



## Office of Mental Health

ANDREW M. CUOMO  
Governor

ANN MARIE T. SULLIVAN, M.D.  
Commissioner

MARTHA SCHAEFER  
Executive Deputy Commissioner

August, 28 2016

Executive Directors of Adult Residential Programs  
Department of Health, Health Home Care Management  
Medicaid Managed Care Organization Plans

To whom it may concern,

The New York State Office of Mental Health will be initiating preliminary steps to comply with the Center for Medicare and Medicaid Services (CMS) Behavioral Health Home and Community Based Services (BH HCBS) Federal Settings Rule (42 CFR 441.301, et. seq). The following residential settings are deemed non-compliant and are NOT considered to be a home and community based setting. Therefore at this time, residents living at the following settings are in-eligible to receive BH HCBS until transitioned into a compliant setting:

- A nursing facility;
- An institution for mental diseases; including housing programs on the grounds of a psychiatric center campus
- An intermediate care facility for individuals with developmental disabilities;
- A hospital;
- OMH Licensed Congregate Treatment Sites (Community Residences)
- DOH Adult Homes at this time are designated as non-compliant; however please note a final decision will be made at a future date.

OMH is currently completing an expedited residential setting assessment of OMH funded adult residential programs to determine which residential sites are considered to be home and community-based settings under the Federal Settings Rule. OMH has conditionally determined the following OMH Adult Residential programs as home and community-based settings:

- Scattered-Site Supportive Housing, formerly known as Scattered-Site Supported Housing
- Community Residence Single Room Occupancy Sites (CR-SRO)
- Supportive Single Room Occupancy Sites (SP-SRO)
- Apartment Treatment Sites

Final determination of settings compliance will be done by OMH and based upon the provider's residential assessment. At a future date, an official list of compliant settings will be provided to Health Homes and Managed Care Plans. **Until that time, residents of the above conditionally compliant settings may be assessed and receive appropriate BH HCBS if eligible.**

OMH anticipates these settings will be determined to be community integrated, however must provide evidence to CMS demonstrating these settings meet the federal standards. Therefore, provider completion of the HCBS Settings Residential Assessment is mandatory in order to comply with the federal CMS BH HCBS settings standards and maintain home and community-based status for purposes of these BH HCBS services.

If, in the future, CMS determines a specific conditionally compliant setting does not satisfy the CMS standards for community integration, the State will pay the Federal share for any services provided to date. Medicaid Managed Care Plans will not be held financially responsible. For additional questions or concerns please email the official OMH HCBS settings mailbox, [hcbs-residential@omh.ny.gov](mailto:hcbs-residential@omh.ny.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert W. Myers", with a long horizontal flourish extending to the right.

Robert W. Myers, PhD  
Senior Deputy Commissioner

Cc: Ann Marie T. Sullivan, M.D.  
Martha Schaefer  
Moira Tashjian  
Gary Weiskopf  
OMH Field Offices  
OMH State Operated Facilities