

**PROPOSED REGULATION OF THE
DIVISION OF HEALTH CARE FINANCING AND POLICY OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

LCB FILE NO. R030-20I

**The following document is the initial draft regulation proposed
by the agency submitted on 03/05/2020**

Amendment to NAC 422A for Tenancy Support Services

Section 1: As used in this Section 2 to , inclusive, unless the context otherwise requires, the words and terms defined in Section X to Y, inclusive, have the meanings ascribed to them in those section.

Section 2: “Assessment” means a thorough collection of data concerning a person’s living status and the need for stable housing and services.

Section 3: “Chronic Health Conditions” A chronic condition is a human health condition or disease that is persistent or otherwise long-lasting in its effects or a disease that comes with time. The term chronic is often applied when the course of the disease lasts for more than three months.

Section 4: “Consultant” a person who provides expert advice professionally in the area of tenancy services.

Section 5: “Division” means the Division of Public and Behavioral Health Services.

Section 6: “Homelessness” adopts by reference the most current U.S. Department of Housing and Urban Development definition of “Homelessness.”

Section 7: “Operator” “Operator” means:

1. The owner of a private entity which operates a program;
2. The governing body of a corporation which operates a program;
3. The governing body of a nonprofit organization which is responsible for a program, or a designee authorized by the governing body in writing to be responsible for a program; or
4. A governmental entity which operates a program.

Section 8: “Outreach and In-Reach Services” Identifying and engaging with unserved individuals, and poorly-served individuals and connecting individuals with mainstream services and consistent with the required service requirements in Section 18 of these standards.

Section 9: “Program” means a program for tenancy support services.

Section 10: “Tenancy Support Services” program is intended to assist eligible individuals who are homeless and have chronic health conditions obtain and maintain

housing by offering services including housing care management, tenancy supports, and crisis prevention and intervention.

Section 11: “Trauma Informed” is a strengths based framework that is grounded in an understanding of and responsiveness to the impact of **trauma**, that emphasizes physical, psychological, and emotional safety for both providers and survivors, and that creates opportunities for survivors to rebuild a sense of control and empowerment.

Section 12: Certification required to receive funding from Division. A program must be certified by the Division to be eligible for any state or federal money for tenancy support services administered by the Division.

Section 13: Applications for initial certification and recertification.

1. An operator may apply for the initial certification for services by submitting to the Division:

(a) A completed application for initial certification on a form provided by the Division;

(b) Documentation evidencing that the applicant is in compliance with all applicable local, state and federal laws, regulations and ordinances;

(c) A letter of support from the local community on a form approved by the Division.

(d) All names used by the applicant in its operation of the program or practice of business;

(e) A copy of the manual containing the policies and procedures of the program;

(f) A nonrefundable fee of a \$100.00);

(g) A copy of the policy of insurance as described in Section 21;.

2. An operator may apply for recertification of the program by submitting to the Division, within 60 days before the expiration of the initial certification or any previous recertification:

(a) A completed application for recertification on a form provided by the Division;

(b) Documentation evidencing that the applicant is in compliance with all applicable local, state and federal laws, regulations and ordinances;

(c) All names used by the applicant in the operation of the program or practice of business;

(d) If any changes were made to the manual which was submitted with the initial application for certification pursuant to paragraph (d) of subsection 1 or any previous application for recertification, a copy of the manual containing the policies and procedures of the program, including, without limitation, documentation that:

(1) Describes the changes to the manual which was submitted with the initial application for certification or any previous application for recertification and which were approved by the Division; and

(2) Specifies in writing whether the changes were:

(I) Made as a result of findings of an agency or organization, other than an agency or organization owned or operated by the operator; or

(II) Initiated by the operator;

(e) A nonrefundable fee of a \$100.00; and

(f) A copy of the policy of insurance coverage as described in Section 21.

3. If the certification of a program expires without recertification in accordance with the requirements set forth in subsection 2 and the operator wishes to certify the services, the operator must apply for initial certification.

Section 14: Duties of Division upon receipt of application; period of certification.

1. Upon receipt of a completed application for initial certification or recertification of a service, the Division or its designee shall:

(a) Review the application;

(b) Score the letter of community support to determine if the program is eligible for certification for Tenancy Housing and if approved, move to 1. (c). The operator must have at least 2 years of experience in Tenancy Housing to be eligible.

(c) Schedule and perform an inspection of the service;

(d) Review the services listed in the application to ensure compliance with the criteria of the Division; and

(e) Provide a written report of the findings of the inspection to the applicant.

2. If the Division finds that the service is in compliance with the requirements set forth in this chapter, the Division must issue a written initial certification or recertification of the service.

3. The Division may issue an initial certification or recertification of a service for a period not to exceed 2 years. The Division shall determine the period of each initial certification or recertification based upon the criteria for the length of certification set forth in the criteria of the Division.

Section 15: Notifications regarding changes affecting certification. An operator shall notify the Division of any anticipated change which will affect the certification of the service not later than 60 days before the change will occur or as soon as the operator is aware of the change if the operator is not aware of the change at least 60 days before the change will occur. The Division shall notify the operator of any actions the operator must take to maintain the certification of the service or whether the operator will be required to apply for a new certification as a result of the change.

Section 16: Transferability of certification. The certification of a service is not transferable and may not be used for any other program.

Section 17: Operators: General requirements and duties.

1. A service must have a specified operator who is responsible for the service. The operator may designate another responsible party to implement and supervise the

responsibilities of the operator pursuant to this chapter. The operator remains responsible for any actions of his or her designee.

2. If the program is operated by a corporation, the governing body of the corporation must be the operator. The governing body shall:

(a) Adopt written bylaws or policies that define any reimbursement to be provided to its members and the powers and duties of the governing body and its committees;

(b) Meet at least quarterly and keep written minutes that indicate:

(1) The date of the meeting;

(2) The names of the persons present at the meeting;

(3) Any decisions made by the governing body at the meeting;

(4) Any other actions taken by the governing body at the meeting; and

(5) The review and approval of budgets by the governing body; and

(c) Make available for review by the Division the minutes of meetings, the articles of incorporation and the bylaws of the governing body.

3. An operator shall:

(a) Develop and maintain a manual containing the policies and procedures of the program which meets the requirements set forth in Section 18;

(b) Review any changes to the manual containing the policies and procedures of the program and have those changes approved by the Division;

(c) An operator who is certified must comply with the provisions of the manual containing the policies and procedures and are able to demonstrate compliance by maintaining policies and records;

(d) Make a copy of the manual containing the policies and procedures of the program available for review to any person who requests to review it;

(e) Notify the Division within 24 hours after the occurrence of an incident that may cause imminent danger to the health or safety of the clients, participants or staff of the program, or a visitor to the program and notify the Division within 24 hours after the occurrence of a death of a client while a staff person was providing services regardless of the location of where the death occurred.

(f) Establish a plan for:

(1) Improving the quality of the services provided by the program which addresses, without limitation, operational services, human resources, fiscal services and service outcome measures; and

(2) Ensuring that the integrity of the services will be maintained;

(g) Make a copy of the plan described in Section 17(3)(f) available to the Division at the time of an inspection by the Division of the premises where the organization is located.

4. The Division shall report any known violation of any local, state or federal law, regulation or ordinance by an operator to the appropriate regulatory agencies which govern the service.

Section 18: Operators: Manual of policies, procedures and services. An operator shall maintain a manual containing the policies and procedures of the applicable services as described in Section 23 to be provided by the operator, including, without limitation, the policies and procedures:

1. To be followed in the event of a medical emergency.
2. For the registration and disposition of complaints by clients, participants and staff and the right to appeal without threat of reprisal.
3. For the staff, including, without limitation, an accurate job description, signed by the applicable employee, for each position held by an employee of the program that describes:

- (a) The title of the position;
- (b) The duties and responsibilities of the position; and
- (c) The qualifications for the position.

4. To be used by the operator to:

- (a) Claim funds or bill for services;
- (b) Receive and record funds;
- (c) Record expenditures;
- (d) Prepare financial reports;
- (e) Maintain information for the support of claims for funds or to bill for services;

and

(f) Implement internal controls and fiscal audits, as necessary.

5. To be used to maintain financial records of clients or participants when a client or participant is billed for services. The policies and procedures must include, without limitation, requirements that an operator shall:

- (a) Inform prospective clients and participants of financial arrangements concerning a service before providing the service if applicable;
- (b) Maintain accurate records of:
 - (1) Any fees charged to a client or participant; and
 - (2) Any payments made by a client or participant; and
- (c) Make the records required pursuant to paragraph (b) available to the client or participant for review upon request.

Section 19: Operators: Responsibilities concerning confidentiality and recordkeeping. An operator shall ensure that:

1. If the entity is covered by federal and/or state law related to confidentiality and privacy the program must comply with those regulations.

2. A client or participant provides separate and explicit consent to allow the operator or a designee thereof to release information which identifies the client or participant and his or her human immunodeficiency virus seropositive status.

3. The program allows a consultant to have access to confidential information concerning clients or participants only if the confidentiality agreements required by 42

C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164 are satisfied. Such agreements must be maintained in the personnel file of the consultant.

Section 20: Operators: Records regarding members of staff.

1. An operator must establish a system for maintaining the records of the members of the staff which:

(a) Maintains the confidentiality and safekeeping of the records.

(b) Contains the application or resume of each member of the staff, any employment contract signed by a member of the staff and the operator or a designee thereof, and any document containing the job performance standards which is signed by a member of the staff and the operator or the designee.

(c) Includes a copy of the certification, registration or license of each member of the staff who provides treatment or another service requiring certification, registration or licensure of the member of the staff if required.

(d) Includes a verification signed by each member of the staff indicating that the member of the staff has participated in a course of orientation regarding the policies and procedures which govern the service that the member of the staff provides.

(e) Includes, for each member of the staff who is not a citizen of the United States, a copy of Form I-9, Employment Eligibility Verification, of the United States Citizenship and Immigration Services of the Department of Homeland Security, which verifies that the member of the staff is lawfully entitled to remain and work in the United States.

2. If a record of a member of the staff includes an employment contract or a document containing job performance standards, the contract or standards must clearly specify the nature and amount of the service to be provided by the member of the staff.

3. A record of a member of the staff must be made available only to the member of the staff upon submission of a request to review the records and to persons who are:

(a) Authorized by the policies and procedures of the program;

(b) Inspecting the program; and

(c) Authorized by the member of the staff.

Section 21: Operators: Liability insurance. An operator shall ensure that the program is insured:

1. For liability in an amount sufficient to protect the clients, participants and staff of the program, and the visitors to the program. The policy of insurance must, at a minimum, provide coverage for professional liability, commercial and automobile and, if the operator receives state or federal money for an alcohol or drug abuse program and is the governing body of a corporation or of a nonprofit organization, the policy of insurance must include liability insurance for directors and officers. The operator shall submit a copy of the policy of insurance to the Division with any application for initial certification or recertification. The policy of insurance must provide that notice be given

to the Division not later than 30 days after cancellation of the policy or after an operator does not renew the policy. Upon request, an operator shall make a copy of the policy of insurance available to the Division for review.

2. For all liabilities arising out of the acts or omissions of a consultant while providing a service for the program. The policy of insurance may be provided by the program or the consultant. If the policy of insurance is provided by the consultant, the operator must obtain a copy of the policy and place the copy in the personnel file of the consultant.

Section 22: Operators and staff: General ethical requirements.

1. An operator and the staff shall not knowingly provide false information to the Division or a representative of the Division.

2. An operator and the staff shall use information that is generally accepted in the field of tenancy housing.

3. An operator shall supervise the staff to ensure that a member of the staff does not:

(a) Become impaired in his or her ability to perform services; or

(b) Perform activities which are unauthorized by his or her licensure, certification or other qualifications.

4. An operator shall not allow a client or participant to grant power of attorney to the operator or a member of the staff.

Section 23: Policy and procedure specific requirements for Tenancy Support Services.

1. Outreach and In-Reach Services

2. Referral and intake processes.

3. Service delivery (1 hours; location including in home and other community settings; type of services available) and consistent with the requirements of the Medicaid 1951i Tenancy Support Services.

4. Housing focused assessment, goal planning and interventions.

5. Pre-tenancy, move-in and on-going services – roles and responsibilities.

6. Crisis prevention and intervention protocols.

7. Working with individuals when services are assessed as needed yet refused.

8. Relationship to property managers and landlords

9. Requesting for reasonable accommodation

10. Dispute resolution process for housing related issues

11. Eviction prevention and intervention

12. Assisting individuals with annual housing, Medicaid and other benefits determination and re-determination processes

13. Linking and coordinating with needed and desired healthcare, dental, vision and other services providers

Section 24: Service Requirements for Housing Care Management: The policies of the operator must address potential issues that could jeopardize housing and lead to eviction and to intervene in a timely way to address emergent issues that may negatively impact the health and safety of the individual and may include but are not limited to the following strategies:

1. Contributing to client social history that is completed by an approved outside entity.
2. Conducting housing preference inventory and assessment of strengths and needs related to choosing, obtaining and maintaining housing.
3. Coordinating the housing search process.
4. Coordinating and making arrangements for housing move-in, including but not limited to scheduling lease signing, ensuring utilities are connected and turned on arranging for movers if applicable.
5. Developing and managing relationships with property managers, landlords, developers and advocating with the same for the needs of the tenants.
6. Negotiating with landlords as appropriate to facilitate access to housing and prevent eviction.
7. Maintaining documents required for housing subsidies, applications and re-certifications.
8. Supporting the client related to rental terms and completion of rental leases with the client.
9. Coordinating care with existing providers or arranging for new providers if needed related to the following services, primary care, behavioral health care, dental and vision care, emergency and urgent care.
10. Develop a plan in accordance with Medicaid policy requirements to include, an individualized housing goal, and crisis prevention plan.

Section 25: Staff Requirements for Housing Care Manager:

1. The operator must designate the manager of the program who have a minimum 2 years of experience working with individuals living with chronic health conditions and experiencing homelessness; and in working with Tenancy Support Services.
2. The manager the program must be trained and demonstrate competence in the following areas:
 - (a) methods, processes and procedures related to providing individualized housing related care management services and care coordination in partnership with individual served;
 - (b) knowledge of local housing providers;

- (c) knowledge of housing subsidy and application processes and requirements;
- (d) excellent written and verbal communication skills;
- (e) ability to document service provision according to 1915i requirements;
- (f) strong organizational skills;
- (g) assessing risk potential;
- (h) developing crisis prevention plans;
- (i) intervening as appropriate to de-escalate and ensure safety;
- (j) Responding to emergent needs in a safe and effective manner; and
- (k) knowledge and basic skills in providing services that are trauma informed.

Section 26: Service Requirements for Tenancy Support Services: The operator must provide services to assist tenants with the following:

1. Daily living skills related to upkeep of the housing unit
2. Skills related to meeting the terms and conditions of the lease agreement, tenant responsibilities and rights (e.g. rent / utilities payment, safe use of appliances, maintaining appropriate sound levels for TV/music, ensuring guests' behavior does not jeopardize lease)
3. Using community resources
4. Social skills to establish relationships, support networks, and being a "good neighbor"
5. Identifying preferences and making choices related to housing
6. Establishing daily routine, including social and recreational activities
7. Recognizing the need for and seeking assistance when needed
8. Management of symptoms related to physical and behavioral health conditions
9. Assisting with arranging and maintaining entitlements and benefits for housing and healthcare Assistance with Move-in (e.g. security deposit, utilities)
10. Assistance to manage finances as needed and desired

Section 27: Staff Requirements for Tenancy Support Services:

1. Staff members who are supervisors must have a minimum 2 years of experience working with individuals living with chronic health conditions and experiencing homelessness; and in working with Supportive Housing Programs. Staff members with less than 2 years' experience must receive supervision from the staff person who has at least 2 years' experience.
2. Staff of the program must be trained and demonstrate competence in the following:

- (a) evidence-based and best practices related to strengths based skills teaching;
- (b) knowledge of behaviors required for maintaining housing;
- (c) engagement and motivational interviewing techniques to connect and form relationships with individuals who may be reluctant or mistrustful of service providers;
- (d) knowledge of and competency in basic cognitive-behavioral and behavior change techniques;
- (e) ability to document service provision according to 1915i requirements;
- (f) intervening as appropriate to de-escalate and ensure safety;
- (g) responding to emergent needs in a safe and effective manner; and
- (h) knowledge and basic skills in providing services that are trauma informed

Section 28: Grounds for revocation of provisional certificate or certificate. Each of the following acts and omissions is a ground for denial, suspension or revocation of a certificate:

1. Any misrepresentation of or failure to disclose any material fact in the application for the provisional certificate or in any financial record or other document requested by the Division.

2. A lack of personnel in sufficient numbers or qualifications to provide proper care and support for the persons receiving services.

3. Conviction of the provider or any employee or independent contractor of the provider of a crime relevant to any aspect of the provision of services.

4. Any deficiency of the provider relating to the provision of services that poses an imminent or probable risk of harm to the health or welfare of any person receiving services.

4. Any fraudulent activity by the provider or an employee or independent contractor of the provider, including, without limitation, any fraudulent billing, falsification of records or misuse or misappropriation of the property of a person who is receiving services.

5. Any refusal to participate in any aspect of a review or investigation by the Division.

6. The failure or refusal of the operator to implement or maintain any action required by the Division to correct a deficiency identified during a review or investigation by the Division.

7. Abuse, neglect, exploitation or coercion of a person who is receiving services.

8. Harassing, coercive, intimidating, insulting, abusive or disruptive language or behavior directed at an employee of the Division, an employee or independent

contractor of the provider, another provider or a person or entity providing services, a person who is receiving services or a family member or guardian of such a person.

9. Exclusion of the operator, an officer or employee of the officer or an independent contractor of the operator who oversees the provision of services from participation in Medicare, Medicaid or any other federal health care program pursuant to federal law.

Section 29: Notice of intent to revoke provisional certificate or certificate. The Division shall give a provider written notice of any intended action to revoke the certificate of the operator as prescribed by NAC 439.345.

Section 30: Immediate termination of provision of services.

If a revocation of the certificate of an operator is pending and the Division determines that the grounds for the revocation place any person at an imminent or probable risk of harm, the Division may immediately terminate the provision of services by the operator

Section 31: Appeal.

1. If the operator is aggrieved by any decision concerning the denial, suspension or revocation of a certificate, the operator may submit a request for an appeal to the Administrator of the Division pursuant to the procedures set forth in NAC 439.300 to 439.395, inclusive.

2. Except in the case of an immediate termination of the provision of services pursuant to Section 30, the effective date of a revocation is stayed upon receipt of a request for appeal until the hearing officer renders a decision regarding the appeal.