



Eric Holcomb, Governor
State of Indiana

Office of Medicaid Policy and Planning
MS 07, 402 W. WASHINGTON STREET, ROOM W382
INDIANAPOLIS, IN 46204-2739

November 29, 2022

To: Ondrea Richardson, CMS

From: Family and Social Services Administration, Office of Medicaid Policy and Planning

Re: Request for Corrective Action Plan

Ondrea,

The state of Indiana would like to request a corrective action plan (CAP) for coming into compliance with the settings rule. This CAP is being requested for all the States' heightened scrutiny sites submitted before March 17, 2023. This request is being made based on the recommendation we received directly from CMS.

Currently, our heightened scrutiny packets are still being reviewed by CMS. While we have submitted evidence that supports the settings are home and community-based, a final determination has not yet been made. We are requesting this CAP so that we are assured time to fully come into compliance with any deficiencies that CMS may bring to our attention based on their review, understanding that we may not receive their feedback until after the March 17, 2023, deadline. We are requesting 12 months to come into compliance with any items found by CMS.

Attached to this letter is additional information from each of our divisions that have submitted packets for heightened scrutiny review.

If you have any questions regarding this request, please contact Brian Gilbert at:
brian.gilbert@fssa.in.gov

Thank you.



Division of Aging (DA)

As of December 1, 2022 DA submitted to CMS 24 sites for heightened scrutiny that are pending review. There are additional sites that will be submitted for heightened scrutiny prior to the March 17, 2023, date. These sites are primarily assisted living and serve the division's Aged and Disabled waiver and Traumatic Brain Injury waiver. While DA has submitted evidence that supports the settings are home and community-based, a final determination has not yet been confirmed.

As noted in our Statewide Transition plan, reasonable notice will be given to the participant and the Individual Support Team (IST) regarding any setting found to be non-compliant. Action steps will be provided as well as procedural safeguards explained. Individuals will be provided a choice of moving to an HCBS funded program or choosing to remain in their current location. It is anticipated per the remediation strategies DA has developed that teams will be provided with 6 months' notice prior to transitioning individuals from identified non-compliant settings.

If the Site has been determined as non-compliant, the following steps must be completed as noted in our Statewide Transition Plan:

- Establish a transition plan for each individual participant impacted.
 - Provides for appropriate notice to be given to the individual and their person-centered support circle.
 - Includes action steps that will occur.
 - Defines procedural safeguards available to the individual.
- Develop a plan for communicating with each impacted individual and their person-centered support circle.
- Create a timeline for decertification of the provider.
- Ensure that regular progress reports are being submitted to DA.
- Available appeal and administrative review processes will be provided to individuals impacted.

DA will use its process for transitioning people from the non-compliant setting to a setting that meets HCBS requirements. Individuals will be informed in writing of the agency's decision outlining the procedure established for transitioning to an approved HCBS setting. This will ensure reasonable notice and procedural safeguards are provided to anyone needing to transition.

Individual transition plans will be developed to allow for sufficient time to safely transition individuals to compliant settings of their choice. DA or its contracted entity will ensure individuals are informed of the opportunity to select settings and roommates of their choice and will facilitate all transitions. Both the existing provider and the newly selected provider will participate in the transition activities. The change in the individual's residence may not take place until written approval is received from the individual's service coordinator. The participant and the Individual Support Team will actively participate in the transition process.

For these reasons, DA would like to respectfully request a CAP for a 1-year period ending March 17, 2024 to adjust the final date of DA compliance with the Home-and Community-Based Services Settings Rule criteria. This request will ensure the review of our heightened scrutiny sites accommodates for the relocation of individuals should any sites be found non-compliant with the Home-and Community-Based Services Settings Rule criteria per CMS review.

In addition, The Division of Aging in the State of Indiana has identified issues at various sites that will need significant work in order for the site to be in compliance with the Settings Rule. We do not believe that this level of work will be able to be completed by March 17, 2023 and request to add these sites to the State's Corrective Action Plan:

Aperion Estates Peru: This site needs sidewalk and other concrete repair work to be done. Given the Indiana winter we are entering right now, it is impossible to complete this work before March. The State requests an extension through June 30, 2023 for Aperion Estates Peru to be in compliance with the Rule as it pertains to handicap accessibility and the need for repairs to make the site walkable and able for wheelchairs to use it.

Vermillion Place: This site needs sidewalk and other concrete repair work to be done. Given the Indiana winter we are entering right now, it is impossible to complete this work before March. The State requests an extension through June 30, 2023 for Aperion Estates Peru to be in compliance with the Rule as it pertains to handicap accessibility and the need for repairs to make the site walkable and able for wheelchairs to use it.

Golden Years Homestead: This site was recently identified as a Heightened Scrutiny site. We request that this site be added to our HS list that was previously submitted for Corrective Action.

River Terrace Estates: This site was recently identified as a Heightened Scrutiny site. We request that this site be added to our HS list that was previously submitted for Corrective Action.

Azalea Hills: This site is installing a key fob system for residents to have free access to and from the site. Several parts are on backorder; this has been verified by receipts and emails with the site. We request an extension through June 30, 2023 for parts to come in and be installed.

Woodridge Village: This site currently does not provide privacy in its double occupancy bedrooms. The site will need to install bedroom doors and locks, as the rooms do not have doors at this point. We request an extension through March 17, 2024 for this site to complete its construction and be in full compliance.

Crown Pointe Communities Indianapolis: This site recently had a fire and is working on construction to repair damages resulting from that event. We request an extension through March 17, 2024 for the site to finish construction and be in full compliance.

Southlake: This site is an old hotel with double occupancy rooms. The site will need to construct walls and install doors and locks to ensure privacy in sleeping units. We request an extension through March 17, 2024 for the site to finish construction and be in full compliance.

Morningview: This site has double occupancy rooms with only a room divider between the beds. They will need to construct walls and install doors and locks to ensure privacy in sleeping units. We request an extension through March 17, 2024 for the site to finish construction and be in full compliance.

Division of Disability and Rehabilitative Services (DDRS)

As of December 1, 2022 DDRS submitted to CMS one site for heightened scrutiny that is pending review. This non-residential day site serves both CIH and FS waivers. While DDRS has submitted evidence that supports the setting is a home and community-based setting, a final determination has not yet been confirmed.

As noted in our Statewide Transition plan, reasonable notice will be given to the participant and the Individual Support Team (IST) regarding any setting found to be non-compliant. Action steps will be provided as well as procedural safeguards explained. Individuals will be provided a choice of moving to an HCBS funded program or choosing to remain in their current location. It is anticipated per the remediation strategies DDRS has developed that teams will be provided with 6 months' notice prior to transitioning individuals from identified non-compliant settings.

If the Site has been determined as non-compliant, the following steps must be completed as noted in our Statewide Transition Plan:

- Notification of non-compliance will be sent to Provider and IST outlining findings and cause.
- Per 460 IAC 6-7-6 Administrative Review, the provider has 15 days to request Administrative Review, preserving the right to appeal.
- The IST notification will outline individuals' choices to remain in setting and locate an alternative funding source or transition to HCBS Compliant setting.
- This will allow for the IST's to meet and conduct the following transition steps as outlined in BDDS Transition Activities Policy.
 - o Coordination of transition planning meetings
 - o Person-Centered Planning process
 - o Updating of the Individualized Support Plan
 - o Referrals to HCBS approved providers
 - o Meeting and selection of roommates for residential moves
 - o Home visits
 - o Safety inspections
 - o Pre- and post-monitoring by the individual's Case Manager
 - o BDDS shall ensure individuals are provided with a choice of providers and facilitate the transition process to ensure all supports are in place prior to any movement

BDDS will use its process for transitioning people from the non-compliant setting to a setting that meets HCBS requirements. Individuals will be informed in writing of the agency's decision outlining the procedure established for transitioning to an approved HCBS setting. This will ensure reasonable notice and procedural safeguards are provided to anyone needing to transition. Individual transition plans will be developed to allow for sufficient time to safely transition individuals to compliant settings of their choice. BDDS or its contracted entity will ensure individuals are informed of the opportunity to select settings and roommates of their choice and will facilitate all transitions as outlined in the BDDS Transition Activities Policy. Both the existing provider and the newly selected provider will participate in the transition activities. The

change in the individual's residence may not take place until written approval is received from the individual's service coordinator. The participant and the Individual Support Team will actively participate in the transition process.

For these reasons, DDRS would like to respectfully request a CAP for a 1-year period ending March 17, 2024 to adjust the final date of DDRS compliance with the Home-and Community-Based Services Settings Rule criteria. This request will ensure the review of our heightened scrutiny site accommodates for the relocation of individuals should the site be found non-compliant with the Home-and Community-Based Services Settings Rule criteria per CMS review.

Division of Mental Health and Addiction (DMHA)

Indiana's Division of Mental Health and Addiction has submitted seven total settings to CMS for heightened scrutiny that are pending review. All seven are non-residential outpatient settings for Community Mental Health Centers (CMHC). While DMHA has submitted evidence that supports the setting is a home and community-based setting, a final determination has not yet been confirmed.

As noted in our Statewide Transition plan, reasonable notice will be given to the CMHCs regarding any setting found to be non-compliant. Action steps and support will be provided as needed for considerations related to access to care. Since the settings are non-residential in nature, individuals will not be impacted in their living experience.

If the Site has been determined as non-compliant, the following steps will be completed:

- Notification of non-compliance will be sent to Providers (CMHCs) outlining findings and cause.
- The Provider notification will outline the agency's options for reorienting HCBS consumers that utilize the setting to another HCBS-eligible outpatient location. All of the CMHCs with settings pending CMS approval have alternative outpatient settings that can be utilized by DMHA's HCBS consumers. Emphasis on location choice for the consumer will be included in the plan.

For these reasons, DMHA would like to respectfully request a CAP for a 1-year period ending March 17, 2024. This request will ensure the review of our heightened scrutiny settings for the re-orientation of services for individuals should the sites be found non-compliant with the Home- and Community-Based Services Settings Rule criteria per CMS review.