

COMMUNITY HEALTHCHOICES (CHC)

OPERATIONS MEMORANDUM #2023-06

SUBJECT: Home and Community-Based Settings Final Rule

TO: CHC Managed Care Organizations (MCOs)

FROM: Bureau of Policy Development and Communications Management

DATE: October 13, 2023

PURPOSE

CHC Agreement, Section V.A.18., states that CHC-MCOs must provide Long-Term Services and Supports (LTSS) in the least restrictive, most integrated setting. Home and Community Based Services (HCBS) must only be provided in settings that comply with 42 C.F.R. § 441.301(c)(4).

The purpose of this Operations Memorandum is to provide clarity on CHC-MCO responsibilities regarding the HCBS Final Rule and the oversight process on the HCBS Final Rule.

PROCEDURES

The CHC-MCOs will collaborate with the Office of Long-Term Living (OLTL) and the OLTL Final Rule Panel to ensure that their enrolled network providers are providing HCBS in allowable settings in accordance with the HCBS Final Rule. OLTL will lead and coordinate the assessment process for provider compliance with the HCBS Final Rule. The CHC Agreement outlines the requirement for CHC-MCOs to be an active partner in the process. This includes identifying point person(s) from each CHC-MCO to take part in the activities described below.

OLTL will assess Residential Habilitation, Structured Day, Adult Daily Living, Prevocational Employment Skills Development (ESD), and other identified congregate provider-owned and operated sites, for compliance. The assessment includes a desk review of provider policies and procedures and an onsite or virtual review via the HCBS Settings Final Rule Assessment Tool, which is an internal OLTL instrument.

OLTL will convene a panel comprised of OLTL staff, CHC-MCO point persons and, as needed, representatives from the Pennsylvania Department of Aging and the Department of Human Services (DHS) Office of Developmental Programs. The panel will meet as required to review assessment results and make a recommendation on each site as to whether the site is compliant or not compliant. For sites not in compliance, the panel will make a recommendation as to whether the site 1) can become compliant with a corrective action plan, 2) should be submitted to the federal Department of Health and Human Services for heightened scrutiny, or 3) should be disenrolled as a provider. Each CHC-MCO is required to participate in the panel meetings on an ongoing basis.

OLTL will issue letters of decision to each provider. If a corrective action plan is recommended for a provider to come into compliance, OLTL will approve and monitor the corrective action plan. Any provider that is unable or unwilling to comply with their corrective action plan will be disenrolled from providing HCBS at that setting. If provider disenrollment is recommended, the CHC-MCO will proceed with the provider termination in compliance with CHC Agreement Exhibit V, CHC-MCO Requirements for Provider Terminations.

While in the course of regular provider monitoring, should the CHC-MCO identify areas where a provider appears to be out of compliance with the HCBS Final rule, the CHC-MCO must notify the CHC-MCO Monitoring Team Lead within 10 business days, so that OLTL can assess the site. OLTL executive staff will review and approve the panel's recommendations.

NEXT STEPS

1. Review this information with appropriate staff.
2. Contact the Quality Management Efficiency Team if you have any questions.