

10A NCAC 89D .0204 COMMUNITY REHABILITATION PROGRAM STANDARDS

(a) The following definitions apply to the terms as used in this Rule:

- (1) "Community rehabilitation program" means a program that provides directly or facilitates the provision of one or more of the following vocational rehabilitation services to individuals with disabilities to enable those individuals to maximize their opportunities for employment, including career advancement:
 - (A) Medical, psychiatric, psychological, social, and vocational services that are provided under one management.
 - (B) Testing, fitting, or training in the use of prosthetic and orthotic devices.
 - (C) Recreational therapy.
 - (D) Physical and occupational therapy.
 - (E) Speech, language, and hearing therapy.
 - (F) Psychiatric, psychological, and social services, including positive behavior management.
 - (G) Assessment for determining eligibility and vocational rehabilitation needs.
 - (H) Rehabilitation technology.
 - (I) Job development, placement, and retention services.
 - (J) Evaluation or control of specific disabilities.
 - (K) Orientation and mobility services for individuals who are blind.
 - (L) Extended employment.
 - (M) Psychosocial rehabilitation services.
 - (N) Supported employment services and extended services.
 - (O) Services to family members if necessary to enable the applicant or eligible individual to achieve an employment outcome.
 - (P) Personal assistance services.
 - (Q) Services similar to the services described in Subparagraph (A) through (P) of this Paragraph.
 - (R) Trial Work.
- (2) "Conflict of Interest" means an actual or perceived interest by a staff member of the Division or the vendor or potential vendor, a board member or immediate family for either party in an action that results in, or has the appearance of resulting in, personal, organizational, or professional gain. A conflict of interest occurs when any individual as defined has a direct or fiduciary interest in another relationship. The definition of conflict of interest shall include any bias or the appearance of bias in a decision-making process that would reflect a dual role played by a member of the organization or group.
- (3) "Fee for service funding" means an hourly rate, fee for service method of funding in which an hourly cost of providing the service is identified and the program is reimbursed based on the number of hours of actual services provided.
- (4) "Noncompliance" means a failure by a vendor to comply with rules.
- (5) "Outcome –Based Client Services and Reimbursement" means payment is made to the vendor based upon the Division's benchmark rate established pursuant to 10A NCAC 89C .0103. A payment is made for each benefit or outcome achieved that the vendor contracts with the Division to provide.
- (6) "Qualified Personnel" means staff who perform the primary job functions as stipulated by the accreditation body and who are trained to perform the job tasks. Qualified personnel or staff for a provider applying for vendorship with the Division is further defined as having a minimum of three years experience in the area of service for which the provider is applying for vendorship or other required business areas of the services.
- (7) "Serious findings" means those areas of noncompliance that may affect the safety, health or well-being of clients; those that appear to be violations of the law; and those which deny the client quality services in accordance with the law and rules.
- (8) "Vendor" means a provider of services which has complied with the Division's rules, and is authorized to provide services to clients of the Division.

(b) Statement of Policy:

- (1) Approved community rehabilitation program vendors shall meet and adhere to the standards in Paragraph (c) of this Rule in terms of management, operations and client service delivery.

- (2) The inclusion of a provider of community rehabilitation services on the Division's list of approved vendors shall not commit the Division to utilize the available services.
- (3) The Division shall not provide any provider of community rehabilitation services with a guarantee of a total dollar commitment or number of total client referrals during any specific time frame except if determined as a condition of a federal grant or a contract.
- (4) Any provider approved as a new vendor shall agree to a fee for service rate of payment.
- (5) Any vendor shall have to meet the following criteria to change payment from fee for service to Outcome reimbursement:
 - (A) Accreditation as defined in this Rule.
 - (B) A five year business relationship with the Division.
 - (C) Adherence to all standards for community rehabilitation programs set forth in this Rule without documentation of serious findings.
 - (D) Three year average expenditures at or above the level agreed upon by the Division and CRPs and funds are available.
 - (E) Achievement at or above the annual program outcome levels agreed on between the Division and the community rehabilitation program.
 - (F) Letter from the Division Regional Director indicating that there is a client service need that can be met by the provider.

If the above criteria in (A)-(F) are met, the Division shall allow the vendor to move to Outcome-based funding.

- (6) The provider, if providing supported employment services, shall provide for extended services, ongoing support services and continuous or periodic job skill training services provided at least twice monthly at the work site unless the consumer's Individualized Plan for Employment provides for off-site monitoring. Other support services provided at or away from the work site, such as transportation, personal car services, and counseling to family members, if skill training services are also needed by, and provided to, that individual at the work site. The provider shall make known the plan for extended services to the Division.
- (7) Community rehabilitation programs and other providers of rehabilitation services shall have qualified personnel, a safe environment, have obtained applicable state and federal licenses, meet the program accessibility and special communication requirements specified in 34 C.F.R. 361.51, and provide services designed to enable individuals with disabilities to have access to employment.
- (8) A vendor shall not subcontract any of the services under the approved vendorship.

(c) The following standards shall apply to existing vendors and providers of community rehabilitation program services applying to be a vendor:

- (1) Accreditation: The Division shall utilize only those community rehabilitation programs that meet the following accreditation options:
 - (A) Existing vendors as of the date of the last amendment to this Rule must be accredited by The Commission on Accreditation of Rehabilitation Facilities (CARF); the Council on Accreditation (COA); or the Council on Quality Leadership (COL). In lieu of current accreditation or pending approval for accreditation, a vendor shall provide evidence of training regarding accreditation within one year of the last rule amendment and be granted accreditation within three years.
 - (B) Community rehabilitation programs applying to be a vendor shall be accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF), the Council on Accreditation (COA) or the Council on Quality Leadership (COL). In lieu of current accreditation or pending approval for accreditation at the time of application for vendorship, a vendor shall provide evidence of training regarding accreditation before approval as vendor or; evidence of training regarding accreditation is required within one year of vendor application with accreditation rendered within three years.
- (2) The community rehabilitation program that is an approved vendor shall maintain accreditation in the area of approved vendorship. A copy of the accreditation shall be submitted to the Division.
- (3) Accessibility and nondiscrimination standards. Each community rehabilitation program shall comply with the accessibility and nondiscrimination standards set forth in federal and state law. The agency may deny funding to and refuse to contract with any community rehabilitation program which fails to comply with such provisions.
- (4) Compliance with applicable laws:

- (A) The provider shall be a legally constituted entity under federal, state, and local statute(s). The nature of the entity shall be described in its constitution and its operating principles shall be prescribed by its bylaws.
 - (B) The provider shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of business, including those of federal, state, and local agencies having jurisdiction or authority.
 - (C) Affirmative action. The State plan must assure that community rehabilitation programs that receive assistance under part B of Title I of the Rehabilitation Act as amended take affirmative action to employ and advance in employment qualified individuals with disabilities covered under and on the same terms and conditions as in section 503 of the Act.
- (5) Health and Safety Standards:
- (A) The community rehabilitation program shall assure that every individual served receives services in an environment that is free of health and safety hazards.
 - (B) With respect to substances which have been identified by federal or state agencies to be toxic or hazardous, but for which no level of safe exposure to such substances has been determined, the program shall not permit the use or storage of such substances within its premises.
 - (C) In situations in which a community rehabilitation program uses locations, other than those of the program, for trial work, for transitional employment, or for any other purpose, it shall assure that such location is in compliance with the provisions of this rule.
 - (D) The community rehabilitation program shall meet all applicable governmental requirements, including OSHA standards from the Department of Labor and, have an internal health and safety program.
- (6) Work Standards:
- (A) The community rehabilitation program shall establish production and payment practices for individuals with disabilities which maximize earning potential.
 - (B) The community rehabilitation program shall maintain all applicable certification and documentation for the Wage and Hour Division, U.S. Department of Labor rules and regulations governing wage reimbursement and the Workers' Compensation Act.
- (7) Insurance Standard.
- (A) The community rehabilitation program shall have insurance to protect assets and to ensure compensation for staff and individuals with disabilities in the event such compensation would be required for occurrences for which the community rehabilitation program is liable. There shall be documentation that the governing body of the community rehabilitation program reviews the insurance profile annually after consultation with professional insurance representatives.
 - (B) The community rehabilitation program shall maintain workers' compensation insurance.
- (8) Physical Accessibility Standard:
- (A) The community rehabilitation program shall comply with Section 504 of the Rehabilitation Act, the Architectural Barriers Act of 1968, the Uniform Accessibility Standards and their implementing standards in 41 CFR Part 101-19.6, the American National Standards Institute No. A117-1-1986; and
 - (B) The community rehabilitation program shall comply with applicable sections of the Americans with Disabilities Act (ADA).
- (9) Organizational Standard:
- (A) The community rehabilitation program shall be structured to achieve its stated mission, secure all licenses or permits to do business within its jurisdiction(s) and scope of operation, plan.
 - (B) The community rehabilitation program shall maintain written policy and administrative records, which are available for review by Division staff.
 - (C) The community rehabilitation program shall monitor the efficiency and effectiveness of services, and maintain records and reports that reflect the operation and provision of services and the organization's status.
 - (D) Providers of service applying to be a vendor shall have a minimum of three years of experience as a provider in the area of service delivery for which the provider is seeking

- approval or staff having a minimum of three years experience in the area of service for which the provider is applying to be a vendor or other required business areas of services.
- (E) The community rehabilitation program shall ensure that real or apparent conflict of interest between a member of the organization is disclosed and remedied. Failure to disclose or remedy may result in termination of the vendor approval.
- (10) Fiscal Management Standard:
- (A) Fiscal affairs relative to provision of rehabilitation services shall be managed in a manner consistent with the stated purposes and in accordance with legal requirements, including assurances that any state or federal audit and reporting requirements are met.
- (B) The community rehabilitation program shall operate under an annual budget approved by its governing body.
- (C) Community rehabilitation programs providing supported employment services shall provide the Division with information regarding the funding source for each individual's extended services program.
- (11) Personnel Standard:
- (A) As applicable, the community rehabilitation program shall maintain qualified personnel and written organizational personnel policies which support the provision of services essential to the achievement of defined individual and program goals.
- (B) The community rehabilitation program shall maintain professional and business licensure or certification required for the type of program or service(s) provided to clients.
- (12) Program Management Standard.
- (A) The community rehabilitation program shall ensure that services provided are individually tailored and coordinated in order to enhance each client's employment independence, integration, and productivity as identified within each Individualized Plan for Employment and through client participation in service planning, implementation and evaluation.
- (B) The community rehabilitation program shall have policies and follow procedures designed to promote and document client input in program development and each client's involvement in planning his or her own program.
- (C) The community rehabilitation program shall maintain the confidentiality of all medical, psychological, and other consumer information shared with it by the Division.
- (D) The community rehabilitation program shall provide for meetings with Division staff during the time the client is being served inclusive of admission or pre-admission meetings to review the client's progress.
- (E) The community rehabilitation program shall provide reports of services and results to the Division at completion or as otherwise agreed upon.
- (F) The community rehabilitation program shall use language or mode of communication most compatible with the individual client's abilities and culture.
- (G) Community rehabilitation programs explicitly designed to serve those people with the most significant disabilities such as supported employment programs shall provide ongoing support services over an extended period of time to maintain their employment, with no end date or time limit placed on this assistance.
- (H) Providers applying to be a vendor shall demonstrate a record of success as defined in this rule in the area of service delivery for which the provider is seeking approval.
- (13) Program Evaluation Standard:
- (A) The community rehabilitation program shall establish a program evaluation and reporting system which is used to measure both effectiveness and efficiency and to monitor the results of program.
- (B) The community rehabilitation program shall provide timely reports to the Division of such information, and by such means, as the Division may require for evaluation of ongoing program effectiveness, costs, and impact of services provided by the provider.
- (d) The Division shall evaluate each provider's ability to ensure compliance with each of the standards that, for the purposes of the rules in this Chapter, apply to the provider and type of service provision being approved.
- (e) Any vendor approved prior to the effective date of this amended rule shall not have to submit a new vendor application.

(f) Any service provider interested in providing community rehabilitation program services after the effective date of this amended Rule shall adhere to the following procedures:

- (1) The provider shall obtain a vendor application packet from the Division's website or shall request the vendor application packet from the Division.
- (2) The vendor application packet shall include:
 - (A) the application for vendorship; and
 - (B) the criteria and procedures for review and approval.
- (3) The provider shall complete the vendor application forms and submit all required documentation to the Division. This shall include a recommendation from Division staff or other source such as a local management entity (LME), another vendor, or professional organization.
- (4) Once the application has been reviewed and checked for accuracy and completion, an on site vendor review shall be conducted by staff of the Division.
- (5) Within 30 days, the vendor shall be contacted either to provide additional information or clarification or to complete the process.
- (6) If the application is disapproved, a letter of explanation shall be sent to the vendor. Applications may be disapproved for failure to submit required information, or failure of the vendor to agree to the standards and requirements set forth in this Rule to provide quality services to the Division's clients.

(g) The vendor shall provide accurate information describing vendored services and shall maintain accurate documentation of the costs of delivery of each service.

(h) The vendor shall have record keeping capabilities to identify each consumer as an individual, how many units of a service during any given month that consumer received, and provide accurate bills and reports that reflect the actual services delivered to that consumer.

(i) The vendor shall submit to the Division invoices for Division authorized services on Division form(s) monthly.

(j) The vendor shall report to the Division any significant changes in the proposed delivery of services from that stated in the approved application. These include, changes in personnel and ability to deliver anticipated volumes of services. Budgetary changes shall also be reported as they occur.

(k) Vendors shall be monitored at a minimum of annually by the Division for assurance of compliance with the standards. Written reports shall be submitted to the vendor outlining the findings of monitoring.

(l) Noncompliance:

- (1) For findings of noncompliance as determined by Division staff responsible for monitoring, the vendor must submit a written corrective action plan including timelines to the Division.
- (2) Serious findings may result in suspension of use of the vendor by the Division until the vendor has completed corrective action.
- (3) The Division shall inform the provider in writing of the acceptance of completed corrective actions, closing out the plan.
- (4) Within 120 days of the services provided by the vendor shall be reviewed by Division staff to ensure services are being provided in compliance with applicable standards. The vendor may appeal any disputes which cannot be settled by submitting a written statement of appeal describing the situation and submitted to the Division director. After investigating the dispute, the Division Director shall send a written decision to the provider and retain a copy for the file along with all documents related to the appeal.

(m) Either the vendor or the Division may terminate the vendor relationship upon a minimum of a 30 day written notice by either party or immediately upon notification of serious findings.

History Note: Authority G.S. 143-545.1; 34 C.F.R. 361.45; Eff. February 1, 1976; Amended Eff. April 1, 2007; July 1, 1997; October 20, 1979; Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.