

Appendix G- Compliance Oversight and Monitoring: Mi Via Service Standards

DDSD Contract Management

The DDSD is authorized, by agreement with the HSD, to enforce Mi Via Waiver Service Standards and service regulations with Mi Via Waiver Provider Agencies and to impose sanctions on Provider Agencies for failure to perform in accordance with standards applicable under statute, regulation, and contract.

As such, the DDSD Mi Via Unit (in collaboration with DDSD Regional Offices and Bureau Chiefs as needed) initially provide technical assistance or administrative actions (such as a Performance Improvement Plan (PIP) to assist Provider Agencies.

If the technical assistance and/or administrative actions taken are unsuccessful in resolving the concern, the Mi Via Waiver Program Manager (in collaboration with DDSD Regional Offices and Bureau Chiefs as needed) will refer the issue to the Community Programs Bureau Chief and respective Deputy Director for further action. Any determination of a High Impact violation will be referred to the Internal Review Committee (IRC) for consideration of action.

Technical Assistance and Administrative Actions and Sanctions

The DDSD Mi Via Unit (in collaboration with DDSD Regional Offices and Bureau Chiefs as needed) may provide technical assistance or directly impose administrative actions, Civil Monetary Penalties (CMP)s, and sanctions on community based Provider Agencies for non-compliance with (or violations of) regulations, service standards, guidance documents, and/or Provider Agreement requirements.

The Mi Via Unit must engage in activities that are less than sanctions to resolve the issue and/or concern prior to the imposition of any CMP or other sanctions. Because each administrative action may not be appropriate to the situation and/or concern, implementation of each or all types of technical assistance or administrative action is not required prior to the imposition of a CMP or sanction. Provider Agency requirements related to technical assistance or administrative actions by the Mi Via Unit may include but are not limited to:

1. providing information, documentation, or follow up;
2. meeting with Mi Via Unit personnel to assure that agency policies, procedures, guidelines, and practices comply;
3. following any mandatory directed technical assistance from the Mi Via Unit;
4. implementing a PIP; and
5. completing a focused survey conducted by DHI-QMB when requested via the IRC.

Quality Management Bureau Surveys

The Department of Health's Division of Health Improvement (DHI) is the regulatory entity providing compliance oversight for the Mi Via Waiver. The QMB survey team conducts unannounced on-site / desk (remote), systems-based surveys and other quality improvement activities related to the health, welfare and safety of individuals receiving these supports.

Provider Agencies of Consultant Services must submit to QMB compliance surveys based on the CMS waiver assurances and New Mexico's approved Mi Via Waiver, Mi Via Waiver Service

Standards, and other rules and regulations. Provider Agencies undergoing a QMB Compliance Survey undergo the following:

1. All deficiencies are identified and cited in the QMB Report of Findings and require corrective action along with ongoing Quality Assurance/Quality Improvement processes when identified.
2. Routine surveys are conducted based on the provider agreement term, unless requested sooner by the Mi Via Program Manager, based on survey findings, or at the request of the Internal Review Committee. Surveys typically take place 24-36 months prior to the expiration of the provider agreement term and cannot exceed three years.
3. Upon completion of a QMB survey, the Mi Via Waiver Provider Agency, DDSD and other State entities receive a Report of Findings. Once the Report of Findings is distributed, Provider Agencies have 45 days to complete the POC process. The Provider Agency is required to:
 - a. submit a Plan of Correction (POC) within ten working days to address all identified deficiencies; and
 - b. once the POC is approved, submit evidence of correction of all deficiencies and an ongoing Quality Assurance/Quality Improvement process.
4. During the survey process and in the Report of Findings, Provider Agencies are encouraged to seek technical assistance from the Mi Via Unit. If significant issues are identified during the compliance survey, QMB may refer the agency to DDSD for technical assistance. Additionally, failure to comply with the POC may lead to a referral to the IRC for additional sanctions.
5. Once the POC is successfully completed the agency is considered in compliance and survey process is closed. Survey reports may be found in the QMB website.

Individual Quality Review for Jackson Class Members (JCMs)

The DHI/QMB Individual Quality Review (IQR) team, conducts individualized surveys of JCMs. All services received by the individual JCM are reviewed to determine the quality of services and supports. The IQR survey includes a documentation review of provider records, observations and interviews of the person, guardian, DSP, Consultant and ancillary provider's documentation review. The IQR will result in findings and recommendations related to the individual JCM.

Types of Findings and Recommendations

Findings are identified as issues noted during the IQR survey. These issues need the attention of the participant and their circle of support to address and bring resolution to ensure the JCM has quality supports and services in place. Types of findings are as follows:

1. Standard Findings: Issues noted in the IQR survey that need the attention of the participant and their circle of support.
2. Immediate Findings: Issues noted during the IQR survey that need immediate attention for participants whom have urgent health, safety, environmental and/or abuse/neglect/exploitation issues identified which supports are not successfully addressing in a timely fashion. These findings must be followed up on immediately.
3. Special Findings: Issues noted during the IQR survey for participants whom issues have been identified that, if not effectively addressed, are likely to become an urgent health and safety concern.
4. Repeat Findings: Issues noted during the IQR survey that have been identified in a previous quality audit for the JCM.

Provider Responsibilities during the IQR

The JCM is selected through a randomized, stratified sample process. DHI/DOH provides notification to the person/guardian, Consultant and relevant Provider Agencies and works with the participant and their circle of support to schedule interviews and on-site or remote observations, as well as, to provide the designated timeline for document production.

Once the participants to be surveyed have been selected, Provider Agencies have the responsibility to:

1. provide the required documentation requested by DHI/DOH within the designated time lines;
2. participate in the scheduled interviews and on-site or remote observations and provide any requested information during the IQR survey;
3. review the *Findings Letter* produced by the survey;
4. meet with the participant and their circle of support to develop a plan to resolve each *Finding*;
5. Meet with DDSD/DOH to review the *Findings* and seek guidance.
6. Notify DDSD/DOH of the JCM participant and/or their guardian's decision to accept or reject the IQR findings given.
 - a. If the findings are accepted, the regional office will provide any assistance or support needed.
 - b. If the findings are rejected and the participant and/or guardian do not want to take on any of the recommendations given, it is their choice in accordance with the Mi Via the State's 1915 (c) Medicaid self-directed HCBS waiver program.

Internal Review Committee (IRC)

The IRC may receive referrals from the QMB, IMB, DDSD, or the HSD/MAD. Based on the severity of deficiencies identified, the IRC has the authority to take administrative action,

including directed corrective action, moratorium on new admissions, or civil monetary penalty. The IRC may also recommend high level sanctions including withholding payment, transition of individuals in service, placing the provider under the supervision of a monitor, or reduction of a contract term, amount, or scope.

Incident Management System

An Incident Management System (IMS) is a critical part of an agency's practice to ensure swift and appropriate response to any allegations or substantiated findings related to abuse, neglect, and exploitation (ANE), suspicious injury, environmental hazard, or death. All Mi Via Waiver Provider Agencies shall establish and maintain an IMS, which emphasizes the principles of prevention and staff involvement. A comprehensive IMS for Mi Via Waiver Provider Agencies involves training, monitoring, cooperation with DOH-DHI, reporting and continuous risk management activities.

Appendix H- Abuse, Neglect and Exploitation: Mi Via Service Standards

Training on Abuse, Neglect, and Exploitation (ANE) Recognition and Reporting

All Participants, EPRs, employees, vendors, and volunteers shall be trained on the ANE training curriculum approved by DOH. Participants, EORs, Consultant Agencies and vendor agencies are responsible for ensuring the training requirements outlined below are met.

1. DDS ANE On-line Refresher trainings shall be renewed annually, within one year of successful completion of the DDS ANE classroom training.
2. Training shall be conducted in a language that is understood by the participant, EOR, Consultant, vendor, employee, or volunteer.
3. Training must be conducted by a DOH certified trainer and in accordance with the Train the Trainer curriculum provided by the DOH.
4. Documentation of a participant, EOR, Consultant, employee, vendor or volunteer's training must be maintained for a period of at least three years, or six months after termination of an employee's employment or the volunteer's work.

2.1 ANE Reporting and Evidence Preservation

The Mi Via Waiver participant, EOR, Consultant, employee, vendor or volunteer who suspects or is aware of ANE, suspicious injury, environmental hazard, or death is ultimately responsible for appropriate reporting. Failure to report, provide or maintain evidence of an existing IMS and employee, subcontractor or volunteer training; or for failure to adequately protect people from ANE may result in being sanctioned in accordance with NMAC 7.1.14.11.

All Mi Via Waiver participants, EOR, Consultant, employee, vendor or volunteers shall:

1. immediately report alleged crimes to law enforcement;
2. once ANE, suspicious injury, environmental hazard or death is suspected, ensure the person's health and safety, as well as others potentially affected;
3. after health and safety are assured, immediately call the DHI hotline at 1-(800)-445-6242 to report;

4. ensure the participant, EOR, Consultant, employee, vendor or volunteer with firsthand knowledge of the alleged incident makes the report with assistance in reporting, as needed;
5. refrain from internal investigations until DHI's investigation is completed, except to the extent necessary to make the report and ensure the health and safety of the person;
6. safeguard, secure and not disturb any records or physical evidence related to an alleged incident of ANE; and
7. if physical evidence must be removed or affected, take photographs or do whatever is reasonable to document the location and type of evidence found which appears related to the incident, including, for example:
 - a. taking overall (wide) photographs, unless prohibited by agency policy;
 - b. taking close-up photographs of evidence (e.g. bruises, clothing, location of fall);
 - c. diagramming the scene; and
 - d. listing all evidence found including the name of finder, date, time, location.

Immediate Action and Safety Plans (IASP)

Upon discovery of any alleged incident of ANE, the Mi Via Waiver Consultant shall:

1. develop an Immediate Action and Safety Plans (IASP) to ensure the participant's safety;
2. be immediately prepared to report the IASP verbally to the DHI during the reporting of the initial allegation;
3. report the IASP in writing on the DHI- issued IASP form within 24 hours;
4. revise the plan according to the DHI's direction, if necessary; and
5. closely follow and not change or deviate from the accepted IASP, without approval from the DHI.

Cooperation during Division of Health Improvement (DHI) Investigations

All Mi Via Waiver participant, EOR, Consultant, employee, vendor or volunteer who are subject to an investigation shall:

1. facilitate immediate physical or in-person access, and assist with scheduling interviews by DHI personnel investigating the incidents;
2. provide unrestricted access to the DHI for announced or unannounced visits to any facility, building or location;
3. provide, upon request of DHI, immediate access to formal and informal applicable records, regardless of media, including but not limited to financial records, individual records, SSP, volunteer and personnel records, including training records, incident reports, quality assurance activities and agency policy and procedure manuals; and
4. provide, upon request of the DHI, copies of records within timelines established by DHI.

Reports of Death

Any death should be reported using the DHI toll-free hotline at 1-800-445-6242. Further instructions can be found at: <https://nmhealth.org/about/dhi/ane/racp/>.

In the event of a death of a person receiving services through the Mi Via Waiver, the following must occur:

1. The Consultant and DHI must immediately be notified of the person's death.
2. Regardless of circumstances, the Consultant must ensure any death is immediately reported to DHI after knowledge of the death.
3. The Consultant must submit the CIU to provide notification of the person's death;
4. The person's primary file must be made available to DOH-DHI upon request.
5. If systemic issues are identified in the mortality review process, the DDS will work with the relevant EOR, Consultant, employee, vendor or volunteer to address concerns in a quality improvement process.

Corrective and Preventive Action Plans for Substantiated Findings.

Vendor Agencies will be held accountable for the actions of employees or contractors when incidents are substantiated by the DHI investigation. If there isn't a vendor agency, the Corrective and Preventative Actions Plans will be requested of the Consultant.

The Mi Via Waiver Vendor Agency shall:

1. establish and maintain a quality improvement program for reviewing alleged complaints and incidents of ANE made against them as a provider;
2. provide to the DHI written documentation of corrective actions taken;
3. take all reasonable steps necessary to prevent further incidents; and
4. share the approved Corrective and Preventive Action (CPA) plan with the person's Consultant.

Notifications

After an allegation of ANE has been reported to DHI, Mi Via Waiver Vendor Agencies have requirements related to notifying participants, guardians, and EORs allegations of ANE.

Notification responsibilities are outlined below:

1. The non-responsible reporting provider shall verbally notify the responsible provider within 24 hours of the report being made to IMB.
2. The responsible vendor shall:
 - a. verbally notify the Guardian and Consultant within 24 hours of the report being made to IMB;
 - b. verbally notify the accused person and alleged victim, when appropriate and using situational discretion;

- c. provide the IASP to the Consultant for distribution to the participant, guardian, and/or EOR; and
 - d. provide the CPA plan to the Consultant only.
- 3. The Consultant shall verbally notify the alleged victim of Closure Letters and outcomes of the investigation at the next monthly contact.