

**SWMBH Operating Policy 2.19**

<b>Subject:</b> Provisional Provider Approval for Home and Community-Based Services (HCBS)		<b>Accountability:</b> Provider Network/Clinical Quality	<b>Effective Date:</b> 11/6/2018	Pages: 2
<b>REQUIRED BY:</b> BBA Section _____ PIHP Contract Section: 18.1.13 NCQA/URAC Standard _____ Other _____			Last Reviewed Date: 11/6/18	Past Reviewed Dates:
<b>LINE OF BUSINESS:</b> <input checked="" type="checkbox"/> Specialty Waiver (B/C) <input type="checkbox"/> 1115 Waiver <input checked="" type="checkbox"/> Healthy Michigan <input type="checkbox"/> SUD Medicaid <input type="checkbox"/> SUD Block Grant <input checked="" type="checkbox"/> MI Health Link <input type="checkbox"/> OTHER: _____		<b>APPLICATION:</b> <input checked="" type="checkbox"/> SWMBH Staff and Ops <input checked="" type="checkbox"/> Participant CMHSPs <input type="checkbox"/> SUD Providers <input checked="" type="checkbox"/> MH / DD providers <input type="checkbox"/> Other: _____	Last Revised Date:	Past Revised Dates:
Approved : <u><i>[Signature]</i></u> Date: <u>11/9/19</u>			Required Reviewer: Behavioral Health Waiver and Clinical Quality Manager	

**I. Purpose**

To define the provisional approval process that the Community Mental Health Service Providers (CMHSP) who fall within Southwest Michigan Behavioral Health (SWMBH) region will utilize with their providers to ensure that the provider does not require heightened scrutiny.

**II. Policy**

Effective October 1, 2017, the Prepaid Inpatient Health Plan (PIHP) will not enter into new contracts with new providers of services covered by the Federal Home and Community Based Services (HCBS) Rule (42 CFR Parts 430,431, 435, 436, 440, 441 and 447) unless the provider has obtained provisional approval status from the PIHP through completion of the HCBS New Provider Survey, demonstrating that the provider does not require heightened scrutiny. Provisional approval allows a new provider or an existing provider with a new setting or service to provide services to HCBS participants for 90 days. Providers and participants will receive the comprehensive HCBS survey within 90 days of the individuals IPOS. Providers will complete the HCBS survey and cooperate with the PIHP to demonstrate 100% compliance with the Federal HCBS rule and State requirements as promulgated by the Michigan Department of Health and Human Services and documented in the Michigan Statewide Transition Plan. Failure to complete the provisional approval process and the ongoing approval process will result in the exclusion from participating in Medicaid or Healthy Michigan Plan funded HCBS services.

**III. Standards and Guidelines**

- A. The Community Mental Health Service Provider (CMHSP) is responsible for ensuring that any new site, new provider or new program of relevant waiver services completes the provisional approval process prior to contracting with them. Applicable services include: specialized residential providers who serve individuals on the habilitation supports waiver as well as B3

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services (skill building, supported employment and community living supports.) See attachments for instructions on the provisional approval process.

- B. The CMHSP must do a site review prior to contracting to ensure that the new provider, program, or site does not have the qualities of an institution or have isolating factors.
- C. The CMSHP is responsible for working with any new provider to ensure compliance with HCBS standards. This includes ongoing site reviews as outlined in SWMBH Operating Policy 2.13 and remediating any HCBS non-compliance as a result of a completed survey.
- D. The PIHP is responsible for tracking all new sites, new providers and new programs.
- E. The PIHP is responsible for administering all follow up surveys within 90 days of provisional approval.
- F. The PIHP is responsible for monitoring to ensure full compliance for new providers through the HCBS corrective action and remediation process.

### **IV. Definitions**

- A. None

### **V. References**

- A. Medicaid Managed Specialty Supports and Services Concurrent 1915(b)/(c) Waiver Program FY 19 Section 18.1.13

### **VI. Attachments**

- A. HCBS Residential Provisional Approval Survey
- B. HCBS Non-Residential Provisional Approval Survey
- C. HCBS provider standards checklist
- D. Guide for Home and Community Based Provisional Approval Process

# HCBS Residential Provider Provisional Approval Application

This survey is intended to provide for initial and provisional approval to provide residential HCBS services.

This survey is for providers who are not currently providing services to HCBS participants or for existing providers within the PIHP who are opening new settings or adding additional services.

Providers and Individuals will receive the comprehensive HCBS survey *within 90 days* of an individual's IPOS. The provider *must* complete the comprehensive survey in order to maintain approval to provide HCBS services. Failure to complete the provisional approval process or the ongoing approval process *will* result in the suspension of the provider's ability to provide HCBS services.

PIHPs must ensure all new providers or existing providers with new settings have completed this initial survey. The individual provider survey must be available upon request of MDHHS. Providers who do not meet the initial standards outlined *are not* eligible to provide HCBS services to Medicaid recipients. The PIHP may reassess the provider if the PIHP determines changes have been made that result in the provider becoming compliant.

If the new provider is approved by the PIHP provisionally the provider does not have to be provisionally approved for subsequent HCB participants.

Expected respondent: The provider who has direct knowledge of the settings day-to-day supports and/or the operational and administrative activities and policies of the provider agency.

Provide the respondent's contact information for further questions

Name: \_\_\_\_\_

Position/Title: \_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

Contact Email Address: \_\_\_\_\_

Instructions: Provide a response to each question, respond based upon the policies, procedures and physical environment of your setting. Responses to this survey and supporting information may be verified at a later date with an on-site visit.

Name of the Setting or Location: \_\_\_\_\_

Provider: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

Michigan Department of Human Services, Bureau of Children and Adult Licensing BCAL) License Number\* (if applicable): \_\_\_\_\_

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\* If BCAL number is not available, enter National Provider Identification (NPI) number

## Section 1: Provider Background

Type of Residence (see definitions below) \_\_\_\_\_

### **Definitions:**

**Specialized residential home:** "Specialized program" means a program of services or treatment provided in an adult foster care facility licensed under this act that is designed to meet the unique programmatic needs of the residents of that home as set forth in the assessment plan for each resident and for which the facility receives special compensation." (Adult Foster Care Facility Licensing Act 218 of 1979 as Amended, Section 400.707)

**Provider Owned:** Living in a private residence that is owned by the Prepaid Inpatient Health Plan (PIHP), Community Mental Health Service Program (CMHSP), alone or with spouse or non-relative

**Adult Foster Care home:** "Adult foster care facility" means a governmental or nongovernmental establishment that provides foster care to adults. Subject to section 26a(1), adult foster care facility includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision (2) on an ongoing basis but who do not require continuous nursing care." (Adult Foster Care Facility Licensing Act 218 of 1979 as Amended, Section 400.703)

**Intermediate Care Facilities:** for Individuals with Intellectual Disabilities (ICFs/IID): An institution for individuals with intellectual disabilities or other related conditions, according to Federal regulations at 42 CFR 435.1009, is defined as an institution (or distinct part of an institution) that: (a) is primarily for the diagnosis, treatment, or rehabilitation for individuals with intellectual disabilities; and (b) Provides, in a protected residential setting, ongoing evaluation, planning, 24-hour supervision, coordination, and integration for health or rehabilitative services to help individuals function at their greatest ability. [Source: CMS, "Backgrounds and Milestones: Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID)"]

**Institution for Mental Disease:** (IMD): The term "institution for mental diseases" means a hospital, nursing facility, or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services. [Source: Social Security Act, Sec. 1905. [42 U.S.C. 1396d]

**Child Caring Institution:** (CCI): Child caring institution' means a child care facility which is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a 24-hour basis, in buildings maintained by the institution for that purpose, and operates throughout the year. An educational program may be provided, but the educational program shall not be the primary purpose of the facility. Child caring institution also includes institutions for intellectually and/or developmentally delayed or emotionally disturbed minor children. Child caring institution does not include a hospital, nursing home, or home for the aged.

## **Section 2: Physical Location and Operations of Service Providers**

A. Is the setting separate from, outside of the building, and off the grounds of a hospital, nursing home, Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID), or Institute for Mental Disease (IMD)? (See definitions above).

Yes

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No

B. Will residents receive services and supports within the community rather than bringing these services and supports into the setting?

Yes

No

C. Is the residence located outside of a building and off the campus of an education program, school or child caring institution?

Yes

No

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Applicant signature

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Date

## **Section for PIHP representative:**

**Note: If the providers response to any of the above questions is “No” the setting is *not eligible* for provisional approval.**

The Centers for Medicare and Medicaid have identified that the following settings are considered not to be Home and Community Based;

- Nursing facilities
- Institution for Mental Disease
- Intermediate Care Facilities
- Hospitals
- Other locations that have the qualities of an institutional setting as determined by the Secretary of HHS

Has the PIHP or CMHSP reviewed the physical location of the setting?

Yes

No

Does the PIHP/ CMHSP attest that the setting is not institutional in nature and does not appear to be isolating

Yes

No

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PIHP Representative Signature

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Date



# HCBS Non-Residential Provider Provisional Approval Application

This survey is intended to provide for initial and provisional approval to provide nonresidential HCBS services. This survey is for providers who are not currently providing services to HCBS participants or for existing providers within the PIHP who are opening new settings or adding additional services.

Providers and Individuals will receive the HCBS Survey (comprehensive survey) *within 90 days* of an individual's IPOS. The provider *must* complete the comprehensive survey in order to maintain the ability to provide HCBS services. Failure to complete the provisional approval process or the ongoing approval process *will* result in the suspension of the provider's ability to provide HCBS services.

PIHPs must ensure all new providers or existing providers with new settings have completed this initial survey. The individual provider survey must be available upon request of MDHHS. Providers who do not meet the initial standards outlined *are not* eligible to provide HCBS services to Medicaid recipients. The PIHP may reassess the provider if the PIHP determines changes have been made that result in the provider becoming compliant.

If the new provider is approved by the PIHP provisionally the provider does not have to be provisionally approved for subsequent HCB participants.

Expected respondent: The provider who has direct knowledge of the settings day-to-day supports and/or the operational and administrative activities and policies of the provider agency.

Provide the respondent's contact information for further questions

Name: \_\_\_\_\_

Position/Title: \_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

Contact Email Address: \_\_\_\_\_

Instructions: Provide a response to each question, respond based upon the policies, procedures and physical environment of your setting. Responses to this survey and supporting information may be verified at a later date with an on-site visit.

Name of the Setting or Location: \_\_\_\_\_

Provider: \_\_\_\_\_

Address: \_\_\_\_\_

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City, State, Zip Code: \_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

NPI number): \_\_\_\_\_

## Section 1: Provider Background

Type of service being provided (see definitions below) \_\_\_\_\_

**Out of home non-vocational:** Assistance with acquisition, retention, or improvement in self-help, socialization, and adaptive skills; and the support services, including transportation to and from, incidental to the provision of that assistance that takes place in a non-residential setting, separate from the home or facility in which the beneficiary resides.

**Supported Employment:** This service is both ongoing support services and paid employment that enables the individual to work in the community. It is community-based, taking place in integrated work settings where workers with disabilities work alongside people who do not have disabilities. This service can include supervision and training, a job coach, an employment specialist, a personal assistance, or support for a consumer-run businesses.

**Skill Building:** This service will help an individual gain, keep, or improve skills in self-help, socializing, or everyday skills. It might include help with mobility, transferring, and personal care from a direct support staff. It can include preparing for work (paid or unpaid) to individuals who might have difficulty in the general workforce or who are unable to participate in a transitional sheltered workshop. .

**Prevocational Services:** Involve the provision of learning and work experiences where a beneficiary can develop general, non-job-task-specific strengths and skills that contribute to employability in paid employment in integrated, community settings.

**Community Living Supports (CLS):** This service supports an individual's independence, productivity, and promotes inclusion and participation. The supports can be provided in an individual's home (licensed facility, family home, own home or apartment) or in community settings. Community Living Supports are: Assisting, prompting, reminding, cueing, observing, guiding and/or training the beneficiary with meal preparation, laundry, household care and maintenance. Assisting with money management, non-medical care, socialization and relationship building, transportation from the individual's home to and from community activities including participation in regular community activities, attendance at medical appointments, and shopping for non-medical services

## Definitions:

**Intermediate Care Facilities** for Individuals with Intellectual Disabilities (ICFs/IID): An institution for individuals with intellectual disabilities or other related conditions, according to Federal regulations at 42 CFR 435.1009, is defined as an institution (or distinct part of an institution) that: (a) is primarily for the diagnosis, treatment, or rehabilitation for individuals with intellectual disabilities; and (b) Provides, in a protected residential setting, ongoing evaluation, planning, 24-hour supervision, coordination, and integration for health or rehabilitative services to help individuals function at their greatest



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ability. [Source: CMS, "Backgrounds and Milestones: Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID)"]

**Institution for Mental Disease** (IMD): The term "institution for mental diseases" means a hospital, nursing facility, or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services. [Source: Social Security Act, Sec. 1905. [42 U.S.C. 1396d]

**Child Caring Institution** (CCI): Child caring institution' means a child care facility which is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a 24-hour basis, in buildings maintained by the institution for that purpose, and operates throughout the year. An educational program may be provided, but the educational program shall not be the primary purpose of the facility. Child caring institution also includes institutions for intellectually and/or developmentally delayed or emotionally disturbed minor children. Child caring organization does not include a hospital, nursing home, or home for the aged.

## **Section 2: Physical Location and Operations of Service Providers**

A. A. Will the individual's services (Skill Building, Supported Employment, Community Living Supports Prevocational, and Out of Home Non Vocational) be delivered in a setting that is separate from a hospital, nursing home, intermediate care facility, or institute for mental health treatment? (See definitions above).

Yes

No

B. Will the individual's services (Skill Building, Supported Employment, Community Living Supports Prevocational, and Out of Home Non Vocational) be delivered in a setting that is separate from a residential school or child caring institution?

Yes

No

C. Will individuals receive services and supports (Skill Building, Supported Employment, Community Living Supports Prevocational, and Out of Home Non Vocational) within the community?

Yes

No

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Applicant signature

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Date

# HCBS Non-Residential Provider Provisional Approval Application

## Section for PIHP representative:

**Note: If the providers response to any of the above questions is “No” the setting is *not eligible* for provisional approval.**

The Centers for Medicare and Medicaid have identified that the following settings are considered not to be Home and Community Based;

- Nursing facilities
- Institution for Mental Disease
- Intermediate Care Facilities
- Hospitals
- Other locations that have the qualities of an institutional setting as determined by the Secretary of HHS

Has the PIHP or CMHSP reviewed the physical location of the setting?

- Yes
- No

Does the PIHP/ CMHSP attest that the setting is not institutional in nature and does not appear to be isolating

- Yes
- No

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PIHP Representative Signature

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Date

# HCBS PROVIDER STANDARDS CHECKLIST

This document is intended to assist providers who have received *provisional* approval in the self-assessment of their level of compliance with the HCBS rule. If you do not have policies and procedures as identified below you are advised that they are *required* in order to receive your first annual approval to provide HCBS services. Providers and participants will be surveyed 90 days from the individuals IPOS and the survey will fully assess compliance at that time

## Section 1: Community Integration of Residential Setting

- Individuals live and/or receive services and supports in a setting where there is regular (more than once per week) opportunity for contact with people not receiving services
- The residence allows friends and family to visit without rules on hours or times

## Section 2: Individual Rights within Residential Setting

- Each individual will have a lease or residential care agreement for the residential setting
- The lease will explain how a discharge happens and what to do if you do not wish to move
- Individuals are provided with information on how to request new housing
- Information about filing a complaint is posted in a way individuals can understand and use
- Individuals will receive information regarding who to call to file an anonymous complaint
- Policies in place* require that the staff talk about individuals' personal issues in private only
- Policies are in place* to ensure individuals have access to their personal funds
- Policies are in place* to ensure individuals have control over their personal funds
- Individuals have a place to store and secure their belongings away from others
- Individuals pick the agency who provides their residential services and supports
- Individuals pick the direct support workers (direct care workers) who provide their services and supports
- Individuals can change their services and supports as they wish

## Section 3: Individual Experience within Residential Setting (Part A)

- Individuals have the option of having their own bedroom if consistent with their resources
- Individual can pick their roommate(s)
- Individuals can close and lock their bedroom door
- Individuals can close and lock their bathroom door
- Policies are in place* to ensure staff ask before entering individuals' living areas (bedroom, bathroom)
- Policies are in place* to ensure individuals choose what they eat
- Policies are in place* to ensure individuals choose to eat alone or with others
- Policies are in place* to ensure individuals have access to food at any time
- Policies are in place* to ensure individuals can choose what clothes to wear
- Policies are in place* to ensure individuals have access to a communication device
- Policies are in place* to ensure individuals use the communication device in a private place
- The inside of the residence is free from cameras, visual monitors, or audio monitors
- Policies ensure if an individual needs help with personal care, the individual receives this support in privacy
- Policies ensure individuals (with or without support) arrange and control their personal schedule of daily appointments and activities (e.g. personal care, events, etc.)

# HCBS PROVIDER STANDARDS CHECKLIST

## Section 4: Individual Experience within Residential Setting (Part B)

- Policies are in place* to ensure individuals have full access to the Kitchen
- Policies are in place* to ensure individuals access to the kitchen at any time
- Policies are in place* to ensure individuals have full access to the dining area
- Policies are in place* to ensure individuals have access the dining area at any time
- Policies are in place* to ensure individuals have full access to the laundry area
- Policies are in place* to ensure individuals have full access to a comfortable seating area
- Policies are in place* to ensure individuals have access to a comfortable seating area at any time
- Policies are in place* to ensure individuals have full access to the bathroom
- Individuals can access the bathroom at any time
- Policies are in place* ensure there is space within the home for individuals to meet with visitors and have private conversations
- Policies are in place* ensure individuals choose to come and go from the home when they want
- Policies are in place* ensure individuals move inside and outside the home when they want?
- The home is physically accessible to all individuals
- Policies are in place* ensure individuals can reach and use the home's appliances as they need?
- Policies are in place* to ensure the home is free of gates, locked doors, or other ways to block individuals from entering or exiting certain areas of their home?
- Accessible transportation is available for individuals to make trips to the community
- Individuals have a way to access the community where public transit is limited or unavailable

## Guide for Home and Community Based Provisional Approval Process

### Southwest Michigan Behavioral Health (SMWBH)

As of October 1, 2017 all new providers need to be fully compliant with the Home and Community Based Final Rule. To that end, the Michigan Department of Health and Human Services has outlined a process called "Provisional Approval" that all new sites/providers of relevant waiver services in the region need to go through prior to a contract being executed. This document is intended to assist and guide Community Mental Health Service Providers, Case Managers and providers through this process, specific to Region 4 (SMWBH.) The purpose of the provisional approval process is to screen providers for Heightened Scrutiny.

- The first step is for the Community Mental Health Services Provider (CMHSP) Provider Network Representative to check to see if the new site/provider/program in question has already been provisionally approved. The tracking spreadsheet is located in the SMWBH Provider Network Committee portal in the folder: HCBS Provisional Approval Applications. The tracking sheet is called "New Provider Tracking for Portal."
- If the new provider/site is listed on the spreadsheet, consult with the corresponding county folder to obtain the previously approved provisional application for your records.
- If the new provider/site is not located on the tracking spreadsheet the provider will need to be credentialed and have a site review which are CMSHP responsibilities. Once these activities have happened and the Provider Network Representative is confident in their understanding of HCBS, fill out a provisional approval application. There are two versions one for residential and one for non-residential. *The provisional approval process must be completed prior to executing or amending a contract if it is a new site/provider.*
- Submit the application to [waivers@swmbh.org](mailto:waivers@swmbh.org).
- SWMBH staff will reach back to the person who submitted the application to vet the site for HCBS readiness.
- SMWBH staff will sign off on the provisional approval, noting the date and the name of the staff that the CMSHP did the site review for the "physical review" question.
- SMWBH staff will update the portal and internal spreadsheets.
- SWMBH staff provide the signed and approved provisional approval to the requester and include provider in on the correspondence. Within the body of the approval email SMWBH staff will request additional information that is needed for the follow up survey. This information includes:
  - Name of Customer
  - Medicaid number (for the purpose of getting a WSA number)
  - Case manager name
  - Case manager email
  - Date of IPOS (please note the IPOS must include the new setting)
  - WSA number (if you have it. SWMBH can obtain one if one does not exist)
  - Designate B3 or HSW service category
  - If B3 service recipient, specific CPT code being billed
- SMWBH staff records all protected information in internal spreadsheet only.

## Provisional approval for one

- The process is mostly the same for individual provisional approval, however additional information is needed.
- This may be used for settings that may appear to have isolating or intuition like qualities. (Examples of institutionalization: global restrictions are in place {fences, locked doors} examples isolation: located in an isolated setting and there is a lack of community access.)
- In these instances the PIHP can approve these settings however additional documentation is needed. The CMHSP must provide a copy of the assessment, plan of service and behavior treatment plan (at least a preliminary one) that outlines the clinical need for this setting.
- The placement shall be treated as a treatment facility and the CMHSP must agree to transition the person to a less restrictive setting as soon as it is appropriate.