



Center for Clinical Standards and Quality/Survey & Certification Group

Admin Info: 15-32-CMHC
REVISED 07.24.15

DATE: May 8, 2015

TO: State Survey Agency Directors

FROM: Director, Survey and Certification Group

SUBJECT: Community Mental Health Center (CMHC) Requirement that 40 percent of their Items and Services be provided to Non-Medicare Recipients

**** Revised to update the number of days to wait for appeal process****

Memorandum Summary

Community Mental Health Center 40 percent Requirement: CMHC Conditions of Participation (CoPs) (effective October 29, 2014) require that CMHCs provide at least 40 percent of their items and services to non-Medicare recipients and submit a certification statement that certifies that the CMHC population meets the requirement. The certification statement will be submitted to the applicable Medicare Administrative Contractor (MAC).

Survey Responsibility: Verification of the 40 percent requirement is not a survey and certification responsibility and will **not** be a part of the CMHC survey process. The Regional Office (RO) will terminate the provider agreement of a CMHC whose Medicare enrollment is revoked by the MAC as a result of non-compliance with the 40 percent requirement.

The number of days to wait for appeal process is 150 days from the date the provider was notified of the revocation.

Background

The CMHC CoPs at 42 CFR 485.918 (b) (1) (v) and §485.918 (b) (1) (v) (A-B) require that a CMHC provide at least 40 percent of their items and services to non-Medicare recipients and submit a certification statement that certifies that the CMHC population meets that requirement. However, the determination of compliance with this Standard is not a survey and certification responsibility and will not be a part of the routine CMHC survey process. The certification statements will be submitted by the CMHC providers to the applicable MAC. When a MAC notifies the State Survey Agency (SA) and the RO of any revocation action taken as a result of a CMHC failure to comply with the 40% requirement, per usual procedure, the RO waits **150 days** from the date the provider was notified of the revocation and then confirms with the MAC that the appeal process is completed and the revocation has occurred. The RO will then do an involuntary termination of the provider agreement based upon the revocation action.

The CMHC will be considered by the SA and RO to be in compliance with the Standard unless it has received notice of revocation from the MAC based upon non-compliance with the requirement.

Initial Surveys

If the SA/RO receives an “approval recommended” notice from the MAC for an initial survey, it will assume that the CMHC met the 40 percent requirement as a result of the MAC’s CMS-855 review.

Re-Certifications

The SA will not perform any survey activity for §485.918 (b)(1)(v) and §485.918 (b)(1)(v)(A-B) and no deficiencies are to be written under the Standard regarding the 40 percent requirement. On all surveys, the SA is to regard these portions of the Standard to be in compliance. If the SA/RO receives notification that the enrollment of a CMHC is being revoked due to their failure to submit the certification statement or to meet the 40 percent requirement and a recertification survey is due (five-year survey interval), the survey should be delayed until the revocation decision is upheld or reversed. If the revocation proceeds, the RO will do an involuntary termination of the provider agreement based upon the revocation action.

Contact: For questions contact Peter Ajuonuma peter.ajuonuma@cms.hhs.gov or Donald Howard donald.howard@cms.hhs.gov .

Effective Date: Immediately. This policy should be communicated with all survey and certification staff, their managers and the State/Regional Office training coordinators within 30 days of this memorandum.

/s/

Thomas E. Hamilton

cc: Survey and Certification Regional Office Management