



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

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LME-MCO Joint Communication Bulletin # J329

Date: June 18, 2019

To: Local Management Entities/ Managed Care Organizations (LMEs-MCOs)

From: Kathy Nichols, Assistant Director of Policies and Programs, DMH/DD/SAS
Deb Goda, Behavioral Health Unit Manager, NC Medicaid

Subject: Home and Community Based Services Heightened Scrutiny Guidance

This bulletin is to provide clarification on DHHS HCBS Statewide Transition Plan (STP). On March 22, 2019, [Centers for Medicare and Medicaid Services \(CMS\) issued Heightened Scrutiny Guidance \(SMD 19-001\) to State Medicaid Directors](#). DHHS will not be making fundamental changes to the heightened scrutiny process as a result of this guidance.

Facilities that are in buildings that provide inpatient institutional treatment or those on the grounds of or immediately adjacent to a public institution, disability-specific farms and disability-specific gated communities will not be considered for the provision of Home and Community Based Services (HCBS) covered under the HCBS Final Rule. Disability-specific is defined as a setting that only employs individuals with a disability or provides residential services or living arrangements solely for individuals who have a disability.

The following additional considerations are being noted:

- NC will continue to compare access that individuals (with and without Medicaid) have within the same geographical area (refer to questions 2 & 3 of SMD 19-001).
- NC identified five settings that are potentially isolating and have remediated four out of the five settings. As the validation process continues, the goal is to remediate any settings identified as potentially isolating by July 1, 2020, opposed to submitting to CMS for heightened scrutiny.
- Settings that have gone through the heightened scrutiny process and are interested in having their status reassessed as a result of the CMS guidance may contact the LME-MCO and DHHS to have the site reviewed and assessed on an individual basis (refer to question 4 of SMD 19-001).
- NC will be validating all sites within the transition period from April 1, 2019 to March 31, 2020. Any sites unable to be validated must begin transitioning individuals to fully compliant/fully integrated sites (refer to question 4 of SMD 19-001). Individuals will be informed of fully compliant/fully integrated sites from which they may choose to receive services.
- DHHS is not currently putting forth any settings to CMS for heightened scrutiny. In the event that a site is presented in the future that meets the criteria for heightened scrutiny and DHHS feels the site

can meet HCBS standards, then it will be posted in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). (refer to question 6 of SMD 19-001).

- NC's current heightened scrutiny process aligns with language provided from CMS regarding notification to individuals, family members and guardians, as well as the LME-MCO and providers regarding the state determination the setting overcomes the institutional presumption of being isolating, how this determination was made and how comments can be submitted. Please refer to the Heightened Scrutiny Process listed as an Appendix in the NC HCBS State Transition Plan (refer to question 7 of SMD 19-001).
- NC will adhere to guidance provided by CMS as it relates to posting public comments for sites that could be considered presumptively isolating (refer to question 8 of SMD 19-001).
- NC will post evidence received and reviewed during the heightened scrutiny desk and onsite reviews for any sight that is being submitted to CMS under heightened scrutiny. HIPAA specific information will not be posted. Additional information requested from CMS will also be included (refer to question 10 of SMD 19-001).
- Foster care settings will not need a provider self-assessment unless the location is providing a residential service under a 1915(c) waiver. NC continues to presume that individual homes meet the HCBS final rule. Regardless of home ownership, any setting that provides 1915 (c) residential support services continues to require a HCBS self-assessment (refer to question 12 of SMD 19-001).
- Within the 1915(c) waivers, settings where each HCBS service is provided are included in the waiver/policy. This is also outlined in the HCBS State Transition Plan, pages 3 and 4 (refer to question 13 of SMD 19-001).

If additional technical assistance is needed, please contact LaToya Chancey at 919-715-2256 or e-mail at latoya.chancey@dhhs.nc.gov or please contact Kenneth Bausell at 919-527-7643 or e-mail at kenneth.bausell@dhhs.nc.gov.

Previous bulletins can be accessed at: <https://www.ncdhhs.gov/divisions/mhddsas/joint-communication-bulletins>.

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