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TO: Long-Term Care Facilities, Specialized Mental Health Rehabilitation Facilities

CC: IDPH Director, IDPH PIOs, IDPH RHOs, IDPH CD Leads, IDPH OPR Leads, IDPH Long-Term Care Leads, IDPH Surveillance Nurses, DHS, DMH, HFS, DOA, Ombudsman

FROM: Office of Health Care Regulation

RE: Regulatory Requirements for Cook County Skilled Nursing Facilities and Specialized Mental Health Rehabilitative Facilities Concerning *Colbert* and *Williams* Class Members

DATE: December 30, 2022

**Recent Amendments on Census Reporting:** On September 26, 2022, the Joint Committee on Administrative Rules adopted amendments to the Skilled Nursing and Intermediate Facilities Code (77 Ill.Admin.Code 300) and the Specialized Mental Health Rehabilitative Facilities Code (77 Ill.Admin.Code 380). The rules were subsequently published on October 7, 2022 (77 IAC 300 at 46 Ill. Reg. 16829 and 77 IAC 380 at 16870) [Illinois Register Issue 41 \(ilsos.gov\)](http://ilsos.gov).

More specifically, the Skilled Nursing and Intermediate Facilities Code, Sections 300.330, 300.1810, and 300.3210, and the Specialized Mental Health Rehabilitative Facilities Code, Sections 380.100, 380.140, and 380.220, were amended to require facilities to:

- Submit an accurate monthly census of all Medicaid-eligible residents.
- Submit the previous month's voluntary and involuntary discharges.
- Provide educational materials and information on rights/services under the *Colbert* or *Williams* Consent Decrees to all voluntarily or involuntarily discharged class members.
- Upon request, provide written verification to a *Colbert* or *Williams* defendant State agency that educational materials and information were provided to *Colbert* or *Williams* Consent Decree class members.
- Provide a minimum 48-hour notice of a *Colbert* or *Williams* Consent Decree class member's discharge to any agency providing transition services.

Facility owners, administrators, and staff should familiarize themselves with the regulation and new regulatory requirements.

**Regulatory Requirements Relating to Access by Essential State-Authorized Personnel:** As previously provided in IDPH Guidance issued on April 17, 2020, state-authorized personnel **must** be granted access to residents and consumers, including to *Colbert* and *Williams* class members.

- **State-authorized personnel:** State-authorized personnel include, but are not limited to, representatives of the Office of the State Long-Term Care Ombudsman Program, the Office of State Guardian, IDPH Office of Health Care Regulation, and the Legal Advocacy Service; and community-service providers, social-service organizations, prime agencies serving as liaisons on behalf of the Illinois Department of Human Services, and any other third parties serving as agents of the state for purposes of providing telemedicine, transitional/diversion services to community-based living, and any other supports related to existing consent decrees and court-mandated actions. State-authorized personnel should **not** be classified as visitors. All such individuals must promptly notify facility staff upon arrival, follow all screening protocols established by the facility, and wear appropriate source control while onsite. State-authorized personnel are required to bring their own personal protective equipment (PPE) and sufficient additional PPE for donning and doffing while entering and exiting COVID-19 units.
- State-authorized personnel will follow the COVID-19 rules and policies set forth by their respective state agencies.
- Failure to allow entry of state-authorized personnel may lead to penalties and sanctions pursuant to applicable state and federal laws and rules.
- Specialized mental health rehabilitation facilities (SMHRFs) and Cook County Medicaid-certified nursing facilities must provide *Williams* and *Colbert* prime and front door diversion (FDD) agencies and/or their subcontractors, who are considered state-authorized personnel, with immediate access to any resident/class member. If the resident/class member or the prime/FDD agency requests alternative communication in lieu of an in-person visit, facilities must, at a minimum, facilitate alternative resident communication with the agency staff, such as by phone or through use of other technology. Cook County nursing facilities and SMHRFs are also required to allow the prime/FDD agency to access the resident's medical, social, and administrative records for the purposes of facilitating transition services.
- Front door diversion hospitals must provide *Williams* SFDD agencies and/or their subcontractors, who are considered state-authorized personnel, with immediate access to any SMHRF eligible patient. If the patient or the FDD agency requests alternative communication in lieu of an in-person visit, facilities must, at a minimum, facilitate alternative resident communication with the agency staff, such as by phone or through use of other technology. Hospitals are also required to allow the FDD agency to access the patient's medical, social, and administrative records for the purposes of facilitating SMHRF diversion services.