

Request for Approved Program Capacity (APC) and Noncontiguous Clearance

ODP Announcement 19-138 Update

AUDIENCE:

- Administrative Entities (AEs)
- Supports Coordination Organizations (SCOs)
- Providers of the following Consolidated, Person/Family Directed Support (P/FDS), and Community Living Waiver services:
 - Residential Habilitation (licensed and unlicensed)
 - Life Sharing (licensed and unlicensed)
 - Supported Living (unlicensed)
 - Respite (licensed and unlicensed)
 - Community Participation Support provided in Licensed Adult Training Facilities, Vocational Facilities and Older Adult Daily Living Centers
- Any other interested parties

PURPOSE:

The purpose of this communication is to notify stakeholders of the updated process that ODP staff will be utilizing in making determinations for Approved Program Capacity (APC) and Noncontiguous Clearance through the updated form (Attachment #1).

DISCUSSION:

Since the release of the Request for Approved Program Capacity and Noncontiguous Clearance form and instructions with [ODP Communication 19-138](#), additional changes have been made to align with requirements in the Consolidated, P/FDS, and Community Living Waivers as well as changes in regulatory requirements. Specifically, [the November 1, 2023 waiver amendment](#) states that “Agencies must have actively provided direct non-residential Home and Community-Based Services (HCBS) as a provider enrolled to provide ODP Waiver services for the two years prior to enrolling to provide Residential Habilitation, Life Sharing, or Supported Living and be in good standing (not subject to sanctions or enforcement actions by the Department), the form and instructions have been updated to include requests for Reserved Capacity as enumerated in 55 Pa. Code §6100.55.

The following information is needed to be sent to the ODP Regional Waiver Capacity Manager upon request for APC:

- Certificate of Compliance from licensing reflecting the new address.
- Attach the prior approved Noncontiguous Status for this proposed APC site.
- Attach the [DP 1059 \(ODP Provider Qualification Form\)](#) citing that you are a Qualified ODP Provider.

Upon the ODP Waiver Capacity Manager's review of this information, pending their approval, your requested APC will be provided. You will then be able to proceed with your Promise Enrollment of this site.

Request Procedures:

Prior to opening a new service location, closing an existing service location, or changing the program's capacity, the provider will email the attached *Request for Approved Program Capacity and Noncontiguous Location Clearance* form, Attachment #1, to the Regional Waiver Capacity Manager that covers the geographic area where the service location is located (see *Regional Waiver Capacity Manager Contact Information*, Attachment #3). The form will include information about the circumstances and the location that will enable the Regional Waiver Capacity Manager to ensure that the new or existing service location meets ODP criteria contained in the waiver and applicable regulations. After the Regional Waiver Capacity Manager receives the form and reviews the information, they will document their decision on the *Request for Approved Program Capacity and Noncontiguous Location Clearance* form and will send the determination to the provider.

Requirements:

The APC and Noncontiguous Form, Attachment #1, is required for Community Participation Support facility locations that are newly funded on or after the effective date of 55 Pa. Code 6100 regulations. Providers who open a new Community Participation Support facility (including a relocation of an existing facility) must obtain approval from the Regional Waiver Capacity Managers verifying that the service location is a noncontiguous location.

- Providers of Community Participation Support services only need to get Noncontiguous Clearance if the services will be rendered for any amount of time in a Community Participation Support facility. **This form does not need to be completed when the provider renders Community Participation Support services in community locations (including community hubs) 100% of the time which are not subject to licensure.**

Noncontiguous Location Requirements for Residential Service Providers

- This applies to Residential Service locations (excluding Supported Living). The APC and noncontiguous Form (Attachment #1) is required for Residential Service locations. Providers who open a new Residential Service location must obtain approval from the Regional Waiver Capacity Manager verifying that the service location is a noncontiguous location. This request must be made separately and before the provider can submit a request for APC for the service location.

Approved Program Capacity Requirements, Including Reserved Capacity, for Residential Service Providers

- This applies to Residential Service locations (except Respite Only Homes).
- APC is the maximum number of people who can receive services at the Residential Service location on any given day, regardless of the service or funding type authorized to pay for that service.
- A request for APC must be made when the provider plans to open a new Residential Service location or change the program capacity for an existing Residential Service location, which includes Reserved Capacity. **When requesting**

to establish an APC, the [DP 1059 \(ODP Provider Qualification Form\)](#) must be submitted to verify that the Provider is Qualified to render Residential Services.

Licensure Request

- Providers need to become familiar with the licensing requirements and whether they pertain to a setting owned, leased, or operated by the provider. This is relevant in requests for APC where Regional Waiver Capacity Managers will review the licensed capacity of a setting when applicable.
- For further information on licensing, please contact:

- **Traditional mail:**

Office of Developmental Programs Bureau of Community Supports

625 Forster Street

Room 412

Harrisburg, Pennsylvania 17105

Attention: Licensing Management Unit

- **Electronic mail:**

RA-odplicensing@pa.gov

ATTACHMENTS

- Attachment #1: *Request for Approved Program Capacity & Noncontiguous Clearance Form*
- Attachment #2: *Instructions for Completing the Approved Program Capacity & Noncontiguous Clearance Form*
- Attachment #3: *Regional Waiver Capacity Managers Contact Information*