

---

# CMS Manual System

## Pub. 100-07 State Operations Provider Certification

---

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

Transmittal 197

Date: January 10, 2020

---

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

**I. SUMMARY OF CHANGES: Extensive revisions were made to Chapter 2 of the SOM pertaining to the Survey and Certification Processes for CMHCs due in large part to the issuance of Conditions of Participation.**

**NEW/REVISED MATERIAL - EFFECTIVE DATE: January 10, 2020**

**IMPLEMENTATION DATE: January 10, 2020**

*Or*

**MANUALIZATION/CLARIFICATION – EFFECTIVE/IMPLEMENTATION DATES: Not Applicable.**

*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.)**

<b>R/N/D</b>	<b>CHAPTER/SECTION/SUBSECTION/TITLE</b>
R	2/Table of Contents
D	2/2008/2008C/New CMHC Applicants
R	2/2250/Citations and Definitions
R	2/2250/2250A/Citations and Definitions
R	2/2250/2250B/Special Requirements
R	2/2250/2250C/Partial Hospitalization Services Provided by CMHCs or by Others Under Arrangements With the CMHC
D	2/2250/2250D/Partial Hospitalization Program (PHP)
D	2/2250/2250E/ Partial Hospitalization Services Provided by CMHCs or by Others Under Arrangements With the CMHC
D	2/2250/2250F/Definitions of Core Services
D	2/2250/2250G/Threshold and Service Requirements for CMHCs
D	2/2250/2250H/Revisions to the Core Service Screening Requirements as the Result of the Passage of BIPA
N	2/2251/2251A/Request to Participate
N	2/2251/2251B/Processing CMHC Initial Certification Request, SA Role
N	2/2251/2251C/Processing CMHC Initial Certification Request, RO Role

N	2/2251/2251D/Facility Alleges it is Provider-Based
N	2/2251/2251E/Voluntary Termination
N	2/2251/2251F/In-voluntary Termination
D	2/2252/2252G/Onsite Visit to the CMHC
D	2/2252/2252H/Facility Alleges it is Provider-Based
D	2/2252/2252I/Facility Requests an Alternative Site to be Approved Initially or Subsequent to Approval
D	2/2252/2252J/RO Approval of CMHC Request for Medicare Approval
D	2/2252/2252K/RO Denial of CMHC Request for Medicare Approval
D	2/2252/2252L/Approved Provider Changes Ownership
D	2/2252/2252L/2252L1/Provider Agreement is Assigned, FI Role
D	2/2252/2252L/2252L2/Provider Agreement is Assigned, SA Role
D	2/2252/2252L/2252L3/Provider Agreement is Assigned, RO Role
D	2/2252/2252L/2252L4/Approved Provider Changes Ownership, Provider Agreement Is Not Assigned
D	2/2252/2252M/Voluntary Termination
D	2/2252/2252N/Involuntary Termination
D	2/2252/2252O/Identifying the “Most Egregious” CMHCs for Termination Action
D	2/2252/2252P/For Visits to Existing Medicare CMHCs
D	2/2252/2252P/For Visits to Existing Medicare CMHCs/Attachment A-Community Mental Health Center Notification and Approval of Address Change
D	2/2252/2252P/For Visits to Existing Medicare CMHCs/Attachment B-Community Mental Health Center Site Visit Request Form

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

*Or*

**Funding for implementation activities will be provided to contractors through the regular budget process.**

**IV. ATTACHMENTS:**

	<b>Business Requirements</b>
<b>X</b>	<b>Manual Instruction</b>
	<b>Confidential Requirements</b>
	<b>One-Time Notification</b>
	<b>One-Time Notification -Confidential</b>
	<b>Recurring Update Notification</b>

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

# State Operations Manual

## Chapter 2 - The Certification Process

Table of Contents  
*(Rev. 197, Issued: 01-10-20)*

### [Transmittals for Chapter 2](#)

#### Community Mental Health Centers

2250A - *Citations and Definitions*

2250C - Partial Hospitalization Services Provided by CMHCs or by Others Under Arrangements with the CMHC

2251 - *Certification Process*

2251A - *Request to Participate*

2251B - *Processing CMHC Initial Certification Requests, SA Role* 2251C - *Processing CMHC Initial Certification Requests, RO Role* 2251D - *Center Alleges it is Provider-Based*

2251E - *Voluntary Termination* 2251F - *Involuntary Termination*

***NOTE:** Recognition of marriages: Every psychiatric hospital/facility is expected to recognize all lawful marriages and spouses for purposes of compliance with the Conditions of Participation and regulatory requirements. In this guidance, and in every instance where the following terms appear:*

- *“Spouse” means an individual who is married to another individual as a result of a marriage that was lawful where entered into, including an individual married to an individual of the same-sex.*
- *“Marriage” means a marriage that was lawful where entered into, including a marriage of two individuals of the same sex;*
- *“Family” includes, but is not limited to, an individual’s “spouse” (see above); and,*
- *“Relative,” when used as a noun, includes, but is not limited to an individual’s “spouse” (see above).*

*Furthermore, wherever the text of a regulation or associated guidance includes a reference to a patient’s “representative,” “surrogate,” “support person,” “next-of-kin,” or similar term in such a manner as would normally implicitly or explicitly include a spousal relationship, the terms are to be interpreted as indicated above.*

## **2250A - Citations and Definitions**

*(Rev. 197, Issued: 01-10-20, Effective: 01-10-20, Implementation: 01-10-20)*

### ***Citations***

Section 4162 of P.L. 101-508 (OBRA 1990), amended §1861(ff)(3)(A) and §1832(a)(2)(J) of the Act to include CMHCs as entities that are authorized to provide partial hospitalization 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.*

### ***Definitions***

*Community Mental Health Center (CMHC) is as defined in §410.2: “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 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 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 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 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.

Representative 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 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 (PHS) is as defined in §410.2: "Partial hospitalization services 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." Per §410.43 "(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 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. (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 partial hospitalization 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) 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 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.”*

*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 “means the involuntary confinement of a client alone in a room or an area from which the client is physically prevented from leaving.”*

*Children are defined by Medicare as an unmarried person younger than 22 years old. Surveyors should also be aware of their State law for defining a child, based on where the CMHC is located.*

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

## **2250B - Special Requirements**

**(Rev. 197, Issued: 01-10-20, Effective: 01-10-20, Implementation: 01-10-20)**

*A CMHC is required to submit a certification statement, provided by an independent*

*licensed professional, to certify that the CMHC client population meets the 40 percent requirement as specified in 42 CFR §485.918(b)(1)(v)(A) and 42 CFR §485.918(b)(1)(v)(B). The certification statement is required upon initial application to enroll in the Medicare program and as part of provider enrollment revalidation. The statements are submitted to the applicable Medicare Administrative Contractor. Medicare enrollment may be denied or revoked in instances where the CMHC fails to provide the certification statement as required. The CMHC and individuals furnishing services on its behalf must meet applicable State licensure requirements.*

## **2250C - Partial Hospitalization Services Provided by CMHCs or by Others Under Arrangements With the CMHC**

**(Rev. 197, Issued: 01-10-20, Effective: 01-10-20, Implementation: 01-10-20)**

*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 partial hospitalization services. If during the course of a survey it is determined that the CMHC does not provide partial hospitalization services, 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 PHS, 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, and Partial Hospitalization Services, the CMHC may not enter into, or continue, a provider agreement with CMS unless the CMHC chooses to provide partial hospitalization services. If the CMHC does not choose to either provide partial hospitalization services, or to voluntarily terminate its Medicare provider agreement, CMS may exercise its authority to terminate the provider agreement pursuant to §489.53.*

*In order for a CMHC to demonstrate that they are providing Partial Hospitalization Services, the following program service requirements must be met pursuant to §410.43:*

- 1) Physician approved (ideally a psychiatrist) certification or active treatment plans for clients;*
- 2) Both individual and group therapy services facilitated by approved mental health professionals to the extent authorized under State law;*
- 3) Occupational therapy services to the extent authorized under State law;*
- 4) Services provided by social workers, psychiatric nurses and other staff trained to work with psychiatric clients;*
- 5) Drugs and biologicals furnished for therapeutic purposes;*

6) *Individual therapy services not primarily for recreational or diversionary reasons (examples: Games, outings, gardening, computers, gentle exercise, music, arts and crafts);*

7) *Family counseling, primarily focused on or addressing the clients psychiatric condition;*

8) *Training and education services that are directly related to the clients individual active treatment plan; and*

9) *Diagnostic services (example: psychological testing).*

## **2251 - Certification Process**

***(Rev. 197, Issued: 01-10-20, Effective: 01-10-20, Implementation: 01-10-20)***

### **2251A – Request to Participate**

***(Rev. 197, Issued: 01-10-20, Effective: 01-10-20, Implementation: 01-10-20)***

*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 Regional Office (RO) 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. 197, Issued: 01-10-20, Effective: 01-10-20, Implementation: 01-10-20)***

*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 PHS. The SA will forward its recommendation for certification or denial of certification to the RO. The SA will process the certification packet pursuant to applicable instructions in §§2760-2776.*

### **2251C – Initial Certification- RO Role**

***(Rev. 197, Issued: 01-10-20, Effective: 01-10-20, Implementation: 01-10-20)***

*The RO will make a determination on the CMHC's request to be a participant in the Medicare program. The RO will evaluate the information and recommendation received from the SA regarding a CMHC's initial certification application including whether or*

*not PHS 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 the its decision. The RO 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.*

### ***2251D - Facility Alleges it is Provider-Based***

***(Rev. 197, Issued: 01-10-20, Effective: 01-10-20, Implementation: 01-10-20)***

*A hospital may provide partial hospitalization services either through its outpatient department or through a hospital based CMHC. The hospital's ability to bill for partial hospitalization through its outpatient departments became effective December 22, 1987, under §1861(ff) of the Act. Hospital outpatient departments do not need to qualify as CMHCs to initially provide, or continue to provide, partial hospitalization services. The hospital may also elect to operate a certified facility as a component of its hospital.*

*Although the statute does not preclude CMS' approval of hospital-based CMHCs, an entity, for the purposes of providing partial hospitalization services, can qualify under Medicare either as a hospital outpatient department or a CMHC that is hospital-based. An entity does not have the option to qualify as both a hospital outpatient department and a hospital-based CMHC to provide partial hospitalization services. Allegations of provider-based, whether alleged initially by the applying CMHC, or subsequent to CMS approval as a CMHC, will be developed using the guidelines contained in §2004.*

### ***2251E – Voluntary Termination***

***(Rev. 197, Issued: 01-10-20, Effective: 01-10-20, Implementation: 01-10-20)***

*A Medicare participating CMHC may voluntarily terminate its provider agreement at any time. The SA will follow the guidance in SOM §§3046, 3047, and 3048 in processing the termination.*

### ***2251F - Involuntary Termination***

***(Rev. 197, Issued: 01-10-20, Effective: 01-10-20, Implementation: 01-10-20)***

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