



Jack Dalrymple, Governor  
Maggie D. Anderson, Executive Director

June 2015

To: Residential DD Licensed Providers

From: ND Department of Human Services, DD Division

Regarding: New Federal Home and Community Based (HCB) setting requirements

In March 2014, the Centers for Medicare and Medicaid Services (CMS), which is part of the federal government that oversees the federal funds that are used to pay for HCB waiver services, issued new requirements. Your agency is receiving this letter because our records indicate that you provide HCB services to clients who are receiving their services from a 1915(c) Medicaid waiver in a provider-owned residential setting.

These new requirements require that all HCB waiver settings meet certain qualifications, which include:

- *The setting is integrated in and supports full access to the greater community;*
- *Is selected by the individual from among setting options;*
- *Ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint;*
- *Optimizes individual initiative, autonomy and independence in making life choices; and*
- *Facilitates choice regarding services and who provides them.*

There are also additional requirements for provider-owned residential waiver settings. They include:

- *Individuals have a lease or other legally enforceable agreement providing the same responsibilities and protections from eviction that tenants have under the landlord/tenant law;*
- *Individuals have privacy in their unit including lockable doors, choice of roommates and freedom to furnish or decorate the unit;*
- *Individuals control their own schedules and activities including access to food at any time;*
- *Individuals can have visitors at any time; and*
- *The setting is physically accessible.*

The Department recognizes that these additional requirements may not apply in all situations, but any modification to these additional requirements must be supported by a specific assessed need and documented in the person-centered service plan.

CMS is monitoring the State's implementation of the Transition Plan remediation activities to come into compliance with the new requirements. The State has developed tracking systems for this reporting purpose.

By July 1, 2016, for provider-owned settings your agency will need to send in a sample lease agreement and your agency's lease policy to the DD Division according to the DD Division Transition Plan for compliance. Enclosed is an example of a lease\rental agreement that meets the new requirements and the ND landlord tenant laws for eviction. Your agency can choose to use this lease or another agreement as long as it complies with the new requirements and the ND landlord tenant laws. By September 1, 2016 leases will be in place for each individual in provider-owned settings.

By July 1, 2016, for provider-owned settings your agency will need to have installed lockable bedroom doors for each client in those settings. If this requirement cannot be met, it must be supported by a specific assessed need and documented in the person-centered service plan. Plan documentation requirements is pursuant to 441.301(C)(4)(vi)(F)(1) through (8). Additionally Providers will need to complete the tracking within the provided spreadsheet and return it to the DD Division by July 1<sup>st</sup>, 2016.

Further guidance for providers to implement the lease, agency policy, and lockable door requirements is included. Additionally, statewide training will be occurring in September 2015 for the new requirements. The DD Transition Plan and additional information on the new requirements can be found at <http://www.nd.gov/dhs/services/disabilities/dd.html>.

Please send sample leases, lease policy, and provider tracking spreadsheet to Colette Perkins via Therap Scomm.

If you have any questions about this process, please contact Marella Krein at [mkrein@nd.gov](mailto:mkrein@nd.gov) or 701-328-8977.

CC: Regional DD Program Administrators

Enclosures:     Question and Answers  
                  Sample Lease  
                  Provider Tracking Spreadsheet