

Home and Community-Based Services (HCBS) PROVISIONAL APPROVAL PROCESS GUIDANCE

All settings that meet defined criteria must receive a provisional review by the Pre-paid Inpatient Health Plan (PIHP) lead or their designee. Most provisional applications can be approved by the PIHP without intervention from Michigan Department of Health and Human Services (MDHHS). However, if a setting is found or known to have restrictive features, either physically or through its policies, the PIHP is not authorized to approve the setting and a provisional consultation will be required *for every individual* the PIHP wishes to refer to the setting.

MDHHS requires a provisional consultation when a lead wishes to provide provisional approval for a setting that is restrictive in nature.

The Centers for Medicare and Medicaid issued the Home and Community Based Services (HCBS) rule in 2014. Among other areas of focus the rule sets out service provision requirements for settings that wish to access Medicaid funding for specific services. Currently for behavioral health these services are:

- Skill Building
- Community Living Services (CLS) Habilitation Support Waiver (HSW) and 1915 iSPA Service:

Following is important information to help you determine whether a provisional consultation is needed and how to navigate the process of scheduling a provisional consultation.

A provisional approval consultation must be held *prior* to placing an individual in a setting that is not HCBS compliant.

SCHEDULING A CONSULTATION

Time has been set aside weekly to accommodate consultations. You can schedule a consultation by contacting the Federal Compliance Section Secretary Alana Blaha. Alana's email address is BlahaA1@michigan.gov. Alana will reach out to you and provide available dates; we ask that you respond within 3 business days to confirm a meeting date/time. Alana will not track this for you and any unconfirmed consultation appointments will not be held. Please keep in mind that there could be competing requests to schedule provisional meetings. Alana will be responding on a first-come-first-serve basis, so it is important to be timely with your response. If you have an urgent meeting request, please indicate this when requesting a meeting. Alana will not coordinate meeting schedules with other required attendees from your region that is your responsibility.

By submitting a setting for a review, you are telling the department that you support a placement in the setting and that *you have completed your due diligence by conducting a thorough review of the setting and the submitted documentation*. Your role as the PIHP lead is to act as gatekeeper. You should send back any requests for consultations when the

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documentation submitted is not consistent with policy requirements including compliant Individual Plans of Service (IPOS).

MDHHS will not accept provisional applications for secured settings without a current HCBS compliant IPOS.

EVIDENCE SUBMISSION

The evidence submitted to MDHHS must meet the requirements of MDHHS related to IPOS requirements and the HCBS chapter in the Medicaid Provider Manual. HCBS Medicaid funding cannot be authorized when the policies identified above are not followed.

PIHP leads are expected to complete the provisional approval application form that comes to the department. **Please do not send the form to the setting to complete.** We rely upon your firsthand knowledge of a setting. We will ask you to resubmit a form completed by you or your designee should we receive one completed by personnel of the setting.

If the PIHP lead is relying upon a designated individual to conduct the remote review or gather other evidence that person needs to be present for the consultation and be prepared to provide information to the department as requested and noted in this guidance.

The PIHP lead or their specified designee should have completed an onsite review of the setting *before* scheduling a provisional approval consultation. Onsite reviews may not be older than one year. When an onsite annual physical assessment is available you may utilize that in lieu of conducting another onsite review. Please note you will be responsible for the attestation you make that the setting is compliant even if you utilize the review of another lead. The onsite review is required to provide answers to questions such as:

- Are there barriers/locked areas that prevent access to all areas of the home?
- Are there gates on the property that do not allow entry and exit by residents?
- Are residents able to come and go from the setting as they choose?
- Is the setting secure? If so, in what ways specifically
- Are there restrictions on the individual's freedoms that are inconsistent with the rule?
- Does the setting have setting wide policies that restrict access or the rights of participants that are not based upon the individuals needs or are instituted without regard to IPOS requirements?

Leads should provide photographs when there are areas likely to be of concern such as locked gates, access to the inside and outside of the home, locks on entry and exit points of the home etc. Leads are responsible to determine which areas of the setting do not meet the rule and therefore require additional information. We have provided you with guidelines but cannot

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anticipate every situation. Therefore, when reviewing a setting you will need to identify areas of concern based upon your knowledge of the HCBS rule and request evidence/additional information to provide to the department for the consultation. You can reach out to the HCBS Specialist with specific questions related to evidence as needed.

If the lead will be asking for approval for a secure or restrictive setting, we will need evidence that shows that the level of restriction requested is supported through the submission of relevant evidence. *An individual's need for a secure setting must be established prior to placing them in a restrictive setting.* A person should not be placed in a restrictive setting before an HCBS compliant plan that identifies the need is developed and funding is approved.

By their nature provisional reviews must be highly individualized, and the type of evidence needed will be determined by the individual restrictions proposed and needs of the person. We cannot predict every potential restriction, or the evidence needed to support them, but typical evidence needed includes:

- Information related to the restrictiveness of the setting (PIHP or CMHSP onsite review documentation).
- Is this a more restrictive setting than the current residence?
- IPOS identifying why a restriction is needed and steps taken to meet the health/safety need through less restrictive interventions has been tried and unsuccessful (see HCBS chapter in the MPM).
- Court documents
 - NGRI status -risk mitigation documentation,
 - court ordered placement or treatment documentation,
 - supervision requirements
- Other documentation that a health and/or safety need necessitates a restriction and what other interventions have been tried prior to the restriction identified.
- Policies and procedures of the setting particularly related to an individual's rights within the setting, HCBS specific issues such as access to the community, freedom of movement, restrictions on legally allowed behaviors. Handbooks or resident rights and responsibilities documents.

If adequate information has not been provided to the department, we will not be able to provide a decision related to placement of a waiver participant and the review will have to be rescheduled once the region has had an opportunity to gather the required information. In such a case alternative funding will be required.