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# ICF/MR BRANCH NEWSLETTER

NC Department of Health and Human Services  
Division of Facility Services  
Mental Health and Licensure Certification Section

Volume 2, Issue 1

January 2003

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The purpose of this Newsletter is to provide information and updates on ICF/MR issues in North Carolina. We ask that you pass it on to the homes, facilities and organizations that serve your clients. Additionally if you have any questions, comments or suggestions do not hesitate to contact us at [Jay.Silva@ncmail.net](mailto:Jay.Silva@ncmail.net) or [Denise.Erwin@ncmail.net](mailto:Denise.Erwin@ncmail.net). You may also contact us by calling (919) 855-3795 and asking for an ICF/MR facility consultant or writing to:

ICF/MR Survey Team  
701 Barbour Drive  
2718 Mail Service Center  
Raleigh, North Carolina 27699-2718

## Comments from the Chief

Please see the memo at the end of our newsletter. We would like to wish you the best as we start a New Year.

*Jeff Horton, Chief*

*DFS Mental Health Licensure and  
Certification Section.*

## *IN THIS ISSUE*

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## ICF/MR Surveys for North Carolina Numbers for the 4<sup>th</sup> Quarter

November 1 through December 31, 2002

72 recertification surveys, 1 Follow-up survey and 10 complaint surveys were conducted this quarter with a total of 287 W tags cited. Specifically they included:

Standard Level citations: 283

### Conditions cited:

W 102 Governing Body	0
W 122 Client Protections:	3
W 195 Active Treatment:	0
W 266 Client Behavior and Facility Practices:	0
W 318 Health Care:	1

Additionally, conditions of participation resulted in 1 Immediate Jeopardy being cited and penalties being assessed as a result of a complaint investigation. No Immediate Jeopardies were cited as a result of recertification surveys.

The information listed does not include citations from life safety code surveys.

### *Most frequently cited deficiencies, 4<sup>th</sup> quarter:*

<i>W-227</i>	<i>21 times</i>
<i>W-288</i>	<i>16 times</i>
<i>W-154</i>	<i>13 times</i>
<i>W-249</i>	<i>13 times</i>
<i>W-257</i>	<i>13 times</i>
<i>W-125</i>	<i>12 times</i>
<i>W-209</i>	<i>11 times</i>
<i>W-242</i>	<i>11 times</i>
<i>W-247</i>	<i>11 times</i>
<i>W-369</i>	<i>11 times</i>

The information listed above does not include citations from life safety code surveys.

## *The following facilities had deficiency-free annual recertifications since October 2002:*

*Lee Forrest Home, Laurinburg, N.C.*

*Moss Springs Group Home #1, Albemarle, N.C.*

*Queens Pond, Hubert, N.C.*

*Mantle Court Group Home, Charlotte, N.C.*

*We would also like to recognize the Lillington Home, Lillington, N.C., which was omitted from the 3<sup>d</sup> quarter results.*

*If you did receive a deficiency free annual survey (General and Life Safety) and we failed to identify your facility, please notify us ( [Joseph.Milanese@ncmail.net](mailto:Joseph.Milanese@ncmail.net) ) and we will include it in the next edition of the newsletter.*

## Center for Medicaid and Medicare Services (CMS) Notes

The CMS Quarterly Provider Update can be found at <http://cms.hhs.gov/providerupdate/> and the first issue is provided here for your convenience

January 2003

"A Source for National Medicare Provider Information"

WELCOME

Welcome to the Centers for Medicare & Medicaid Services' (CMS) Quarterly Provider Update, A Source For National Medicare Provider Information. During this Pilot Phase, we will test the concepts as well as the structure of the information and expect to improve both the usefulness of the tool from the provider perspective and our internal procedures. Your feedback will assist us in pilot testing this tool.

This is just one of a number of steps that we are taking to become a better business partner. Other steps include open listening forums across the country and open door policy forums. By providing a focus for our communications with providers, we are ensuring that providers are fully aware of new developments in the Medicare and Medicaid programs and have time to react and prepare for new requirements. By publishing this Update we intend to make it easier for providers to understand our programs and comply with Medicare regulations and instructions and to provide predictability to our communication of new or changing Medicare requirements.

In this pilot phase of this project, we have established several business objectives that we are testing with this release of the Update. First, we intend to publish the Update on the first business day of each Quarter on the CMS Website. Second, because of the complexity of the policy decisions associated with much of our

regulatory work, we are taking an intermediate step towards enhancing the consistency of our regulatory publications. Specifically, we intend, to the extent practical, to publish regulations on a predictable cycle once a month. We plan to publish CMS business in the Federal Register on the fourth Friday of each month. In fact, each issue of the Update will identify the specific days on which CMS business will be published in the Federal Register. It should be noted however, some of our regulatory work has statutory publication dates and we will continue to comply with the statutory requirements. In addition, the Update will include a listing of the regulations published in the previous quarter.

Third, the Update will include all non-regulatory changes to Medicare, including all Program Memoranda, manual changes and any other instructions that could affect providers. To the extent practical, all instructions will be implemented 90 days after they are included in the Update. However, some instructions and program changes have external dependencies that will necessitate a mid-Quarter publication and these instructions/changes will be clearly identified.

With this release of the Update, we hope not only to test our ability to meet our business objectives, but also to assess your reaction. We hope that you will find the Update to be a useful tool for keeping informed about changes to Medicare's regulations and instructions. At the end of the Update you will find a "Feedback" form. We encourage you to use this form to provide your thoughts and comments on how we can further develop the utility of this tool, including its format, layout and presentation. We look forward to working with you to enhance the delivery of Medicare services to our beneficiaries.

Thomas A. Scully

Administrator

Additional information about ICF/MR program's can be found at the CMS ICF/MR Home Page:  
<http://cms.hhs.gov/medicaid/icfmr/default.asp>

## Net Links:

We have identified a number of Net Links, which may be helpful to you in the care of your clients. If you know of others, please let us know at [Joseph.Milanese@ncmail.net](mailto:Joseph.Milanese@ncmail.net) and we will add them for the benefit of others in the ICF/MR community. To use the list click on the link below or cut and paste it to the location (Netsite) field on your browser page.

### Federal

Centers for Medicare & Medicaid Services <http://cms.hhs.gov/>

ICF/MR <http://www.hcfa.gov/medicaid/icfmr/icfhmpg.htm>

Medicare <http://www.hcfa.gov/medicare/mcarpti.htm>

Medicaid <http://www.hcfa.gov/medicaid/medicaid.htm>

Laws and Regulations <http://www.hcfa.gov/regs/>

### State

N.C. Government <http://www.ncgov.com/>

North Carolina Department of Health and Human Services <http://facility-services.state.nc.us/>

The Division of Facility Services <http://facility-services.state.nc.us/>

Nurse Aide I and Health Care Personnel Registry <http://www.ncnar.org/>

### ICF/MR Organizations

North Carolina Association of Community Based ICF/MR Providers  
<http://www.ncicfmr.org/>

National Association of QMRP <http://www.qmrp.org/index.shtml>

American Association for the Mentally Retarded (AAMR) <http://www.aanr.org/index.shtml>

The ARC <http://www.thearc.org>



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Michael F. Easley, Governor

Carmen Hooker Odom, Secretary

W. Jeff Horton, Chief

**December 2002**

**MEMORANDUM**

To: Mental Health, Developmental Disability and Substance Abuse Providers licensed under G.S. 122C

From: Jeff Horton, Chief

Re: Senate Bill 163 – An act to implement the recommendations of the Legislative Research Commission's Study Committee on Group Homes to address licensure issues and the needs of Local School Administrative Units in which group homes for children are located

Our office has received many calls recently regarding Senate Bill 163, which was signed into law effective October 23, 2002. Specifically, Section 4.1 of the bill, which became effective upon signing the bill into law, amends G.S. 122C-23 – Licensure as follows:

*G.S. 122C-23 is amended by adding a new subsection (e1) to read:*

"(e1)The Department shall not enroll any new provider for Medicaid Home or Community Based services or other Medicaid services, as defined in 42 C.F.R. 440.90, 42 C.F.R. 440.130(d), and 42 C.F.R. 440.180, or issue a license for a new facility or a new service to any applicant meeting any of the following criteria:

- (1) Was the owner, principal, or affiliate of a licensable facility under Chapter 122C or Chapter 131D that had its license revoked until 60 months after the date of the revocation.*
- (2) Is the owner, principal, or affiliate of a licensable facility that was assessed a penalty for a Type A or Type B violation under Article 3 of this Chapter until 60 months after the date of the violation.*
- (3) Is the owner, principal, or affiliate of a licensable facility that had its license summarily suspended or downgraded to provisional status as a result of violations under G.S. 122C-24.1(a) until 60 months after the date of reinstatement or restoration of the license.*
- (4) Is the owner, principal, or affiliate of a licensable facility that had its license summarily suspended or downgraded to provisional status as a result of violations under Article 1A of Chapter 131D until 60 months after the date of reinstatement or restoration of the license."*

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The most frequent question our office has received regarding the above amendment is whether or not license revocations, Type A or Type B violations under Article 3 of G.S. 122C (client rights statutes and rules – 10 NCAC 14P, Q, R, S), or licenses downgraded to provisional status prior to the enactment of the law are considered for the 60 month prohibition from licensing a new facility or service. After discussions within the Department, we have determined the law does require us to take into account an owner, principal or affiliate's past history of license revocations, Type A or Type B penalties under Article 3 of G.S. 122C, or licenses downgraded to provisional status.

For example, Facility A – a licensed mental health facility owned by ABC Corporation, is investigated for a complaint in March of 2002. Findings from the complaint investigation reveal that in accordance with G.S. 122C-24.1, a Type A violation has occurred regarding abuse at the facility. Pursuant to Article 3 of G.S. 122C and the rules promulgated under those parts, clients have the right to be free from abuse. A deficiency is cited regarding the abuse and a Type A violation is administered against the facility. The facility pays the fine and the violation is recorded in the facility's file at DFS. In December 2002, ABC Corp. applies to license a new G.S. 122C facility; however, the licensure application is denied due to the past Type A violation under Article 3 of G.S. 122C at Facility A, which was/is owned by ABC Corporation.

ABC Corporation would also be unable to license a new facility under Article 1A of G.S. 131D (foster care home or facility) or enroll in any new Medicaid Home or Community Based services or other Medicaid services as defined in 42 C.F.R. 440.90, 42 C.F.R. 440.130(d), and 42 C.F.R. 440.180. The inability of ABC Corporation to license a new facility or service or enroll in any new Medicaid program as described in the law would be in effect until 60 months from the date of the March 2002 Type A violation at Facility A, which would be March 2007. In addition, in the future if any facility owned by ABC Corporation or its principals or affiliates undergoes a license revocation, Type A or Type B violation under Article 3 of G.S. 122C or license is downgraded to provisional status, the 60 month timeframe will begin again and ABC Corporation's ability to license a new facility or service under G.S. 122C, Article 1A of G.S. 131D, or enroll in Medicaid would be further delayed.

In a collaborative effort to implement this Section of Senate Bill 163, our office and the Division of Social Services (which licenses foster care facilities under 1A of G.S. 131D) and the Division of Medical Assistance (which enrolls providers of Medicaid services), are in the process of developing a comprehensive list of providers with histories of administrative actions taken against them. In addition, rules will be developed in the future to further delineate procedures the Department will follow with regards to implementation of this portion of the bill.

I hope the above clarifies the issue of establishing new facilities or services as described in Senate Bill 163. If you would like to view the bill in its entirety, please use the following web address:  
<http://www.ncga.state.nc.us/html2001/bills/AllVersions/Senate/S163vc.html>

Please note the bill addresses many items not mentioned in this letter and the Department is in the process of putting the necessary steps in place to implement the bill. If you have questions regarding any aspect of this letter, please do not hesitate to contact me.

**(A final note – we hope that you have found the information we have provided helpful and educational. The ICF/MR Branch has a common goal with the various ICF/MR facilities in North Carolina to ensure the clients have the best life experience available to them.)**

## **ICF/MR SURVEY BRANCH**