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| <p>Title: Waiver of Disapproval of Nurse Aide Training and Competency Evaluation Program (NATCEP)</p> | <p>Policy #: IDOH-CSHR-PPD-001</p> |
| <p>Scope:</p> <p><input type="checkbox"/> All Staff</p> <p><input checked="" type="checkbox"/> Limited Staff:</p> <p>Division of Program Performance and Development and Division of Long Term Care</p> | <p>Approvals:</p> <p><u>Suzanne Williams, RN, BSN</u></p> <p><u>May 19th, 2022</u></p> <p>Date</p> |
| <p>Effective date: 01-Jun-22</p> | |

Purpose

To establish criteria and procedures for granting a waiver of a Nurse Aide Training and Competency Evaluation Program (NATCEP) ban imposed against a long-term care facility pursuant to Public Law 105-15 (H.R. 968).

Policy Statement

The Indiana Department of Health (IDOH) Consumer Services and Health Care Regulation Commission will review all requests for waiver of a two-year prohibition of NATCEP according to the criteria and procedures established in this policy.

Procedures and Responsibilities

- I. State authority to waive disapproval of NATCEP programs:

Sections 1819(f)(2)(C) and 1919(f)(2)(C) of the Social Security Act provide waiver authority by the State.



- A. To be eligible for a waiver of a NATCEP ban, the facility must submit the waiver request in writing via email and meet the following criteria:
 1. No other such program is offered within a reasonable distance of the facility,
 - a. For purposes of this policy and procedure, the “other program” is deemed to be “within a reasonable distance of the facility” only if it is located at the same physical site and address as the facility.
 2. The requesting facility has an adequate environment for operating the program, including the following:
 - a. The facility has corrected the deficient practice(s) that led to the disapproval of their NATCEP.
 - b. The deficient practice(s) that led to the disapproval of their NATCEP was NOT:
 - i. an immediate jeopardy (IJ) that caused the death of a resident
 - ii. an immediate jeopardy (IJ) that was not removed prior to survey exit
 - c. The facility is not a Special Focus Facility (SFF).
 - d. Facilities designated on the current CMS Provider Ratings as a Special Focus Facility (SFF) candidate or with a staffing alert will be reviewed for current citations and staffing information, and waivers will be granted or denied at the discretion of the division director of Long-term Care and/or Program Performance and Development.
 3. Another Nurse Aide Training program approved by the State has agreed, in writing, to provide the training in the facility. The facility will operate as a clinical site for a NATCEP. All classroom and clinical instruction must be provided by the training program and not facility staff.
- B. After receiving the facility’s written request, within ten (10) business days, the division director or supervisor will:
 1. Grant the request if, according to the established criteria:
 - a. no other such training program is offered within a reasonable distance of the facility,
and



- b. ensures through an oversight effort that the facility has an adequate environment for operating the program
2. Provide notice of such determination and assurances to the State long-term care ombudsman.
3. Notify the facility that the waiver of their NATCEP disapproval has been granted and a NATCEP program may be offered in (but not by) the facility. The facility may be a clinical site for NATCEP.

The approved training program that has agreed to provide training in the facility must submit an application via email to IDOH to add the facility as a clinical site and receive approval prior to beginning any training at the facility.

4. If the criteria are not met, IDOH will notify the facility of the determination to deny the request for a waiver.
 5. Notification to the facility will be made via email with the State long-term care ombudsman copied.
 6. The Administrative Assistant (AA) will enter the waiver of the NATCEP disapproval in the appropriate software applications.
- II. CMS regional location authority to waive disapproval of NATCEP due to civil money penalties (CMPs):

Sections 1819(f)(2)(B)(iii)(c), (D) and 42 CFR 483.151 provide CMS regional locations authority to waive disapproval of NATCEP/CEP due to civil money penalties (CMPs). The State may recommend and the CMS location makes the final determination whether the waiver is granted if the reason for disapproval of NATCEP is a CMP of no less than \$11,160 due and payable, as adjusted by 45 CFR 102.

- A. To be eligible for a waiver of a NATCEP ban, the facility must submit the waiver request in writing via email and meet the following criteria:



The deficiency that led to the imposition of the CMP and disapproval of their NATCEP is not related to quality of care for residents, meaning direct hands-on care and treatment that a healthcare professional or direct care staff furnished to a resident.

- B. After receiving the facility's written request, within five (5) business days, the division director or supervisor will:
 1. Forward the request to the Region 5 CMS location if the reason for the NATCEP ban is a CMP due and payable of no less than \$11,160, as adjusted by 45 CFR 102, and the deficiency is not related to quality of care for residents.
 2. Notify the facility of denial of the request for a waiver if the reason for the NATCEP ban is not a CMP due and payable of no less than \$11,160, as adjusted by 45 CFR 102, and/or the deficiency is related to quality of care for residents,
 - C. Upon receipt of CMS determination, within five (5) business days, the division director or supervisor will:
 1. If approved by CMS, notify the facility the waiver is granted. The facility can conduct its own approved training program and/or operate as a clinical site for NATCEP.
 2. If not approved by CMS, notify the facility of the determination.
 - D. Notification to the facility will be made via email.
 - E. The AA will enter the waiver of the NATCEP disapproval in the appropriate software applications.
- III. The waivers issued in accordance with this policy and procedure will be in effect for the remainder of the period of time the facility's NATCEP was banned with the following exceptions:

The division director will revoke a waiver issued in accordance with this policy if at any time during the waiver period, the facility:

- A. Operates under a waiver for a full-time registered nurse;
- B. Is subject to an extended or partial extended survey as a result of substandard quality of care;



- C. Pays a CMP in the amount of no less than \$11,160, as adjusted by 45 CFR 102;
- D. Is subject to a denial of payment for new admissions;
- E. Has an immediate jeopardy citation not removed prior to survey exit or that resulted in the death of a resident.

Legal Authorities and References

Public Law 105-15 (H.R. 968)

Sections 1819 (f)(2)(B)(iii)(c), 1819(f)(2)(C), 1819(f)(2)(D) and 1919(f)(2)(C) of the Social Security Act

42 CFR 483.151

45 CFR 102

State Operations Manual, Chapter 4, 4132.1