

DEPARTMENT OF DEVELOPMENTAL SERVICES

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November 8, 2022

TO: REGIONAL CENTER EXECUTIVE DIRECTORS

SUBJECT: HOME AND COMMUNITY-BASED SERVICES (HCBS) FINAL RULE:
INITIAL GUIDANCE REGARDING NON-COMPLIANT SERVICE
PROVIDERS

The purpose of this letter is to provide regional centers with steps to address service providers who do not yet reflect all elements of applicable federal requirements in policies and/or program design or have not submitted a plan for updating the applicable documents. This letter also provides timelines for provider submission and regional center review of provider documents.

Background

The federal Centers for Medicare and Medicaid Services (CMS) issued requirements referred to as the Home and Community-Based Services (HCBS) Final Rule, which affect services provided to individuals with developmental disabilities through California's regional center system. The HCBS Final Rule was developed to ensure that individuals have full access to the benefits of community living and the opportunity to receive services in the most appropriate integrated setting. The HCBS Final Rule focuses on the quality of individuals' experiences and not solely on the settings where the services are delivered.

Since the start of the assessment process, regional centers have been working with service providers to better understand the HCBS Final Rule, complete assessments of their programs, and more recently submit documentation showing compliance with the HCBS Final Rule or plans for how they will achieve compliance if not already compliant. The Department of Developmental Services (Department) has provided training and ongoing technical assistance to both regional centers and providers. Despite these efforts, there are still many providers across the state who do not have policies in place that reflect the HCBS Final Rule or have not submitted documentation supporting that they do.

The [California Statewide Transition Plan \(STP\)](#) outlines the steps that the State will take to be in alignment with the HCBS Final Rule. Providers must update their policies and/or make revisions to their program design to be in alignment with the HCBS Final Rule by March 17, 2023, the date by which all states have to implement the federal requirements.

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Incomplete Provider Documents

Providers who have not submitted documentation evidencing compliant policies or a plan for developing policies that reflect all elements of the HCBS Final Rule, per the Department's communication on [May 20, 2022](#), are considered to not meet the federal requirements. Regional centers must send the enclosed "Notice to Non-Compliant Regional Center Service Providers", being sure to insert their HCBS Program Evaluator contact information, to all providers of HCBS who have not submitted documentation validating compliant policies are in place and/or a plan for remediating current policies or program design revisions to be compliant.

Providers must contact the regional center HCBS Program Evaluator within 10 days of receipt of the "Notice to Non-Compliant Regional Center Service Providers" to determine what documentation is needed for submission for compliance. All documentation shall be submitted no later than December 5, 2022.

Regional centers should immediately implement outreach and communication to providers to achieve return of documents. Examples include but are not limited to:

- Holding office hours for service providers to complete documents with regional center staff;
- Site visits/individualized training to assist providers in completing documents; and
- Trainings to review examples of compliant documents.

If a provider has not responded to regional center communications and submitted appropriate documentation by December 5, 2022, the regional center may engage in corrective action with non-compliant providers. Appropriate action for providers who have not complied by timely submitting necessary documentation includes restricting new referrals.

Tracking Provider Documents

The Department will continue utilizing a shared file with each regional center through Microsoft SharePoint. Regional centers should continue to upload provider documents as soon as possible upon receipt, but not later than three (3) business days. Regional centers must review submitted documents to verify each provider has evidence supporting compliant policies with applicable federal requirements and/or a plan for remediating policies or program designs not demonstrating compliance. Provider transition determination options have been updated in the SharePoint spreadsheet to reflect whether a provider has submitted documents, and whether those documents are sufficient to show evidence of compliance.

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No later than March 17, 2023, all HCBS providers must have updated policies and/or revised program designs in place that include all elements of applicable federal requirements and align service delivery with the intent of the HCBS Final Rule.

If you have any questions regarding this correspondence, please contact hcbsregs@dds.ca.gov. The Department holds weekly HCBS Office Hours on Thursdays from 3pm to 4pm. A calendar invite with the Zoom link will be sent to all regional center HCBS Program Evaluators.

Sincerely,

Original Signed by:

BRIAN WINFIELD
Chief Deputy Director

Enclosure

cc: Regional Center Administrators
Regional Center Directors of Consumer Services
Regional Center Community Services Directors
Regional Center HCBS Program Evaluators
Association of Regional Center Agencies
State Council on Developmental Disabilities
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