



STATE OF MICHIGAN
DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING

RICK SNYDER
GOVERNOR

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June 22, 2018

MARO

Mr. Todd Culver
417 Seymour Ave., Ste. 5
Lansing, MI 48933

MALA

Mr. Robert Stein
15441 Middlebelt Rd.
Livonia, MI 48154

Dear Mr. Stein and Mr. Culver,

Michigan Department of Health and Human Services (MDHHS) and the Behavioral Health and Developmental Disabilities Administration (BHDDA) appreciates the commitment stated by MARO and MALA to encourage and support the compliance of their respective members to the Home and Community Based Services (HCBS) Final Rule.

Most members, as providers of residential and /or non-residential services, will work closely with the Pre-paid Inpatient Health Plan (PIHP) leads who are responsible for oversight of the remediation process within their region. The department is working closely with leads and supports their work with providers.

All communications from the department to providers including those on Heightened Scrutiny (HS) have clearly identified the desire of the department that providers continue to provide services. Consistent with this the PIHP leads, who are representatives of the department regarding HCBS matters, are fully aware of timelines and share this information with Community Mental Health Service Providers (CMHSPs) across their regions.

Additionally, ongoing monthly updates are provided to the PIHP CEO's outlining timelines and the status of the HCBS project. CMHSP CEOs are updated on a bi-monthly basis.

MDHHS intends to keep the original March 17, 2019 compliance date for most home and community-based settings. MDHHS is committed to working with providers toward full compliance with the HCBS rule as specified in the approved Statewide Transition Plan (STP). Certain conditions may affect the ability of MDHHS to complete the compliance work by March 17, 2019:

- The Behavioral Health b(3) services surveys were delayed pending Centers for Medicare and Medicaid (CMS) clarification that these services fall under the rule. Providers of b(3) services will be allotted additional time to comply with the HCBS rule.
- MDHHS recognizes that heightened scrutiny work will continue beyond March 17, 2019.

- HCBS providers should have a corrective action plan (CAP) underway before March 17, 2019. MDHHS will honor the 90-day CAP remediation period as needed for those providers who initiate the CAP after December 17, 2018.
- MDHHS will allow providers the time they need to remediate identified issues as specified in their CAP as long as the provider is making progress and provides regular updates to the waiver agency or PIHP HCBS contact person. MI Choice waiver agencies and the PIHPs represent MDHHS and are responsible for approving the provider's CAP.

MDHHS is in the process of developing and will be issuing an L Letter in the near future which will outline our expectations with regard to compliance and timelines for providers of service to individuals on both the Habilitation Supports (HAB) waiver and those receiving services through the Medicaid Specialty Supports and Services (MSS&S) waiver.

Those providers who have been identified as requiring HS will work with the department and our contracted entity Michigan State University. The criteria for HS has been set by the (CMS), MDHHS will follow these requirements. The Statewide Transition Plan details the process for HS and is posted on the MDHHS HCBS webpage for all interested parties to review https://www.michigan.gov/mdhhs/0,5885,7-339-71547_2943-334724--,00.html.

It is the sole responsibility of MDHHS to identify and more closely review all settings that may be institutional or isolating in nature, and to make final decisions regarding whether these settings will be submitted to CMS for consideration of a change in status from HS to out of compliance. As you have noted reviews of settings as part of the CAP by the PIHP leads has led to some instances of concerns, unidentified in the survey process, that require further review. MDHHS has developed a process for the PIHP leads to request further review by the department and we are currently developing the internal review process. It is the State of Michigan's responsibility to address providers who are presumed to be institutional or isolating in nature. This responsibility requires us to address any concerns identified by the PIHP leads related to a providers HS status as we deem appropriate and necessary.

Thank you for your input regarding our timelines and your ongoing interest in compliance with the HCBS final rule.

Respectfully,



Belinda Hawks, Manager
Federal Compliance Section
Behavioral Health and Developmental Disabilities Administration

cc: Bob Sheehan
Lynda Zeller
Tom Renwick
Jeff Wieferich