

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-14-26
Baltimore, Maryland 21244-1850



Disabled & Elderly Health Programs Group

July 10, 2019

Maggie Anderson
Director of Medical Services Division
North Dakota Department of Human Services
600 E. Boulevard Avenue, Dept. 325
Bismarck, ND 58505-0250

RE: Heightened Scrutiny Review of: Dakota East Day Program; Original Address: 828 West Chapel Drive, Grafton, ND/Current Address: 522 Hill Ave, Grafton, ND

Dear Ms. Anderson:

This letter is in reference to a setting submitted to the Centers for Medicare & Medicaid Services (CMS) for a heightened scrutiny review, in accordance with the federal home and community-based services (HCBS) regulations found at 42 CFR Section 441.301(c)(4)(5) and Section 441.710(a)(1)(2). North Dakota submitted an evidentiary package for Dakota East Day Program, a non-residential adult day setting that was originally on the grounds of a publicly operated intermediate care facility for individuals with intellectual or developmental disabilities (ICF/IID) to CMS for heightened scrutiny review on November 26, 2014. Based on the heightened scrutiny review and site visit completed in August 2015, a determination was made that the setting did not overcome the institutional presumption as at that time, the majority of individuals received were not integrated into the larger community. North Dakota was notified of this determination in an August 11, 2015 letter from CMS.

Since the initial determination, North Dakota informed CMS in the state's updated STP dated January 31, 2019 that as of March 2018, Dakota East Day Program was relocated off the grounds of the publicly operated ICF/IDD to a downtown location among other community businesses with expanded opportunity for community integration. CMS appreciates the effort of the state to provide a comprehensive evidentiary package regarding the settings' characteristics, and was pleased to learn that transportation and individual and group community activities were expanded in the state to increase beneficiary interactions with the broader community. Based on review of the new information provided, CMS believes the Dakota East Day Program no longer requires heightened scrutiny review as it is no longer located on the grounds of or immediately adjacent to a public institution.

CMS requests that North Dakota validate that Dakota East Day meets all of the settings criteria required for compliance with the regulation, and assure that any modifications that need to be made to remediate gaps/non-compliance be completed on or before March 17, 2022. The state should include this setting in its ongoing monitoring activities to ensure it continues to meet the HCBS settings criteria. Upon review of this letter, please contact Michele MacKenzie at (410) 786-5929 or michele.mackenzie@cms.hhs.gov if you have any questions.

Thank you for your continued commitment to the state of North Dakota's successful delivery of

Medicaid-funded home and community-based services.

Sincerely,

/S/

Ralph F. Lollar, Director
Division of Long-Term Services and Supports