIT PLEDGE.
- [ ] LIMITED TAX FULL FAITH AND CREDIT PLEDGE.
- [ ] NO FULL FAITH AND CREDIT PLEDGE.

AUTHORIZED BY A VOTE?

- [ ] NO
- [ ] YES — Date of Election:  

<table>
<thead>
<tr>
<th>Votes For</th>
<th>Votes Against</th>
<th>Spooled Ballots</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

SOURCE OF REVENUES

- [ ] RATES AND CHARGES
- [ ] TAXES
- [ ] SPECIAL ASSESSMENTS

- [ ] MICHIGAN TRANSPORTATION FUND REVENUES
- [ ] OTHER (Specify):  

ADDITIONAL SECURITY
TAX INFORMATION

FISCAL YEAR | DATE TAXES DUE | DATE TAXES DELINQUENT
--- | --- | ---

Maximum authorized statutory, constitutional or charter tax levy

Maximum estimated annual millage requirement for this issue

Date of first levy for this issue (if tax supported)

TAX COLLECTION HISTORY FOR LAST FOUR COMPLETED FISCAL YEARS

<table>
<thead>
<tr>
<th>Fiscal Year Ending</th>
<th>Tax Levy</th>
<th>Collections to Date Delinquent</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>19</td>
<td>$</td>
<td>$</td>
<td>*</td>
</tr>
<tr>
<td>19</td>
<td>$</td>
<td>$</td>
<td>*</td>
</tr>
<tr>
<td>19</td>
<td>$</td>
<td>$</td>
<td>*</td>
</tr>
<tr>
<td>19</td>
<td>$</td>
<td>$</td>
<td>*</td>
</tr>
</tbody>
</table>

MUNICIPAL MILLAGE RATES FOR 19___

Operating | Debt | Other
--- | --- | ---

This municipality is in compliance with the provisions of Article IX, Section 6, of the Michigan Constitution of 1963

S.E.V. INFORMATION

<table>
<thead>
<tr>
<th>Breakdown of Current Year's State Equalized Valuation</th>
<th>STATE EQUALIZED VALUATION</th>
<th>CURRENT YEAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industrial</td>
<td>%</td>
<td>$</td>
</tr>
<tr>
<td>Commercial</td>
<td>%</td>
<td>$</td>
</tr>
<tr>
<td>Utility</td>
<td>%</td>
<td>$</td>
</tr>
<tr>
<td>Agricultural</td>
<td>%</td>
<td>$</td>
</tr>
<tr>
<td>Residential</td>
<td>%</td>
<td>$</td>
</tr>
<tr>
<td>Other</td>
<td>%</td>
<td>$</td>
</tr>
</tbody>
</table>

TOTAL 100%

DEBT INFORMATION

You must attach the following lists unless the Department of Treasury waives the requirement for this detail:

1. All outstanding bonds or debt with no full faith and credit pledge. Include title and date of issue and the amount outstanding.

2. All outstanding bonds or debt with either a limited or unlimited full faith and credit pledge. Include title, date and type of issue, the amount outstanding, and the amount supported by taxes.

3. All outstanding bonds or debt with either a limited or unlimited full faith and credit pledge that has been issued by an overlapping municipality. Include the name of the issuing municipality, the amount outstanding, the share applicable to your municipality, the net tax supported amount outstanding and the share applicable to your municipality.

4. All projects currently being planned for future indebtedness. Include an estimate of the amount of indebtedness to be incurred.

REPAYMENT SCHEDULE

Attach a schedule of revenues available for repayment of the proposed and outstanding debt and indicate coverage. Include operation and maintenance expenses and reserve requirements (when applicable) in addition to principal and interest requirements. Begin with one year of actual revenues and expenses. Revenue supported bonds need only project for a 7 to 10 year period. In lieu of this schedule, voted general obligation bonds may submit a principal and interest schedule.
Section 1.
(5) As used in this act:
(a) "Governing body" means the legislative body, council, commission, board or other body having legislative powers of a public corporation.
(b) "Funds" means the money of a public corporation, the investment of which is not otherwise subject to a public act of this state or bond authorizing ordinance or resolution of a public corporation that permits investment in fewer than all of the investment options listed in subsection (1) or imposes 1 or more conditions upon an investment in an option listed in subsection (1).
(c) "Investment officer" means the treasurer or other person designated by statute or charter of a public corporation to act as the investment officer. In the absence of statute or charter designation, the governing body of a public corporation shall designate the investment officer.
(d) "Public corporation" means a county, city, village, township, port district, drainage district, special assessment district, or metropolitan district of this state, or a board, commission, or another authority or agency created by or under an act of the legislature of this state.

Act 196 PA 1997 REPEALED Section 2 of Act 20 PA 1943.

Section 3.
Investments made before the effective date of the amendatory act that repealed section 2 of the surplus funds, sinking funds, or insurance funds of a political subdivision of this state in bonds and other obligations of the United States or its instrumentalities or certificates of deposit or depository receipts of a bank that is a member of the federal deposit insurance corporation as provided under section 1 and former section 2 of this act are hereby ratified and validated.

Section 4.
(1) As used in this section:
(a) "Eligible deferred compensation plan" means a deferred compensation plan established and maintained by a governing body, which plan meets the requirements of section 457 of the internal revenue code.
(b) "Financial institution" means a state or nationally chartered bank, a state or federally chartered savings bank, a state or federally chartered savings and loan association, or a state or federally chartered credit union, which financial institution is insured by an agency or instrumentality of the federal government.
(c) "Governing body" means the legislative or governing body of a county, city, village, township, or special assessment district, or an agency, board, or commission of a county, city, village, or township.
(2) The governing body, by resolution, may authorize its treasurer or chief fiscal officer to deposit funds received under an eligible deferred compensation plan in a financial institution authorized by law to do business in this state or with an authorized deferred compensation agent appointed by the governing body. Notwithstanding any other provision of this act, the treasurer or chief fiscal officer, as authorized by resolution of the governing body, may place funds accumulated under an eligible deferred compensation plan with a financial institution authorized to do business in this state, a state or federally licensed investment company or insurance company authorized to do business in this state, or trust established by public employers for the commingled investment of the amounts held under deferred compensation and retirement plans, which funds shall be invested by the financial institution, insurance company, investment company, or trust as directed by the governing body. The investment of eligible deferred compensation plan funds shall be in the
manner and for the purposes described in section 457 of the internal revenue code.

(3) The investment of funds accumulated under an eligible deferred compensation plan of a governing body prior to the effective date of the amendatory act that added this section, which investments otherwise meet the requirements of this section, are ratified and validated.

Section 5.

(1) Not more than 180 days after the end of a public corporation's first fiscal year that ends after the effective date of the amendatory act that repealed section 2, a governing body, in conjunction with the investment officer, shall adopt an investment policy that, at a minimum, includes all of the following:

(a) A statement of the purpose, scope, and objectives of the policy, including safety, diversification, liquidity, and return on investment.
(b) A delegation of authority to make investments.
(c) A list of authorized investment instruments. If the policy authorizes an investment in mutual funds, it shall indicate whether the authorization is limited to securities whose intention is to maintain a net asset value of $1.00 per share or also includes securities whose net asset value per share may fluctuate on a periodic basis.
(d) A statement concerning safekeeping, custody, and prudence.

(2) A governing body that as of the effective date of the amendatory act that repealed section 2 has adopted an investment policy that substantially complies with the minimum requirements under subsection (1) is not in violation of this section as long as that policy remains in effect.

Section 6.

(1) Subject to subsection (2), before executing an order to purchase or trade the funds of a public corporation, the financial intermediary, broker, or dealer shall be provided with a copy of the public corporation's investment policy and shall do both of the following:

(a) Acknowledge receipt of the investment policy.
(b) Agree to comply with the terms of the investment policy regarding buying or selling of securities.

(2) A public corporation is subject to subsection (1) beginning on the date that the investment policy of a public corporation takes effect or 180 days after the end of the public corporation's first fiscal year ending after the effective date of the amendatory act that repealed section 2, whichever is earlier.

(3) The investment officer annually shall provide a written report to the governing body concerning the investment of the funds.
DEPOSITORIES FOR PUBLIC MONEYS
ACT 40 PA of 1932, 1st Ex.Sess., as amended through Aug. 1, 1979

AN ACT to provide for the designation of depositories for public moneys; to prescribe the effect thereof on the liability for such deposits; to suspend the requirement of surety bonds from depositories of public money; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

Section 1.
All moneys which shall come into the hands of any officer of any county, or of any township, school district, city or village, or of any other municipal or public corporation within this state, pursuant to any provision of law authorizing such officer to collect or receive the same, shall be denominated public moneys within the meaning of this act.

Section 2.
The county board of commissioners or board of county auditors, in those counties in which there is a board of county auditors, the township board of a township, the district board, or board of education of a school district, or the legislative body of a city or village shall provide by resolution for the deposit of public money, including tax money, coming into the possession of the county treasurer, township treasurer, school district treasurer, city treasurer or tax collector, or village treasurer, respectively, in 1 or more banks, savings and loan associations, or credit unions having their principal office in this state, to be designated in the resolution, and in the proportion and manner as may be provided in the resolution. All proceedings in connection with the deposit of money shall be conducted and be governed pursuant to section 4 and applicable law not in conflict with this act. Upon designation of a depository or depositories in compliance with this act. Upon designation of a depository or depositories in compliance with this act, the treasurer or tax collector shall deposit all funds coming into the treasurer's possession, including tax money in the treasurer's name as treasurer or tax collector, and in the proportion and manner as may be provided by the resolution. As to a deposit or deposits made in a designated bank, savings and loan association, or credit union in accordance with the resolution, neither the treasurer or tax collector, nor the sureties on their respective bonds, shall be liable for a loss occasioned or sustained by the failure or default of the designated depository or depositories. This exemption from liability shall apply even though a requirement of a statute provides for the furnishing of a bond by depositories of public money. The treasurer or tax collector and the sureties on their respective bonds shall be liable for all moneys not deposited under this act.

Section 3.
A security in the form of collateral, surety bond, or in another form shall not be taken for the deposit of public money.

Section 4.
Notwithstanding section 2, additional funds coming into the possession of a county treasurer, township treasurer, school district treasurer, city treasurer or tax collector, or village treasurer shall not be deposited or invested in a bank, savings and loan association, or credit union which is not eligible to be a depository of surplus funds belonging to the state under section 5 or 6 of Act No. 105 of the Public Acts of 1855, being sections 21.145 and 21.146 of the Michigan Compiled Laws.

Section 5.
As used in this act, "deposit" includes purchase of, or investment in, shares of a credit union.
Focus On: LEGISLATIVE SOLUTION NEEDED TO FIX CMH AUTHORITY BORROWING PROBLEM

The revision of the Mental Health Code in 1995 created an option for counties and community mental health services programs (CMHSPs) to create single or multiple county CMH authorities. Section 205 of the Code outlines the powers and duties of an authority. Section 205(4)(e) states that one of the powers of an authority is:

"To acquire, own, operate, maintain, lease, construct, and sell real or personal property."

While it was the intent of the drafters of the legislation that CMHSPs have both the ability to acquire and own real or personal property and to be able to borrow money and enter into mortgages to do so, adequate language permitting authorities to borrow not only mortgage money but enter into other forms of indebtedness was not included.

It is the opinion of the Department of Treasury (DT) that technically CMH authorities do not have the authority to borrow money. This view began to be discussed in 1997 and in April of 1998 DT issued an opinion which stated:

"The phraseology (of section 205) would seem to be all encompassing in its scope and appears to prohibit insurance of notes and other evidence of indebtedness as well as bonds. While a section 205 authority is not subject to the review of the State Treasurer under the terms of section 205, such an authority does not appear to be authorized to incur the types of obligations that are subject to the review of the State Treasurer under the Municipal Finance Act."

Upon review by the Attorney General (AG) and the Department of Community Health (DCH), both concurred with the Department of Treasury opinion. On August 7, 1998 both DT and DCH communicated
their position on the issue to all CMHSPs. The DT memo drew a distinction between the powers of CMH organizations (CMHSPs organized under the Urban Cooperation Act) and authorities (created per section 205 of the Mental Health Code). It stated that Urban Cooperation Act entities (CMH organizations) may issue obligations, bonds, notes, lines of credit, installment purchase agreements and other loans if such obligations are authorized in their interlocal agreement and have the prior approval of DT. They opined, however, that CMH authorities had no such ability.

All parties (DCH, AG, DT, and CMHSPs) appear to agree that it was intended that authorities have the ability to borrow money and that all would cooperate in seeking a solution. The issue was a growing concern of the 29 CMHSPs who have become authorities as the prohibition extended beyond mortgage borrowing to include lines of credit and other evidences of indebtedness. The Michigan Association of CMH Boards (MACMHB) sought a sampling of legal opinion regarding the issue and, while there was some disagreement with the DT opinion, there seemed to be general concurrence that there was a problem which needed a legislative fix.

In the fall of 1998 DCH offered draft legislation to address the issue. The legislation amends section 205(7) by adding the required borrowing authorization and criteria upon which DT shall approve borrowing requests of authorities. The legislation was formally introduced last legislative session.

The authority borrowing issue is the number one legislative priority of MACMHB in the 90th Legislature. DCH has once again indicated its support for the legislation and has requested that a bill be drafted. Once the bill is introduced, we will be advocating strongly for a hearing to move the legislation ahead.

We will undoubtedly need your assistance and support if this bill is to move successfully through the legislative process. We will continue to keep you informed as implications of this issue continue to unfold and as legislation to fix the problem is introduced. Attached to this bulletin is the current list of those CMHSPs which have achieved authority status.

90th Legislature finalizes committee assignments – almost!

Also enclosed with this bulletin is the up to date list of legislative committee assignments. All committee assignments have been made with the exception of the Democratic appointees to the various subcommittees of the House Committee on Appropriations. When the subcommittee assignments are finalized, we will communicate them to you!
AUTHORITY STATUS INTERVIEWS

NAME OF COUNTY: Livingston

NAME OF PERSON AND POSITION: Mac 517-546-4126 CEO

   1) Cap the Local Match
   2) My care causes shift of Risk to the County - Authority
      would give the county

2. Who made the decision to go Authority?
   CMH or Commissioner

2. Has Authority Status made a difference to your business? If so how?
   Own Property
   Clinical - None
   Positive - Create new Job Description. Going thru a Long Process
   Flexibility.
   Social Security got cut - Yes
   Negatives - Pay the County for what they like to do for free. Re-legal fees.
AUTHORITY STATUS INTERVIEWS

NAME OF COUNTY: **Monroe**

NAME OF PERSON AND POSITION: **Sheldon CEO**  318-243-3391  800-886-7340

1. Why did your county go Authority?  
   - **Scared Summer**  
     - Saw the window of opportunity to break away from County's Human Resource Dept.  
     - Own Bargaining Unit  
     - Freeze Local Match  
     - County aid of County Liability  
   - **Initiated by CEO to Commissioners**
   - **CMH or Commissioner**  
     - CMH or Commissioner supported.

2. Has Authority Status made a difference to your business? If so how?  
   - **Clinical** - None  
   - **Administrative** - took over payroll, total human resources, still has a good link to Commission Board  
   - **Own Property**  
   - **Social Security opt** - Yes, has been great, wonderful.
AUTHORITY STATUS INTERVIEWS

NAME OF COUNTY: West Michigan

NAME OF PERSON AND POSITION: Kim Cell: 845-6294

1. Why did your county go Authority?
   - (1) Flexibility
   - (2) Arm's length by County

Since 1996

2. Who made the decision to go Authority?
   - (CMH) or Commissioner

2. Has Authority Status made a difference to your business? If so how?
   - (55 opt out - yes

"Feels we need to be an authority to allow us the flexibility to be a player in managed care environment."
AUTHORITY STATUS INTERVIEWS

NAME OF COUNTY: Central Michigan

NAME OF PERSON AND POSITION: George 517-773-6761

1. Why did your county go Authority?
   a. Wanted independence from the county, especially
      being a 4 County Board.
   b. Local Match Greene
   c. Protects County - V disability

2. Who made the decision to go Authority?
   CMH or Commissioner

2. Has Authority Status made a difference to your business? If so how?
   Not a simple issue.
   Now owns their own property
   Advantages to compete vs. the RFP
   T Managed Care feels that the county should distance themselves.
   We are in such turbulent times.
AUTHORITY STATUS INTERVIEWS

NAME OF COUNTY: Berrhoo CMH

NAME OF PERSON AND POSITION: 616-927-6045 - Allen - CEO

1. Why did your county go Authority?
   A. To get away from the county's personal system, which resulted in many barriers to get things done. Being in the county resulted them get undertaken by the county union system. Too cost. Union is now separate and has performance based indicators.

Jan 1 - 1998

2. Who made the decision to go Authority?
   (CMH) or Commissioner
   Skeptical at first but after education was approved.

2. Has Authority Status made a difference to your business? If so how?
   F. Flexibility
      Own human resource policy - own union contract
      Better union contract - more administrator friendly
      Restricted grievance procedures.
      Merit raises for performance.
      Social security opt - out

Now we will be able to purchase property -
      Still are renting.

Clinical - 0
AUTHORITY STATUS INTERVIEWS

NAME OF COUNTY: Northcut

NAME OF PERSON AND POSITION: Tony - Charles White - Director

1. Why did your county go Authority?
   - Own & run property
   - Freeze assessments

2. Who made the decision to go Authority?
   - CMH or Commissioner

2. Has Authority Status made a difference to your business? If so how?
   - Not really - still need to resolve the #58 issue
AUTHORITY STATUS INTERVIEWS

NAME OF COUNTY: Sanilac

NAME OF PERSON AND POSITION: Roger Dean - Director

1. Why did your county go Authority?
   Freeze Appropriations - Own Property

2. Who made the decision to go Authority?
   (CMH) or Commissioner
   CMH was very hesitant because they have a number of bills to carry

2. Has Authority Status made a difference to your business? If so how?
   No - Generally separate from County anyway
   Keep the SS Pools
AUTHORITY STATUS INTERVIEWS

NAME OF COUNTY: Tuscola

NAME OF PERSON AND POSITION: Susan Chere - DI Director

1. Why did your county go Authority?
   - Save money by building 5 buildings
   - Freeze appropriations from county

2. Who made the decision to go Authority?
   - CMH or Commissioner
   - 1st Authority

2. Has Authority Status made a difference to your business? If so how?
   - Opportunity cost of $5.
   - Consumer has notice. No change. It is transparent to the consumer.
AUTHORITY STATUS INTERVIEWS

NAME OF COUNTY: New York

NAME OF PERSON AND POSITION: Hank Book - Director

1. Why did your county go Authority?
   - A) Other flexibility
   - B) We are able to keep our interest
   - C) Thought it would give us more flexibility

2. Who made the decision to go Authority?
   [ ] CMH or Commissioner

2. Has Authority Status made a difference to your business? If so how?
   No - we were generally separate from the county before Authority.
AUTHORITY STATUS INTERVIEWS

NAME OF COUNTY: Ausable Valley

NAME OF PERSON AND POSITION: John Moran OI Director

1. Why did your county go Authority?
   - Put us at arm's length
   - Flexible & funds
   - County relieved of Risk

2. Who made the decision to go Authority?
   - (CMH) or Commissioner

2. Has Authority Status made a difference to your business? If so how?
   - Keep own interest & $ own property
AUTHORITY STATUS INTERVIEWS

NAME OF COUNTY: [Great Lakes]

NAME OF PERSON AND POSITION: [Roger, 616-922-4850]

1. Why did your county go Authority?
   - [own property]
   - [flexibility]
   - [arms length of county]
   - [Relieve County of Risk]

2. Who made the decision to go Authority?
   - [CMH] or [Commissioner]

2. Has Authority Status made a difference to your business? If so how?
   - [Not really]
   - [Keep interest on]
   - [Clinical No changes]
   - [Change Agency Culture to we are a business]
AUTHORITY STATUS INTERVIEWS

NAME OF COUNTY: Woodlands, Cass

NAME OF PERSON AND POSITION: Linda

1. Why did your county go Authority?
   - To relieve County of Risk

2. Who made the decision to go Authority?
   - CMH or Commissioner saw the Risk Issue

2. Has Authority Status made a difference to your business? If so how?
   - NO
     - They rent building from the Foundation just expired next year
AUTHORITY STATUS INTERVIEWS

NAME OF COUNTY: Huron

NAME OF PERSON AND POSITION: John Deford 517-269-9893

CEO

1. Why did your county go Authority?
   - Easier to do partnerships
     - more flexibility & funds
   - wanted to purchase property
   - county wanted to get rid of risk

2. Who made the decision to go Authority?
   - (CMH) or Commissioner
     - saw the liability

2. Has Authority Status made a difference to your business? If so how?
   - No - Clinical
     - Yes - financial - get to keep the interest on the dollars
     - until the borrowing is resolved we can't purchase property
AUTHORITY STATUS INTERVIEWS

NAME OF COUNTY: Oakland

NAME OF PERSON AND POSITION: Sandy

CEO

1. Why did your county go Authority?
   - Release County of Risk since entering into my care contract
   - Comm - freeze local match

2. Who made the decision to go Authority?
   - CMH or Commissioner
   - Both but mostly Comm Driven

2. Has Authority Status made a difference to your business? If so how?
   - No - Clinical
   - Administration - less politics
   - Hopefully - the cause of borrowing & will be resolved
AUTHORITY STATUS INTERVIEWS

NAME OF COUNTY: Kalamazoo

NAME OF PERSON AND POSITION: Gene - CEO

1. Why did your county go Authority? 3 yrs ago. County saw it as a way to remove the inability to freeze local match. Flexibility & Alliances

2. Who made the decision to go Authority? CMH or Commissioner-driven but it was a joint decision.

2. Has Authority Status made a difference to your business? If so how? OK for SS opt out - staff was all for it.

6/30 to go into annuity - some around 8000/yr.

Sending me a packet of what he did. Has keeping interest in their 3/12 million.

It has been more difficult to get federal grants due to the Authority Status. Working to resolve this.

Now - own property Clinical - O - since now does own
AUTHORITY STATUS INTERVIEWS

NAME OF COUNTY: Summit Pointe

NAME OF PERSON AND POSITION: 

1. Why did your county go Authority?
   - Change Relationship to County
   - Flexibility
   - To own property

2. Who made the decision to go Authority?
   CMH or Commissioner

2. Has Authority Status made a difference to your business? If so how?
   - Cultural Change for Staff
   - Ability to own Property
   - Flexibility for Partners
   - Has own Board/CEO
   - Social Security Opt out

AUTHORITY STATUS INTERVIEWS

NAME OF COUNTY:  Gratot

NAME OF PERSON AND POSITION:  Bld 517-463-4911
  Undirector  Dan - Clinical Director

   A. Freeze the local match.
   B. Better position for the REP to bid out.
   C. Bear Risk - let county off the liability

2. Who made the decision to go Authority?
   (CMH) or Commissioner

2. Has Authority Status made a difference to your business?  If so how?
   NO

Note 35 to 33 to go opt out, but since it was so close -
went back to education for staff, will revote.
AUTHORITY STATUS INTERVIEWS

NAME OF COUNTY: North Park

NAME OF PERSON AND POSITION: Jim - CEO

1. Why did your county go Authority?
   (1) Allowed to freeze local match
   (2) County relieved of liability
   (3) More flexibility.

2. Who made the decision to go Authority?
   (CMH) or Commissioner
   Went Authority under Urban when they merged.

2. Has Authority Status made a difference to your business? If so how?
   - Social Security opt out, In the process - NO
   - Not really, clinical - NO
AUTHORITY STATUS INTERVIEWS

NAME OF COUNTY: Northern

NAME OF PERSON AND POSITION: Alexis - CEO

1. Why did your county go Authority?
   1. Saw the opportunity to be flexible
   2. Freeze local match.
   3. Merger saw it as a big assistance to the county

2. Who made the decision to go Authority?
   - CMH Commissioner sold them on the local match plus the liability issue.

2. Has Authority Status made a difference to your business? If so how?
   - Chemical - 100
   - Administrative - Could be a property owner, but isn't yet. Cleaner relationship with county.
   - Social Security Opt out "In the process"
     52-48 vote in favor
     Doing the paperwork now...
AUTHORITY STATUS INTERVIEWS

NAME OF COUNTY: Midland

NAME OF PERSON AND POSITION: Art LeTourneau, Director

1. Why did your county go Authority?
   - Our property
   - County does not want to risk

2. Who made the decision to go Authority?
   - CMH or Commissioner

2. Has Authority Status made a difference to your business? If so how?
   - Better Return on Farm
   - 25% Vote in Sept.
   - No change in business function
   - Separately before Authority
AUTHORITY STATUS INTERVIEWS

NAME OF COUNTY: North Central

NAME OF PERSON AND POSITION: Greg (Cell - 775-3403)
CEO 826-3300 (office)

1. Why did your county go Authority?
   1. Due to the H County merger - it was easier to go Authority.
   2. Flexibility to work with the H counties.
   3. Protects County from liability issues since managed care.

2. Who made the decision to go Authority?
   CMH or Commissioner

2. Has Authority Status made a difference to your business? If so how?

   Bought Property
   Still have a good working relationship with County
   Has been positive - no real issues with going Authority
   Social Security Opt out was "NO"
   (Don't have a qualifying plan)
   Clinical - No Impact

Sees that we need to be an authority
to have the flexibility to be a player in the "bid out"