

	Addictive and Mental Disorders Division Severe and Disabling Mental Illness, Home and Community Based Services Waiver Manual
	Date effective: July 1, 2020 Date revised:
Policy Number: <i>SDMI HCBS 505</i>	Subject: Informed Consent and Risk Management

Purpose

Safety is central to the provision of quality mental health services. Protecting members and others from harm is a key priority and risk management is an essential component of providing such protection. Members have the right to decide the types and amount of services they receive under informed consent regarding responsibilities associated with conditions of acceptable risk. If under informed consent, a member chooses to accept certain risks, the member will be required to enter into a Risk Management Agreement.

Risk Management is an integral part of service planning and must be incorporated directly into service planning, because these assessments are fundamental to the member’s comprehensive service plan. Effective risk management begins with assessment and service planning centered around the member’s needs and preferences.

Informed consent is the process in which a health care provider educates a patient about the risks, benefits, and alternatives of a given procedure or intervention. The patient must be competent to make a voluntary decision about whether to undergo the procedure or intervention.

Informed Consent and Risk Management Agreement Process

- (1) The Risk Management Agreement must be completed when:
 - (a) The case management team (CMT) or department has identified a risk; and
 - (b) the member has received informed consent regarding the associated risks but elects to make the choice to accept responsibility for the risk.
- (2) The CMT must make risk management part of the member’s person-centered planning and monitoring processes.
- (3) The CMT must assess and document the member’s capacity to make informed decisions. If the CMT is not sure of the members capacity to make informed decisions, a referral to a

mental health professional or the member's health care professional must be made to help determine capacity.

- (4) To complete the risk management process, the CMT must:
 - (a) assess the potential and perceived risks to the member;
 - (b) provide service planning centered around the member's needs and preferences;
 - (c) identify and document potential risks;
 - (d) map out mitigation strategies for each identified risk;
 - (e) complete a Risk Management Agreement with the member; and
 - (f) provide ongoing documentation of services targeted to address risk.
- (5) If the risk identified by the CMT puts the member or others in immediate or imminent danger, the CMT must contact the appropriate agency as needed e.g. law enforcement, adult protected services, county health official, public health and or mental health crisis response team.

Risk Management Agreement Requirements

- (1) The Risk Management Agreement Form must include:
 - (a) documentation regarding the member's capacity to make an informed decision, this may be in the form of CMT notes detailing their decision or documentation from the mental health/health care professional's decision;
 - (b) risks identified during the person-centered planning and monitoring processes;
 - (c) risk mitigation for each identified risk that includes individualized plans for addressing them; and
 - (d) signatures of the member, CMT, and the community program officer.
- (2) If the member refuses to complete and sign the Risk Management Agreement, the CMT should contact the Community Program Officer for a discussion about options available to the member.