



August 28, 2017

Sent: INSERT EMAIL ADDRESS

Agency XYZ (Provider ID#)
Attn: Program Administrator
1234 Everywhere Street
Anchorage, AK 99502

Response Due Date
November 17, 2017

RE: Notice of Review Status: Settings Final Rule

Survey Key: # 100XXX
Type of Review: Onsite

Current Status: Emerging Compliant
Provider Action: Remediation Plan

Dear Provider

Thank you for assisting Senior and Disabilities Services (SDS) in the review of your home and community based service setting for compliance with the final rule ([CFR 42. §441.301](#)) from Centers for Medicare and Medicaid Services (CMS). SDS understands how busy providers are offering quality services to Day Habilitation recipients so appreciates your assistance. In this letter we are explaining the outcomes of our review and providing next steps so that your site can successfully comply with the CMS final rule.

The SDS settings self-assessment reviews were designed to verify that certified providers meet the settings requirements or are developing a remediation plan. SDS is pleased to report that the majority of reviewed settings were found to be in the category of “Emerging Compliant.”

CMS mandates that applications for new waivers include assurances that services will be provided in fully compliant settings by a new waiver’s proposed effective date. Because the new Individualized Supports Waiver (ISW) is expected to be operational in March, 2018, SDS is focusing the next phase of its settings work on compliance for services that will be offered in this waiver. The Provider Certification and Compliance Unit and Grants Unit identified settings that could provide ISW services beginning in March, 2018.

Based on your initial self-assessment, SDS conducted a focused or onsite review of your setting. **This resulted in the following determinations for your setting:**

Emerging Compliant: The setting does not meet all requirements, but is partially integrated and provides some supports for access by recipients to the greater community; the provider will be able to bring the settings into compliance through remediation.

Required Provider Action: Submit a remediation plan (your plan to correct identified deficiencies) for each item identified below.

Below, SDS summarizes the list of settings compliance findings from your self-assessment and the focused or on-site review of your setting. **Please note that only issues needing remediation are identified; if a settings requirement does not have a finding described below, you were determined to be compliant in that area.**

Instructions:

Your remediation plan will be your response to each finding, as entered in each “Required Provider Action and Completion Timeline” box below, using the following procedures:

- 1) Enter your remediation responses directly into this letter.
- 2) Save the response letter in PDF format.
- 3) Email the response letter in PDF format to DSDSCompliance@alaska.gov

Using these procedures will allow SDS to enter information electronically into the tracking system. Since SDS will be reviewing over 1,000 settings, **SDS appreciates you submitting your responses electronically via PDF attachment** instead of mailing or faxing a hard copy.

In order to successfully meet the timelines to transition to the new settings requirements, **it is important that you send us your remediation plan by November 17, 2017, addressing how you will be fully compliant by January 15, 2018.** SDS will review remediation plans and respond to providers by November 30, 2017. Failure to comply with this request will result in not being able to bill Medicaid for services provided to individuals on the Individualized Supports Waiver.

SDS will make a final determination of compliance. All fully compliant providers will move to ongoing monitoring processes. Reminder: Send your completed responses electronically to DSDSCompliance@alaska.gov. This will speed up the review process.

For additional information that may aid you in developing your remediation responses, refer to the [Alaska HCBS Settings website \(http://dhss.alaska.gov/dsds/Pages/transitionPlanHCBS/HCBStransition.aspx\)](http://dhss.alaska.gov/dsds/Pages/transitionPlanHCBS/HCBStransition.aspx).

If you have any questions regarding this letter, please contact the Provider Certification and Compliance Unit at 907.269.3666 during normal office hours Monday-Friday, 8:30 a.m.-5:00 p.m.

Sincerely,

Provider Certification and Compliance Unit
Senior and Disabilities Services

Review Summary

Onsite observations confirmed that the setting is meeting most of the final rule requirements. The language in governing documents and current practice does not align with the settings requirements and contains limitations and/or restrictions that require review and remediation. Community integration, control of personal resources, and individual choice in participation remain outstanding.

Findings: Community Integration

Q 15. The agency confirmed that the individuals in this setting are primarily or exclusively people with disabilities. AND;
Q 16. The provider stated that interaction with others occurs during outings in the community.

Required Provider Actions:

The setting does not have a clear or established process in place to support community integration within the setting in addition to the planned community outings. The setting must ensure recipients are not intentionally or inadvertently segregated from the broader community. Review, revise and align business processes and current practices to meet settings requirements by facilitating, supporting, and encouraging community interaction and integration within this setting. Provide evidence of an established process or strategy to support integration in the setting.

Remediation Plan and Completion Timeline (EVIDENCE THAT REMEDIATION HAS OCCURRED MUST BE RECEIVED AT SDS BY 1/15/18.)

There would be several steps in this section in order to accomplish integration in the setting. Examples of possible steps include:

- Begin tracking community participation in setting sponsored events/activities. Develop procedure to report. Activity Director is responsible for completion by 12-15-2017.
- Devise community outreach protocol to augment current activities in the setting to include increasing volunteer base and collaboration with external community resources for art or other demonstrations to occur on site. Activity Director is responsible for completion 01-10-2018.
- Review/revise advertisement and solicitation efforts of the greater community for inclusion in center activities or events. Program Manager responsible for oversight and completion by 1-5- 2018.
- Evidence that remediation occurred as described in the plan sent to SDS by_____.

Findings: Control of Personal Resources

Q 29. The setting does not have a process in place to assist recipients with managing their personal resources while engaging in activities.

Required Provider Actions

The setting must provide evidence of an established process or policy regarding the recipients' control of personal resources while engaged in services.

Remediation Plan and Completion Timeline (EVIDENCE THAT REMEDIATION HAS OCCURRED MUST BE RECEIVED AT SDS BY 1/15/18.)

There are many actions that could be taken to revise this area to meet compliance. One example is to formally create and declare the process:

- Develop/implement policy and procedure to reflect that recipients and/or their legal representatives may opt to have assistance with money management while engaged in services. Policy will state what assistance is provided and the required documentation/procedures to support the change. Program administrator responsible to complete by 1-1-2018.

Another strategy could be to establish a business position of not involving the agency with recipient finances and, instead, outline the expected process and resultant supporting policy to identify how recipients are supported in self-managing their personal resources while engaged in services:.

- Develop/implement policy and procedure to reflect the process of supporting recipients in self-managing their personal resources (complete by 1-14-2018).

Findings: Choice in Participation

Required Provider Actions

Q 46. The agency confirmed that generally recipients are expected to attend community outings as scheduled if no staff are available to cover the setting in the absence of the larger group. Individuals cannot be compelled to be absent or to remain in the setting during specific times of the day.

Review, revise and adjust business processes and practices to ensure that recipients are not compelled to be absent or to remain in the setting during specific times of day. Provide evidence to support the change in practice.

Remediation Plan and Completion Timeline (EVIDENCE THAT REMEDIATION HAS OCCURRED MUST BE RECEIVED AT SDS BY 1/15/18.)

While there are a few actions that could be taken to revise this area to meet compliance, a long-term solution could be to:

- Review/revise staffing model for setting to ensure sufficient staff available to support recipient choice. Program Manager to complete by 12-17-2017.