

Tony Evers
Governor



DIVISION OF MEDICAID SERVICES

1 WEST WILSON STREET
PO BOX 309
MADISON WI 53701-0309

Karen E. Timberlake
Secretary

State of Wisconsin
Department of Health Services

Telephone: 877-498-9525
TTY: 711

December 1, 2022

Ms. Ondrea Richardson
Division of Long-Term Services and Supports
Department of Health & Human Services
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-14-26
Baltimore, Maryland 21244-1850

Dear Ms. Richardson:

In its November 16 webinar titled “Themes Identified During CMS’ Heightened Scrutiny Site Visits”, CMS directed states to request a corrective action plan (CAP) by December 1, 2022, if they needed to continue implementation of certain regulatory criteria beyond the end of the HCBS settings rule transition period (March 17, 2023). Additional direction from CMS in an email dated November 17, directs states that have submitted presumptively institutional settings to CMS for a heightened scrutiny review and have yet to receive final adjudication of those settings to request a CAP to authorize additional opportunities to complete discussions with CMS.

On April 2, 2021, Wisconsin submitted evidentiary packages for 48 residential settings we identified as subject to heightened scrutiny review. We determined that each of these settings overcame the institutional presumption and met the requirements of the settings rule. In June 2022, CMS and its contractors came to Wisconsin to conduct onsite visits of six presumptively institutional settings and subsequently held two site visit debriefing meetings with our staff in mid-July and early August 2022. To date, we have only received a final determination from CMS for one of the heightened scrutiny settings we submitted 20 months ago.

Based on a November 30, 2022, communication from CMS, we understand CMS expects to soon release a report from its onsite heightened scrutiny visit conducted on June 27-30, 2022. Once this report is released, Wisconsin will work to quickly complete any remediation activities, if necessary.

Should the CMS report find some of the heightened scrutiny settings we submitted do not overcome the institutional presumption, we respectfully submit the following anticipatory Corrective Action Plan.

Information on which criteria the state will need extra time to ensure full provider compliance;

- Wisconsin has submitted presumptively institutional settings to CMS for a heightened scrutiny review and have yet to receive final adjudication of these settings. Upon receiving

the report, we will require time to assure all settings have completed any identified remediation. In addition, several new settings have requested a heightened scrutiny review and we are in the process of reviewing these settings. Final review of these settings cannot occur until final adjudication of the original settings is received.

The state's efforts to bring providers into compliance with those criteria, and the PHE-related impacts that created barriers to compliance; and

- Wisconsin will work with providers and Managed Care Organizations on remediation for compliance once final adjudication of these settings is provided by CMS.

The state's plan to overcome encountered barriers, and the time needed to do so.

- Wisconsin anticipates requiring six months after the final adjudication is provided by CMS to complete remediation with providers that have received a heightened scrutiny review. Wisconsin has started heightened scrutiny reviews with new settings however will not finalize the review process until the final adjudication is provided.

Wisconsin anticipates completing all other outstanding milestones by the March 17, 2023, deadline:

- Approval of final Statewide Transition Plan.
- Revisions made to service descriptions, waiver language, program regulations, contracts, manuals, and handbooks to ensure compliance with HCBS settings requirements.
- Transition for any members residing at a non-heightened scrutiny setting that is not in compliance with HCBS settings requirements.

Finally, this request covers the following Wisconsin 1915(c) waivers:

- Family Care Waiver Renewal (WI.0367)
- IRIS (Include, Respect, I Self-Direct) Waiver (WI.0484)

We look forward to approval of this request.

Sincerely,

Lisa Olson
Medicaid Director

cc: Curtis Cunningham, Assistant Administrator for Benefits and Service Delivery
Christian Moran, Director, Bureau of Programs and Policy
Kimberly Schindler, Project Manager, Bureau of Programs and Policy
Michele MacKenzie, CMS