



Center for Clinical Standards and Quality

Ref: QSO-24-06-CMHC

DATE: March 1, 2024

TO: State Survey Agency Directors

FROM: Directors, Quality, Safety & Oversight Group (QSOG) and Survey & Operations Group (SOG)

SUBJECT: Revisions to Chapter 2 and Appendix F of the State Operations Manual (SOM) – Community Mental Health Centers (CMHCs)

Memorandum Summary

- **SOM Chapter 2 and Appendix F:** CMS has revised the SOM to reflect changes associated with the November 22, 2023, release of the Hospital Outpatient Perspective Payment System (OPPS) final rule ([CMS-1786-FC](#)). These regulations include new requirements for intensive outpatient (IOP) services, new definitions added to personnel qualifications, and adding additional practitioners who may lead interdisciplinary team meetings as necessary. Additionally, the survey process is revised, and other revisions are included for clarity.

Background:

CMHCs provide partial hospital services (PHP) and an array of other outpatient mental health care. The release of the OPPS final rule (88 FR 81540) on November 22, 2023, included requirements for a new level of care - intensive outpatient (IOP) services. Adding IOP complements the current services at CMHCs by providing a structured and more intensive step-down alternative beyond traditional outpatient services. Other new requirements for CMHCs include the revision of professional qualifications for mental health counselors (MHCs) and the addition of a marriage and family therapist (MFT) professional position with associated qualifications. These new requirements took effect on January 1, 2024.

Discussion:

CMS revised the CMHC certification guidance in Chapter 2 and the CMHC survey protocol and interpretive guidelines in Appendix F of the SOM to reflect the November 22, 2023 final rule. CMS also made minor technical corrections to Appendix F. Additionally, CMS updated the current regulation and guidance in the Automated Survey Process Environment (ASPEN) system.

These updates include:

- Revisions to existing survey processes to include the addition of IOP level of care;

- The addition of definitions for IOP, PHP, psychosocial rehabilitation services, day treatment services, children, and elderly;
- A full description of the IOP level of care requirements and all associated interpretive guidance, which are similar to those for PHP, with the exception of service frequency;
- The addition of MFT as a new professional position to the treatment team and revised qualifications for the MHC position; and,
- An addition of a cross-reference to Appendix Z for the Emergency Preparedness requirements and their associated E-tags.

Contact:

For questions or concerns relating to this memorandum, please contact CMHC@cms.hhs.gov.

Effective Date:

Immediately. Please communicate to all appropriate staff within 30 days.

/s/

Karen L. Tritz
Director, Survey & Operations Group

David R. Wright
Director, Quality, Safety & Oversight Group

Attachment(s)- Advance copy of CMHC-Transmittals Appendix F and SOM Chapter 2

Resources to Improve Quality of Care:

Check out CMS's new Quality in Focus interactive video series. The series of 10–15 minute videos are tailored to specific provider types and intended to reduce the deficiencies most commonly cited during the CMS survey process, like infection control and accident prevention. Reducing these common deficiencies increases the quality of care for people with Medicare and Medicaid.

Learn to:

- *Understand surveyor evaluation criteria*
- *Recognize deficiencies*
- *Incorporate solutions into your facility's standards of care*

See the [Quality, Safety, & Education Portal Training Catalog](#), and select Quality in Focus.

CMS Manual System

Pub. 100-07 State Operations Provider Certification

Department of Health &
Human Services (DHHS)
Centers for Medicare &
Medicaid Services (CMS)

Transmittal -Advanced Copy

Date:

**SUBJECT: Revisions to the State Operating Manual (SOM), Appendix F-
Community Mental Health Centers**

I. SUMMARY OF CHANGES: Revisions were made to Appendix F based on new requirements for Intensive Outpatient Services released in the Outpatient Prospective Payment System final rule, expiration of revised guidance for staff COVID-19 vaccination requirements for all provider types, survey process revisions, and new personnel qualifications. Revisions also include minor technical corrections.

**NEW/REVISED MATERIAL - EFFECTIVE DATE*: Upon Issuance
IMPLEMENTATION DATE: Upon Issuance**

Disclaimer for manual changes only: The revision date and transmittal number apply to the red italicized material only. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

**II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual not updated.)
(R = REVISED, N = NEW, D = DELETED) – (Only One Per Row.)**

R/N/D	CHAPTER/SECTION/SUBSECTION/TITLE
R	Appendix F/ PART 1-Survey Process for Community Mental Health Centers/2252D.3 Survey Team Composition
R	Appendix F/ PART 1-Survey Process for Community Mental Health Centers/2252D.4c TASK 3- Review of Other Records
R	Appendix F/ PART 1-Survey Process for Community Mental Health Centers/2252D.4d TASK 4- Direct Client Observation
R	Appendix F/ PART 1-Survey Process for Community Mental Health Centers/2252D.4g TASK 7- Team Assessment of Compliance
R	Appendix F/Table of Contents /§485.916(d) Standard: Review of the person-centered active treatment plan

R	Appendix F/Table of Contents /§485.918 Condition of participation: Organization, governance, administration of services, partial hospitalization services and intensive outpatient services
N	Appendix F/Table of Contents/§485.918(g) Standard: Intensive outpatient services.
R	Appendix F/PART 2/§485.900 Basis and scope.
R	Appendix F/PART 2/Definitions
R	Appendix F/M0107/§485.904(b)(5) Mental health counselor. An individual who meets the applicable education, training, and other requirements of §410.54 of this chapter.
R	Appendix F/M0113/§485.904(b)(11) Psychiatrist. An individual who specializes in assessing and treating persons having psychiatric disorders; is board certified, or is eligible to be board certified by the American Board of Psychiatry and Neurology, or has documented equivalent education, training or experience, and is fully licensed to practice medicine in the State in which he or she practices.
N	Appendix F/M0115/§485.904(b)(12) Marriage and family therapist. An individual who meets the applicable education, training, and other requirements of §410.53 of this chapter.
R	Appendix F/M0132/§485.910(b)(2) If a client has been adjudged incompetent under State law by a court of proper jurisdiction, the rights of the client are exercised by the person appointed in accordance with State law to act on the client's behalf.
R	Appendix F/M0150/§485.910(d)(4) Ensure that, within 5 working days of becoming aware of the violation, all violations are reported to State survey and certification agency, and verified violations are reported to State and local entities having jurisdiction.
R	Appendix F/M0192/§485.914(a)(2) For clients assessed and admitted to receive partial hospitalization services and intensive outpatient services, the CMHC must also meet separate requirements as specified in §§485.918(f) and 485.918(g), as applicable.
R	Appendix F/M0225/§485.914(d)(2) For clients that receive partial hospitalization (PHP) or intensive outpatient (IOP) services, the assessment must be updated no less frequently than every 30 days.
R	Appendix F/M0238/§485.916(a)(1) An interdisciplinary treatment team, led by a physician, nurse practitioner (NP), physician assistant (PA), clinical nurse specialist (CNS), clinical psychologist, clinical social worker, marriage and

	family therapist (MFT), or mental health counselor (MHC), must provide the care and services offered by the CMHC.
R	Appendix F/M0255/§485.916(d) Review of the person-centered active treatment plan. The CMHC interdisciplinary treatment team must review, revise, and document the individualized active treatment plan as frequently as the client’s condition requires, but no less frequently than every 30-calendar day. A revised active treatment plan must include information from the client’s initial evaluation and comprehensive assessments, the client’s progress toward outcomes and goals specified in the active treatment plan, and changes in the client’s goals. The CMHC must also meet partial hospitalization program requirements specified under §424.24(e) of this chapter or intensive outpatient service requirements as specified under §424.24(d) of this chapter, as applicable, if such services are included in the active treatment plan.
R	Appendix F/M0304/§485.918 Condition of Participation: Organization, governance, administration of services, partial hospitalization services and intensive outpatient services. The CMHC must organize, manage, and administer its resources to provide CMHC services, including specialized services for children, elderly individuals, individuals with serious mental illness, and residents of its mental health service area who have been discharged from an inpatient mental health facility.
R	Appendix F/M0313/§485.918(b)(1)(iii) Provides day treatment, partial hospitalization services, or intensive outpatient services, other than in an individual’s home or in an inpatient or residential setting, or psychosocial rehabilitation services.
R	Appendix F/M0356/§485.918(f)(2) Provide the services and meet the requirements specified in §410.43 of this chapter.
R	Appendix F/M0358/§485.918(f)(4) Meet the content of certification and plan of treatment requirements as described in §424.24 (e) of this chapter.
N	Appendix F/M0364/§485.918(g) Standard: Intensive outpatient services. A CMHC providing intensive outpatient services must—
N	Appendix F/M0365/§485.918(g)(1) Provide services as defined in §410.2 of this chapter.
N	Appendix F/M0366/§485.918(g)(2) Provide the services and meet the requirements specified in §410.44 of this chapter.
N	Appendix F/M0367/§485.918(g)(3) Meet the requirements for coverage as described in §410.111 of this chapter.
N	Appendix F/M0368/§485.918(g)(4) Meet the content of certification and plan of treatment requirements as described in §424.24(d) of this chapter.

R	Appendix F/M0363/§485.918(h) Standard: Compliance with Federal, State, and local laws and regulations related to the health and safety of clients.
N	Appendix F/§483.920 Condition of Participation. Emergency Preparedness

III. FUNDING: No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

IV. ATTACHMENTS:

	Business Requirements
X	Manual Instruction
	Confidential Requirements
	One-Time Notification
	One-Time Notification -Confidential
	Recurring Update Notification

***Unless otherwise specified, the effective date is the date of service.**

PART 1—Survey Process for Community Mental Health Centers.

2252D.3 Survey Team Composition

(Rev. Advanced Copy March 2024)

(Rev.)

Survey team size and composition will vary according to the size of the Center and the purpose of the survey. While there is no requirement, CMS recommends that surveyors performing CMHC surveys have a background in psychiatric care or mental health services. Every CMHC surveyor must, at a minimum, successfully complete the basic CMHC surveyor training.

Professional disciplines and experience represented on the survey team should reflect the expertise needed to determine compliance with the CoPs and other Federal participation requirements (i.e. Partial Hospitalization Services *and Intensive Outpatient Services*). All survey team members must meet education and training qualifications as specified in the SOM at §4009.

2252D.4c TASK 3- Review of Other Records

(Rev.)

Additional records, such as the 24-hour emergency call log, group attendance records, policies and procedures, and other CMHC records, may also be relevant to determine CMHC compliance with other provision of services requirements under §485.918(b) of the regulation as well as other Federal participation requirements (i.e. Partial Hospitalization Services *and Intensive Outpatient Services*).

1. Records of Client Deaths – Request a list of all clients who died in the past 12 months while receiving care at the Center. Evidence should exist of documented contact with appropriate Federal, State, and local agencies notifying them of the circumstances surrounding the client's death and the results of investigations by the CMHC and/or any of the appropriate Federal, State, or local agencies.
2. Policy and Procedures – Review the Center's policies and procedures when there are questions identified during interviews, observations and record reviews.
3. Serious Incident and Accident Report– The client's treatment record should contain sufficient information to fully detail any serious incident or accident. If the record does not contain sufficient information, request any additional documentation from the CMHC regarding the incident and investigation.
4. CMHC Personnel Qualifications- Review personnel files for all professionals who furnish services directly for current licensing, certifications, and/or registrations. Those

professionals providing services under other arrangements may not have a personnel folder, but surveyors should still verify the facility has a copy of current licensing, certifications, and/or registrations. Surveyors should see evidence the facility has verified licensure, certification, and/or registration and expiration dates as applicable.

2252D.4d TASK 4 – Direct Client Observation

(Rev.)

The purpose of direct client observation is to evaluate the existence of effective therapeutic relationships between the Center staff and the client and compliance with the CoPs and other Federal participation requirements (i.e. Partial Hospitalization Services *and Intensive Outpatient Services*). Staff must respect the rights of the clients and interact with them in a mutually productive manner. Direct observation also helps to determine how effectively staff manage the milieu and efficacy of the application of de-escalation and other behavior management techniques. De-escalation techniques include: limit setting, therapeutic communication, redirection, conflict resolution, active listening techniques, and visualization.

Observe each client in the sample in as many treatment settings (therapy groups, activities, treatment team meetings, other types of meetings, and milieu interactions in the client's environment) as possible. Visit as many treatment areas as time permits, and observe client activities during different time periods. Survey team members may need to adjust their schedules so that observations can be made during most of the client treatment hours. Surveyors must never request the Center alter a client's treatment hour or schedule to accommodate the surveyor's schedule.

If during client observation, the surveyor observes or is informed that their note taking appears to create agitation or distraction for the clients, the surveyor should do their documentation after the observation is completed. Form [CMS 3070I](#) is an optional form but can be used to record observations if the surveyor so chooses. After observations are completed, the surveyor compares activities he/she observed with the activities indicated by the client's program/ active treatment plan for consistency.

Record the following information for each observation:

1. Date and location;
2. Beginning and ending times of observation;
3. Number of clients present;
4. Approximate number of staff present;
5. What the client on the sample is doing (regardless of whether or not a scheduled therapeutic modality was in progress);
6. What the staff are doing;

7. The presence of disruptive behavior and staff's intervention (if any); and
8. Any other pertinent information.

2252D.4g TASK 7 – Team Assessment of Compliance

(Rev.)

In preparation for the exit conference, the surveyors should conduct a pre-exit team meeting. The team leader must ensure that all survey team members have completed their respective survey tasks. The surveyors will share their respective findings, and make team decisions regarding any non-compliance with each CoP and other Federal participation requirement (i.e. Partial Hospitalization Services *and Intensive Outpatient Services*).

If at any time during the survey one or more team members identify a possible immediate jeopardy situation, the team should meet immediately to confer. See Appendix Q for guidance regarding determination of immediate jeopardy.

PART 2—Interpretive Guidelines for Community Mental Health Centers.

Regulation

485 Subpart J- Condition of Participation: Community Mental Health Centers (CMHCs)

§485.900 Basis and Scope

(Rev.)

- (a) Basis. This subpart is based on the following sections of the Social Security Act:
 - (1) Section 1832(a)(2)(J) of the Act specifies that payments may be made under Medicare Part B for partial hospitalization services *and intensive outpatient services* furnished by a *community mental health center* (CMHC) as described in section 1861(ff)(3)(B) of the Act.
 - (2) Section 1861(ff) of the Act describes the items and services that are covered under Medicare Part B as “partial hospitalization services” *and “intensive outpatient services”* and the conditions under which the items and services must be provided. In addition, section 1861(ff) of the Act specifies that the entities authorized to provide

partial hospitalization *and intensive outpatient* services under Medicare Part B include CMHCs and defines that term.

(3) Section 1866(e)(2) of the Act specifies that a provider of services for purposes of provider agreement requirements includes a CMHC as defined in section 1861(ff)(3)(B) of the Act, but only with respect to providing partial hospitalization services *and intensive outpatient services*.

(b) Scope. The provisions of this subpart serve as the basis of survey activities for the purpose of determining whether a CMHC meets the specified requirements that are considered necessary to ensure the health and safety of clients; and for the purpose of determining whether a CMHC qualifies for a provider agreement under Medicare.

Definitions

(Rev.)

The following definitions are relevant to this appendix.

Active treatment plan, *as defined in §485.902*, means an individualized client plan that focuses on the provision of care and treatment services that address the client's physical, psychological, psychosocial, emotional, and therapeutic needs and goals as identified in the comprehensive assessment.

Children refers to an unmarried person younger than 22 years old. See <https://www.medicare.gov/basics/children-and-end-stage-renal-disease> for further information.

Community mental health center (CMHC), *as defined in §410.2*, means an entity that- (1) Provides outpatient services, including specialized outpatient services for children, the elderly, individuals who are chronically mentally ill, and clients of its mental health service area who have been discharged from inpatient treatment at a mental health facility; (2). Provides 24-hour-a-day emergency care services; (3) Provides day treatment or other partial hospitalization services, or intensive outpatient services, or psychosocial rehabilitation services; (4) Provides screening for patients being considered for admission to State mental health facilities to determine the appropriateness of this admission; (5) Meets applicable licensing or certification requirements for CMHCs in the State in which it is located; and (6) Provides at least 40 percent of its services to individuals who are not eligible for benefits under title XVIII of the Social Security Act.

Comprehensive assessment, *as defined in §485.902*, means a thorough evaluation of the client's physical, psychological, psychosocial, emotional, and therapeutic needs related to the diagnosis under which care is being furnished by the CMHC.

Day Treatment Services generally include person-centered, culturally and linguistically appropriate, comprehensive, coordinated, structured treatment services and activities. A day treatment program consists of a scheduled series of structured, face-to-face therapeutic sessions organized at various levels of intensity and frequency in order to assist the persons served in achieving the goals identified in their person-centered plans. Day treatment programs are offered four or more days per week, typically with support available in the evenings and on weekends. A day treatment program may prevent or minimize the need for a more intensive level of treatment. It may also function as a step-down from inpatient care or partial hospitalization or, as transitional care following an inpatient or partial hospitalization stay to facilitate return to the community.

Elderly refers to an individual who is aged 65 years and older.

Employee of a CMHC, as defined in §485.902, means an individual— (1) Who works for the CMHC and for whom the CMHC is required to issue a W-2 form on his or her behalf; or (2) For whom an agency or organization issues a W-2 form, and who is assigned to such CMHC if the CMHC is a subdivision of an agency or organization.

Initial evaluation, as defined in §485.902, means an immediate care and support assessment of the client's physical, psychosocial (including a screen for harm to self or others), and therapeutic needs related to the psychiatric illness and related conditions for which care is being furnished by the CMHC.

Intensive outpatient (IOP) services, as defined in §410.2, means a distinct and organized intensive ambulatory treatment program that offers less than 24-hour daily care other than in an individual's home or in an inpatient or residential setting and furnishes the services as described in §410.44. Patients require at least 9 hours per week of therapeutic services.

Partial Hospitalization Services, as defined in §410.2, means a distinct and organized intensive ambulatory treatment program that offers less than 24-hour daily care other than in an individual's home or in an inpatient or residential setting and furnishes the services as described in §410.43.

Psychosocial Rehabilitation Services (PSR) are activities aimed at reintegrating the individual back into society by improving their functioning and ability to comply with rules and expectations of the community and are consistent with the identified goals or objectives of the client's active treatment plan. This includes the fullest possible integration of the client as an active and productive member of his or her family, community, and/or culture with the least amount of structured professional intervention. Services may be provided individually or in a group setting.

Representative, as defined in §485.902, means an individual who has the authority under State law to authorize or terminate medical care on behalf of a client who is mentally or physically incapacitated. This includes a legal guardian.

Restraint, as defined in §485.902, means— (1) Any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a client to move his or her arms, legs, body, or head freely, not including devices, such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or other methods that involve the physical holding of a client for the purpose of conducting routine physical examinations or tests, or to protect the client from falling out of bed, or to permit the client to participate in activities without the risk of physical harm (this does not include a client being physically escorted); or (2) A drug or medication when it issued as a restriction to manage the client’s behavior or restrict the client’s freedom of movement, and which is not a standard treatment or dosage for the client’s condition.

Seclusion, as defined in §485.902, means the involuntary confinement of a client alone in a room or an area from which the client is physically prevented from leaving.

Volunteer, as defined in §485.902, means an individual who is an unpaid worker of the CMHC; or if the CMHC is a subdivision of an agency or organization, is an unpaid worker of the agency or organization and is assigned to the CMHC. All volunteers must meet the standard training requirements under §485.918(d).

M0107

(Rev.)

§485.904(b)(5) *Mental health counselor. An individual who meets the applicable education, training, and other requirements of §410.54 of this chapter.*

Interpretive Guidelines §485.904(b)(5)

From §410.54(a):

(a) Definition: mental health counselor. For purposes of this part, a mental health counselor is defined as an individual who -

(1) Possesses a master's or doctor's degree which qualifies for licensure or certification as a mental health counselor, clinical professional counselor, professional counselor under the State law of the State in which such individual furnishes the services defined as mental health counselor services;

(2) After obtaining such a degree, has performed at least 2 years or 3,000 hours of post master's degree clinical supervised experience in mental health counseling in an appropriate setting such as a hospital, SNF, private practice, or clinic; and

(3) Is licensed or certified as a mental health counselor, clinical professional counselor, professional counselor by the State in which the services are performed.

M0113

(Rev.)

§485.904(b)(11) Psychiatrist. An individual who specializes in assessing and treating persons having psychiatric disorders; is board certified, or is eligible to be board certified by the American Board of Psychiatry and Neurology, or has documented equivalent education, *training* or experience, and is fully licensed to practice medicine in the State in which he or she practices.

M0115

(Rev.)

§485.904(b)(12) Marriage and family therapist. An individual who meets the applicable education, training, and other requirements of §410.53 of this chapter.

Interpretive Guidelines §485.904(b)(12)

From §410.53(a):

(a) Definition: marriage and family therapist. For purposes of this part, a marriage and family therapist is defined as an individual who -

(1) Possesses a master's or doctor's degree which qualifies for licensure or certification as a marriage and family therapist pursuant to State law of the State in which such individual furnishes the services defined as marriage and family therapist services;

(2) After obtaining such degree, has performed at least 2 years or 3,000 hours of post master's degree clinical supervised experience in marriage and family therapy in an appropriate setting such as a hospital, SNF, private practice, or clinic; and

(3) Is licensed or certified as a marriage and family therapist by the State in which the services are performed.

M0132

(Rev.)

§485.910(b)(2) If a client has been adjudged incompetent under State law by a court of proper jurisdiction, the rights of the client are exercised by the person appointed

in accordance with State law to act on the client's behalf.

M0150

(Rev.)

§485.910(d)(4) Ensure that, within 5 working days of becoming aware of the violation, *all* violations are reported to State survey and certification agency, and verified violations are reported to State and local entities having jurisdiction.

M0192

(Rev.)

§485.914(a)(2) For clients assessed and admitted to receive partial hospitalization services and intensive outpatient services, the CMHC must also meet separate requirements as specified in §485.918(f) *and (g), as applicable.*

M0225

(Rev.)

§485.914(d)(2) For clients that receive *partial hospitalization program (PHP) or intensive outpatient (IOP)* services, the assessment must be updated no less frequently than every 30 days.

M0238

(Rev.)

§485.916(a)(1) An interdisciplinary treatment team, led by a physician, *nurse practitioner (NP), physician assistant (PA), clinical nurse specialist (CNS), clinical psychologist, clinical social worker, marriage and family therapist (MFT), or mental health counselor (MHC)*, must provide the care and services offered by the CMHC.

M0255

(Rev.)

§485.916(d) Standard: Review of the person-centered active treatment plan. The CMHC interdisciplinary treatment team must review, revise, and document the individualized active treatment plan as frequently as the client's condition requires, but no less frequently than every 30-calendar day. A revised active treatment plan must include information from the client's initial evaluation and comprehensive assessments, the client's progress toward outcomes and goals specified in the active treatment plan, and changes in the client's goals. The CMHC must also meet partial hospitalization program requirements specified under §424.24(e) of this chapter *or intensive outpatient service requirements as specified under §424.24(d) of this chapter, as applicable*, if such services are included in the active treatment plan.

M0304

(Rev.)

§485.918 Condition of Participation: Organization, governance, administration of services, partial hospitalization services, *and intensive outpatient services.*

The CMHC must organize, manage, and administer its resources to provide CMHC services, including specialized services for children, elderly individuals, individuals with serious mental illness, and residents of its mental health service area who have been discharged from an inpatient mental health facility.

M0313

(Rev.)

§485.918(b)(1)(iii) Provides day treatment, partial hospitalization services, *or intensive outpatient services, other than in an individual's home or in an inpatient or residential setting, or psychosocial rehabilitation services.*

Interpretive Guidelines §485.918 (b)(1)(iii)

The CMHC can provide any one *or combination* of day treatment, partial hospitalization services, *or intensive outpatient services* (other than in an individual's home or in an inpatient or residential setting), or psychosocial rehabilitation services to be in compliance with this standard. Compliance with this standard is assessed separately from the assessment regarding compliance with the restriction that a CMHC may only enter into a provider agreement under Medicare to furnish partial hospitalization services *and intensive outpatient services*. Further information is available in SOM Chapter 2 sections 2250C & 2251.

M0356

(Rev.)

§485.918(f)(2) Provide the services and meet the requirements specified in §410.43 of this chapter.

Interpretive Guidelines §485.918(f)(2)

The services specified in § 410.43(a) are:

(a) Partial hospitalization services are services that—

(1) Are reasonable and necessary for the diagnosis or active treatment of the individual's condition;

(2) Are reasonably expected to improve or maintain the individual's condition and functional level and to prevent relapse or hospitalization;

(3) Are furnished in accordance with a physician certification and plan of care as specified under § 424.24(e) of this chapter; and

(4) Include any of the following:

(i) Individual and group therapy with physicians or psychologists or other mental health professionals (*including substance use disorder professionals*) to the extent authorized under State law.

(ii) Occupational therapy requiring the skills of a qualified occupational therapist, provided by an occupational therapist, or under appropriate supervision of a qualified occupational therapist by an occupational therapy assistant as specified in part 484 of this chapter.

(iii) Services of social workers, trained psychiatric nurses, and other staff trained to work with psychiatric patients (*including patients with substance use disorder*).

(iv) Drugs and biologicals furnished for therapeutic purposes, subject to the limitations specified in § 410.29.

(v) Individualized activity therapies that are not primarily recreational or diversionary.

(vi) Family counseling, the primary purpose of which is treatment of the individual's condition.

(vii) Patient training and education, to the extent the training and educational activities are closely and clearly related to the individual's care and treatment.

(viii) Diagnostic services.

The requirements specified in § 410.43(c) are:

(c) Partial hospitalization programs are intended for patients who—

- (1) Require a minimum of 20 hours per week of therapeutic services as evidenced in their plan of care;
- (2) Are likely to benefit from a coordinated program of services and require more than isolated sessions of outpatient treatment;
- (3) Do not require 24-hour care;
- (4) Have an adequate support system while not actively engaged in the program;
- (5) Have a mental health *or substance use disorder* diagnosis;
- (6) Are not judged to be dangerous to self or others; and
- (7) Have the cognitive and emotional ability to participate in the active treatment process and can tolerate the intensity of the partial hospitalization program.

M0358

(Rev.)

§485.918(f)(4) Meet the content of certification and plan of treatment requirements as described in §424.24 (e) of this chapter.

Interpretive Guidelines §485.918(f)(4)

The content of certification and plan of treatment requirements as described in §424.24 are:

(e) Partial hospitalization services: Content of certification and plan of treatment requirements—

(1) Content of certification.

(i) The individual *requires such services for a minimum of 20 hours per week and* would require inpatient psychiatric care if the partial hospitalization services were not provided.

(ii) The services are or were furnished while the individual was under the care of a physician.

(iii) The services were furnished under a written plan of treatment that meets the requirements of paragraph (e)(2) of this section.

(2) Plan of treatment requirements.

- (i) The plan is an individualized plan that is established and is periodically reviewed by a physician in consultation with appropriate staff participating in the program, and that sets forth—
- (A) The physician’s diagnosis;
 - (B) The type, amount, duration, and frequency of the services; and
 - (C) The treatment goals under the plan.
- (ii) The physician determines the frequency and duration of the services taking into account accepted norms of medical practice and a reasonable expectation of improvement in the patient’s condition.
- (3) Recertification requirements—(i) Signature. The physician recertification must be signed by a physician who is treating the patient and has knowledge of the patient’s response to treatment.
- (ii) Timing. The first recertification is required as of the 18th day of partial hospitalization services. Subsequent recertifications are required at intervals established by the provider, but no less frequently than every 30 days.
- (iii) Content. The recertification must specify that the patient would otherwise require inpatient psychiatric care in the absence of continued stay in the partial hospitalization program and describe the following:
- (A) The patient’s response to the therapeutic interventions provided by the partial hospitalization program.
 - (B) The patient’s psychiatric symptoms that continue to place the patient at risk of hospitalization.
 - (C) Treatment goals for coordination of services to facilitate discharge from the partial hospitalization program.

M0364

(Rev.)

§485.918(g) Standard: Intensive outpatient services. A CMHC providing intensive outpatient services must—

M0365

(Rev.)

§485.918(g)(1) Provide services as defined in § 410.2 of this chapter.

Interpretive Guidelines §485.918(g)(1)

The CMHC services as defined in 42 CFR §410.2 are:

(1) Provides outpatient services, including specialized outpatient services for children, the elderly, individuals who are chronically mentally ill, and residents of its mental health service area who have been discharged from inpatient treatment at a mental health facility;

(2) Provides 24-hour-a-day emergency care services;

(3) Provides day treatment or other partial hospitalization services, or intensive outpatient services, or psychosocial rehabilitation services;

(4) Provides screening for patients being considered for admission to State mental health facilities to determine the appropriateness of this admission;

(5) Meets applicable licensing or certification requirements for CMHCs in the State in which it is located; and

(6) Provides at least 40 percent of its services to individuals who are not eligible for benefits under title XVIII of the Social Security Act.

M0366

(Rev.)

§485.918(g)(2) Provide the services and meet the requirements specified in §410.44 of this chapter.

Interpretive Guidelines §485.918(g)(2)

§410.44 Intensive outpatient services: Conditions and exclusions.

a) Intensive outpatient services are services that—

(1) Are reasonable and necessary for the diagnosis or active treatment of the individual's condition;

(2) Are reasonably expected to improve or maintain the individual's condition and functional level and to prevent relapse or hospitalization;

(3) Are furnished in accordance with a physician certification and plan of care as specified under §424.24(d) of this chapter; and

(4) Include any of the following:

(i) Individual and group therapy with physicians or psychologists or other mental health professionals (including substance use disorder professionals) to the extent authorized under State law.

(ii) Occupational therapy requiring the skills of a qualified occupational therapist, provided by an occupational therapist, or under appropriate supervision of a qualified occupational therapist by an occupational therapy assistant as specified in part 484 of this chapter.

(iii) Services of social workers, trained psychiatric nurses, and other staff trained to work with psychiatric patients (including patients with substance use disorder).

(iv) Drugs and biologicals furnished for therapeutic purposes, subject to the limitations specified in §410.29.

(v) Individualized activity therapies that are not primarily recreational or diversionary.

(vi) Family counseling, the primary purpose of which is treatment of the individual's condition.

(vii) Patient training and education, to the extent the training and educational activities are closely and clearly related to the individual's care and treatment.

(viii) Diagnostic services.

(b) The following services are separately covered and not paid as intensive outpatient services:

(1) Physician services that meet the requirements of §415.102(a) of this chapter for payment on a fee schedule basis.

(2) Physician assistant services, as defined in section 1861(s)(2)(K)(i) of the Act.

(3) Nurse practitioner and clinical nurse specialist services, as defined in section 1861(s)(2)(K)(ii) of the Act.

(4) Qualified psychologist services, as defined in section 1861(ii) of the Act.

(5) Services furnished to SNF residents as defined in §411.15(p) of this chapter.

(c) Intensive outpatient programs are intended for patients who –

(1) Require a minimum of 9 hours per week of therapeutic services as evidenced in their plan of care;

(2) Are likely to benefit from a coordinated program of services and require more than isolated sessions of outpatient treatment;

- (3) Do not require 24-hour care;*
- (4) Have an adequate support system while not actively engaged in the program;*
- (5) Have a mental health or substance use disorder diagnosis;*
- (6) Are not judged to be dangerous to self or others; and*
- (7) Have the cognitive and emotional ability to participate in the active treatment process and can tolerate the intensity of the intensive outpatient program.*

M0367

(Rev.)

§485.918(g)(3) Meet the requirements for coverage as described in §410.111 of this chapter.

Interpretive Guidelines §485.918(g)(3)

§410.111 Requirements for coverage of intensive outpatient services in CMHCs.

Medicare part B covers intensive outpatient services furnished by or under arrangements made by a CMHC if they are provided by a CMHC as defined in §410.2 that has in effect a provider agreement under part 489 of this chapter and if the services are—

- (a) Prescribed by a physician and furnished under the general supervision of a physician;*
- (b) Subject to certification by a physician in accordance with §424.24(d)(1) of this chapter; and*
- (c) Furnished under a plan of treatment that meets the requirements of §424.24(d)(2) of this chapter.*

M0368

(Rev.)

§485.918(g)(4) Meet the content of certification and plan of treatment requirements as described in §424.24(d) of this chapter.

Interpretive Guidelines §485.918(g)(4)

The intensive outpatient services requirements specified in §424.24(d) are:

Content of certification and plan of treatment requirements—

- (1) Content of certification.
 - (i) The individual requires such services for a minimum of 9 hours per week.**

(ii) The services are or were furnished while the individual was under the care of a physician.

(iii) The services were furnished under a written plan of treatment that meets the requirements of paragraph (d)(2) of this section.

(2) Plan of treatment requirements.

(i) The plan is an individualized plan that is established and is periodically reviewed by a physician in consultation with appropriate staff participating in the program, and that sets forth—

(A) The physician's diagnosis;

(B) The type, amount, duration, and frequency of the services; and

(C) The treatment goals under the plan.

(ii) The physician determines the frequency and duration of the services taking into account accepted norms of medical practice and a reasonable expectation of improvement in the patient's condition.

(3) Recertification requirements—

(i) Signature. The physician recertification must be signed by a physician who is treating the patient and has knowledge of the patient's response to treatment.

(ii) Timing. Recertifications are required at intervals established by the provider, but no less frequently than every 60 days.

(iii) Content. The recertification must specify that the patient continues to require at least 9 hours of intensive outpatient services and describe the following:

(A) The patient's response to the therapeutic interventions provided by the intensive outpatient program.

(B) The patient's psychiatric symptoms that continue to place the patient at risk of relapse or hospitalization.

(C) Treatment goals for coordination of services to facilitate discharge from the intensive outpatient program.

M0369

(Rev.)

§485.918(h) Standard: Compliance with Federal, State, and local laws and regulations related to the health and safety of clients. The CMHC and its staff must operate and furnish services in compliance with all applicable Federal, State and

local laws and regulations related to the health and safety of clients. If State and local law provides for licensing of CMHCs, the CMHC must be licensed. The CMHC staff must follow the CMHC's policies and procedures.

REFER TO E-TAGS (Appendix Z)

(Rev.)

§483.920 Condition of Participation. Emergency Preparedness

The Community Mental Health Center (CMHC) must comply with all applicable Federal, State, and local emergency preparedness requirements. The CMHC must establish and maintain an emergency preparedness program that meets the requirements of this section. The emergency preparedness program must include, but not be limited to, the following elements:

Interpretive Guidelines §483.920

The Center must comply with all Emergency Preparedness requirements under this condition. This condition consists of multiple standards. Please refer to State Operations Manual Appendix Z – Emergency Preparedness Requirements for All Providers and Suppliers.

CMS Manual System

Pub. 100-07 State Operations Provider Certification

Department of Health &
Human Services (DHHS)
Centers for Medicare &
Medicaid Services (CMS)

Transmittal *Advanced Copy*

Date:

SUBJECT: Revisions to the State Operating Manual (SOM) Chapter 2; Community Mental Health Center (CMHC).

I. SUMMARY OF CHANGES: Revisions were made to Chapter 2 of the State Operations Manual, based on new requirements for Intensive Outpatient Services (IOP) released in the Outpatient Prospective Payment System final rule and new personnel qualification.

NEW/REVISED MATERIAL - EFFECTIVE DATE: Upon Issuance
IMPLEMENTATION DATE: Upon Issuance

The revision date and transmittal number apply to the red italicized material only. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual not updated.)
(R = REVISED, N = NEW, D = DELETED) – (Only One Per Row.)

R/N/D	CHAPTER/SECTION/SUBSECTION/TITLE
R	Chapter 2/2250/2250A/Citations and Definitions
R	Chapter 2/2250/2250C/Partial Hospitalization Services and Intensive Outpatient Services Provided by CMHCs or by Others Under Arrangements With the CMHC
R	Chapter 2/2251/2251A/Request to Participate
R	Chapter 2/2251/2251B/Processing CMHC Initial Certification Request, SA Role
R	Chapter 2/2251/2251C/Processing CMHC Initial Certification Request, CMS Location Role
R	Chapter 2/2251/2251F/Involuntary Termination

III. FUNDING: No additional funding will be provided by CMS; State activities are to be carried out within their operating budgets.

IV. ATTACHMENTS:

	Business Requirements
X	Manual Instruction
	Confidential Requirements
	One-Time Notification
	Recurring Update Notification

State Operations Manual

Chapter 2 - The Certification Process

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(Rev. Advanced Copy March 2024)

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2250A - Citations and Definitions

(Rev.)

Citations

Section 4162 of P.L. 101-508 (OBRA 1990), amended §1861(ff)(3)(A) and §1832(a)(2)(J) of the *Social Security Act (Act)* to include *Community Mental Health Centers* (CMHCs) as entities that are authorized to provide partial hospitalization services (*PHP*) *and intensive outpatient (IOP) services* under Part B of the Medicare program, effective October 1, 1991. Applicable regulations are found at 42 CFR Chapter IV, Parts 400, 410, 424, 485 and 489. The *Conditions of Participation (CoPs)* were published on October 29, 2013 and were effective on October 29, 2014. *Section 4124(b) of the Consolidated Appropriations Act (CAA), 2023 established Medicare coverage for IOP effective for items and services furnished on or after January 1, 2024. Section 4124(b)(1)(A) of the CAA, 2023 amended section 1832(a)(2)(J) of the Act to add IOP to the scope of covered benefits provided by CMHCs.*

Definitions

Community Mental Health Center (CMHC), *as defined in §410.2, means* “an entity that- (1) Provides outpatient services, including specialized outpatient services for children, the elderly, individuals who are chronically mentally ill, and clients of its mental health service area who have been discharged from inpatient treatment at a mental health facility; (2). Provides 24-hour-a-day emergency care services; (3) Provides day treatment or other partial hospitalization services, *or intensive outpatient services*, or psychosocial rehabilitation services; (4) Provides screening for patients being considered for admission to State mental health facilities to determine the appropriateness of this admission; (5) Meets applicable licensing or certification requirements for CMHCs in the State in which it is located; and (6) Provides at least 40 percent of its services to individuals who are not eligible for benefits under title XVIII of the Social Security Act.”

Active treatment plan, *as defined in §485.902*, means an individualized client plan that focuses on the provision of care and treatment services that address the client’s physical, psychological, psychosocial, emotional, and therapeutic needs and goals as identified in the comprehensive assessment.

Comprehensive assessment, *as defined in §485.902*, means a thorough evaluation of the client’s physical, physiological, psychosocial, emotional, and therapeutic needs related to the diagnosis under which care is being furnished by the CMHC.

Initial evaluation, *as defined in §485.902*, means an immediate care and support assessment of the client’s physical, psychosocial (including a screen for harm to self or others), and therapeutic needs related to the psychiatric illness and related conditions for which care is being furnished by the CMHC.

Intensive outpatient (IOP) services, *as defined at §410.2, means a distinct and organized intensive ambulatory treatment program that offers less than 24-hour daily care other than in an individual’s home or in an inpatient or residential setting and furnishes the services as described in §410.44. Patients require at least 9 hours per week of therapeutic services.*

Representative, *as defined in §485.902*, means an individual who has the authority under State law to authorize or terminate medical care on behalf of a client who is mentally or physically incapacitated. This includes a legal guardian.

Restraint, *as defined in §485.902*, means (1) Any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a client to move his or her arms, legs, body, or head freely, not including devices, such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or other methods that involve the physical holding of a client for the purpose of conducting routine physical examinations or tests, or to protect the client from falling out of bed, or to permit the client to participate in activities without the

risk of physical harm (this does not include a client being physically escorted); or (2) A drug or medication when it is used as a restriction to manage the client's behavior or restrict the client's freedom of movement, and which is not a standard treatment or dosage for the client's condition.

Partial Hospitalization Services (PHP), as defined in §410.2, means a distinct and organized intensive ambulatory treatment program that offers less than 24-hour daily care other than in an individual's home or in an inpatient or residential setting and furnishes the services as described in §410.43.

Day Treatment Services generally include person-centered, culturally and linguistically appropriate, comprehensive, coordinated, structured treatment services and activities. A day treatment program consists of a scheduled series of structured, face-to-face therapeutic sessions organized at various levels of intensity and frequency in order to assist the persons served in achieving the goals identified in their person-centered plans. Day treatment programs are offered four or more days per week, typically with support available in the evenings and on weekends. A day treatment program may prevent or minimize the need for a more intensive level of treatment. It may also function as a step-down from inpatient care or partial hospitalization or, as transitional care following an inpatient or partial hospitalization stay to facilitate return to the community.

Psychosocial Rehabilitation Services (PSR) are activities aimed at reintegrating the individual back into society by improving their functioning and ability to comply with rules and expectations of the community and are consistent with the identified goals or objectives of the client's active treatment plan. This includes the fullest possible integration of the client as an active and productive member of his or her family, community, and/or culture with the least amount of structured professional intervention. Services may be provided individually or in a group setting.

Seclusion, as defined in §485.902, “means the involuntary confinement of a client alone in a room or an area from which the client is physically prevented from leaving.”

Children refers to an unmarried person younger than 22 years old. See <https://www.medicare.gov/basics/children-and-end-stage-renal-disease> for further information.

Elderly refers to an individual who is aged 65 years and older.

Employee of a CMHC, as defined in §485.902, means an individual— (1) Who works for the CMHC and for whom the CMHC is required to issue a W-2 form on his or her behalf; or (2) For whom an agency or organization issues a W-2 form, and who is assigned to such CMHC if the CMHC is a subdivision of an agency or organization.

Volunteer, as defined in §485.902, means an individual who is an unpaid worker of the CMHC; or if the CMHC is a subdivision of an agency or organization, is an unpaid worker of the agency or organization and is assigned to the CMHC. All volunteers must meet the standard training requirements under §485.918(d).

2250C - Partial Hospitalization *and/or Intensive Outpatient* Services Provided by CMHCs or by Others Under Arrangements With the CMHC

(Rev.)

Per section 1866(e)(2) of the Act CMHCs are recognized as Medicare providers only with respect to providing partial hospitalization services and under regulations at 42 CFR §489.2(c)(2) CMHCs may only enter into provider agreements under Medicare to furnish *PHP and IOP*. If during the course of a survey it is determined that the CMHC does not provide *PHP or IOP*, the surveyor should document this finding in the CMS-2567 “Statement of Deficiencies and Plan of Correction” under Tag 000 “Initial Comments.” The survey should be completed, despite this finding. The surveyor should include in their documentation all information collected to confirm that the provider is not providing *PHP*, including documentation from records reviewed and interviews. Even if the CMHC is found to be in compliance with the CoP in “§485.918 Organization, Governance, Administration of Services, Partial Hospitalization Services, *and Intensive Outpatient Services,*” the CMHC may not enter into, or continue, a provider agreement with CMS unless the CMHC chooses to provide *PHP and/or IOP*. If the CMHC does not choose to either provide *PHP and/or IOP*, or to voluntarily terminate its Medicare provider agreement, CMS may exercise its authority to terminate the provider agreement pursuant to §489.53.

2251A - Request to Participate

(Rev.)

The CMHC notifies the State Survey Agency (SA) that it wishes to participate. The SA ensures that the CMHC submits a [CMS 855A](#) to the Medicare Administrative Contractor (MAC) and forwards information to the applicant concerning the procedure for Office of Civil Rights clearance. Once the MAC has completed its review, including a review of the facility certification statement that at least 40% of the CMHC’s items and services are provided to non-eligible individuals, it will forward an approval recommendation notice to the appropriate CMS *Location* and the SA. The SA will schedule an initial survey for the CMHC according to the CMS Mission and Priority Document (MPD).

2251B - Initial Survey/Certification-SA Role

(Rev.)

The SA evaluates whether the applicant meets the CoPs and applicable licensing requirements in the State through an on-site survey. Include within the survey process, the requirements as stated in section 2250C of the SOM. A CMHC may be certified with Standard level deficiencies as long as an acceptable plan of correction is submitted. However, a CMHC may not be certified with a Condition level deficiency, or if it does not provide *PHP or IOP*. The SA will forward its recommendation for certification or denial of certification to the *CMS Location*. The SA will process the certification packet pursuant to applicable instructions in §§2760-2776.

2251C - Initial Certification-*CMS Location* Role

(Rev.)

The *CMS Location* will make a determination on the CMHC's request to be a participant in the Medicare program. The *CMS Location* will evaluate the information and recommendation received from the SA regarding a CMHC's initial certification application including whether or not *PHP and/or IOP* are being provided; either agree or disagree with the SA recommendation for initial certification or denial based upon provider agreement requirements; and notify the applicant of its decision. The *CMS Location* will forward a *CMS 2007* to the MAC whether the applicant is approved or denied for certification. If approved, a CCN and provider agreement are issued.

2251F - Involuntary Termination

(Rev.)

A CMHC's provider agreement will be involuntarily terminated if the CMHC is not in compliance with the CoPs or does not provide *PHP and/or IOP*. The SA will follow the guidance in SOM §§3005, 3005A, 3005B and 3005D in processing the termination. All CMHCs must comply with the CoPs.