

DEPARTMENT OF DEVELOPMENTAL SERVICES

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January 24, 2023

TO: REGIONAL CENTER EXECUTIVE DIRECTORS

SUBJECT: HOME AND COMMUNITY-BASED SERVICES (HCBS) FINAL RULE:
ACTION REQUIRED FOR NON-COMPLIANT SERVICE PROVIDERS

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.

The Department of Developmental Services' November 8, 2022 [letter](#) required regional centers to send the enclosed "Notice to Non-Compliant Regional Center Service Providers" to all providers of HCBS that had not submitted documentation validating compliant policies were in place and/or a plan for remediating current policies or program design revisions to be compliant. All documentation was to be submitted to the regional center no later than December 5, 2022.

The November 8, 2022 [letter](#) stated if a provider had 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, including restricting new referrals. This directive provides actions and next steps regional centers shall take to address non-compliant providers, including moratoriums and outreach to individuals receiving services.

Moratorium

Effective February 6, 2023, regional centers shall issue an immediate moratorium on referrals and authorizations for new referrals for all services provided by a vendor that has failed to submit the required documentation for one or more of their vendored services.

Outreach to Individuals Receiving Services

Effective February 7, 2023, regional centers shall begin contacting individuals receiving services in settings that fail to meet the February 6, 2023 deadline. Regional centers shall meet with those individuals to inform them that their current service provider is not in compliance and provide information about the benefits of receiving services from providers who meet the federal requirements. Together with the individual's chosen circle of support, the regional center and other members of the planning team will ensure that individuals are provided information, and the opportunity and support to make an informed choice of an alternate service setting. Individuals must be supported in the decision-making process so their person-centered service plan includes their selection of the setting in which they receive services.

"Building Partnerships, Supporting Choices"

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Future Action for Continued Non-Compliance

A directive is forthcoming to address service providers that do not have regional center reviewed and approved documentation, such as policies and/or program designs, in place by March 1, 2023. Corrective action next steps may include a partial withholding of regional center payments, which would be fully paid once all documentation is completed and found to be compliant. Continued failure to submit documents that meet the federal requirements may result in the termination of vendorization.

Reporting

Regional centers should continue to upload provider documents as soon as possible, but not later than three (3) business days after receipt. 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. Regional centers must report a list of service providers that still have not submitted required documentation by February 7, 2023, to the email address listed below.

If you have any questions regarding this correspondence, please contact hcbsregs@dds.ca.gov.

Sincerely,

Original Signed by:

BRIAN WINFIELD
Chief Deputy Director

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
Nancy Bargmann, Department of Developmental Services
Carla Castañeda, Department of Developmental Services
Vicki Smith, Department of Developmental Services
Jim Knight, Department of Developmental Services
Ernie Cruz, Department of Developmental Services