

New York DSRIP Safety-Net Providers Exceptions Review

SUMMARY

CMS has reviewed the Vital Access Provider (VAP) Safety-Net Exceptions applications forwarded by the state in accordance with the DSRIP STCs. We received 503 exceptions applications that needed CMS review.

In the STCs, CMS may approve a safety-net exception for one of three reasons:

1. A community will not be served without granting the exception because no other eligible provider is willing or capable of serving the community
2. Any hospital is uniquely qualified to serve based on services provided, financial viability, relationships within the community, and/or clear track record of success in reducing avoidable hospital use.
3. Any state-designated health home or group of health homes.

Providers who are not given a safety net exception are considered non-qualifying providers. Within a PPS, non-qualified providers, as a group, cannot receive more than 5 percent of the PPS' total project value.

CMS recommends that some of the VAP safety-net exception requests be approved, as discussed below.

BACKGROUND: NEW YORK'S PROCESS FOR SAFETY NET EXCEPTIONS

Based on a diagram of the process provided by New York and responses to questions sent to the state DSRIP team related to the exceptions CMS received, CMS was able to compile a timeline and a few parameters that the state's review included. New York ran data from several sources to determine safety net status for 13 provider groups.

The provider groups are as follows:

- Licensed Home Care Service Agencies
- Nursing Homes
- Physicians
- Pharmacy
- Diagnostic & Treatment Centers (Clinics)
- Certified Home Health Agencies
- Adult Care Facilities
- Agencies licensed by New York's "O Agencies" – Office of Mental Health, Office of Alcohol and Substance Abuse Services and Office for People with Developmental Disabilities
- Harm Reduction Providers
- HCBS 1915(i) Providers
- Health Homes
- Hospitals

- Other

Timeline for New York’s Safety Net Review	
May 5, 2014	Initial run of provider data to create safety net list
June 11, 2014	New York accepts safety net appeals from providers not on the initial list
September 2014	New York releases final list of safety net provider list that incorporates approved appeals.
October 24, 2014	New York accepts VAP exceptions applications to forward to CMS
December 5, 2014	New York forwards exceptions to CMS for review.

The initial data run began in May 2014 after CMS approved the DSRIP safety net definition and the state published the list of eligible providers. Providers not on the list were given an opportunity to appeal for safety net designation and were allowed to present data and additional justifications, including being located in primary care shortage or health professional shortage areas, as part of their appeals. Appeals were finalized in August 2014 and revised lists of safety net providers by provider type were published throughout September 2014. The state initiated another round of review for providers that remain “non-qualified” by allowing them to submit a VAP exception appeal in October 2014. Using a “Pass/Fail” methodology, the state used the three reasons listed in the STCs in order to determine which appeals would be forwarded to CMS. CMS’ review encompasses the exceptions applications that received a “Pass”.

RATIONALE FOR VAP SAFETY-NET EXCEPTIONS APPLICATIONS THAT CMS SHOULD DISAPPROVE

LHCSA (Personal Care Agencies): 3 out of 7 Recommended for Approval

- Provider cites exception reason #1 in its application, but this reason lacks credibility if more than 90 percent of the provider type statewide has safety-net eligibility.
- Provider uses exception reason #1 in its application, but reports Medicaid utilization of less than 30 percent.
- The application is not clear how a provider can or will contribute to DSRIP or its PPS’ efforts.

Nursing Homes: None Recommended for Approval

- Only one nursing home passed the state’s Pass/Fail, and provider cites exception reason #1 in its application, but this reason lacks credibility if more than 90 percent of the provider type statewide has safety-net eligibility.

Physicians: None Recommended for Approval

- Physician uses exception reason #1 in its application, but reports Medicaid utilization of less than 30 percent.
- Physician reports Medicaid utilization within safety-net designation guidelines, but number of encounters overall is insignificant to DSRIP.
- Physician uses exception reason #1 in its application, but at least one physician within the same medical group has safety net status, and the applying provider shares the DSRIP payments with his/her medical group.
- The application is not clear how a provider can or will contribute to DSRIP or its PPS' efforts.

Pharmacies: None Recommended for Approval

- Provider uses exception reason #1 in its application, but reports Medicaid utilization of less than 30 percent.
- The application is not clear how a provider can or will contribute to DSRIP or its PPS' efforts.

Clinics: None Recommended for Approval

- The provider uses exception reason #1 in its application but reports no Medicaid volume.
- The application is not clear how a provider can or will contribute to DSRIP or its PPS' efforts.

CHHA (Home Health Agencies): None Recommended for Approval

- The application is not clear how a provider can or will contribute to DSRIP or its PPS' efforts.
- Provider is considered safety net under another category
- Provider's statistics for Medicaid volume are different from the state's statistics.

“O Agencies”: None Recommended for Approval

- Provider cites exception reason #1 in its application, but this reason lacks credibility if more than 90 percent of the provider type statewide has safety-net eligibility.
- It's unclear if these programs are receiving FFP from the DSHPs that are funded as part of the DSRIP.

Hospitals: None Recommended for Approval

- Provider uses exception reason #1 in its application, but reports Medicaid utilization of less than 30 percent.
- The source for provider's Medicaid volume is unclear.

Other: Non Recommended for Approval

- Full provider VAP application was not forwarded to CMS for consideration.

- Source for provider's Medicaid volume is unclear.

VAP SAFETY-NET EXCEPTIONS THAT CMS SHOULD APPROVE:

LHCSA (Personal Care Agencies)

Based on the description provided of the areas served by the provider and passing New York's Pass/Fail methodology, the following LHCSAs are recommended for approval for a safety net exception:

- Aftercare Nursing Services, Inc.
- Family Services of Westchester, Inc.
- Independent Health Care Services

These three providers are in rural areas and were able to support through their exception application that their community would not be served if not allowed the ability to fully participate as a safety net provider in their respective PPSs.

HARM REDUCTION, HCBS 1915(i) PROVIDERS, AND HEALTH HOMES

New York expressed the need for a potential wholesale approval of Harm Reduction, HCBS 1915(i) providers and Health Homes. A list of Harm Reduction and HCBS 1915(i) providers was compiled that would meet the DSRIP safety net definition, upon approval of the state's 1115 amendment to pay for 1915(i) and 1915(i) HCBS services. For Health Homes, the state compiled a list of providers that are shown to have billed \$10,000 or more in health home and care management related services. The state requested that providers on this list apply for a VAP exception. Although not all providers on the list filed an exception application, the state is still seeking a wholesale approval of the providers it selected. For example, there are 25 harm reduction 1915(i) providers the state identified as safety net. 7 providers submitted a VAP exception application, but the state prefers that CMS approve the list of 25 providers for safety net status.

Recommendation for approving these providers:

Approval of all providers on state's list. Approve approximately 550 providers the state lists as safety net. Due to the timing of the state's 1915(i) HCBS services SPA that's pending with CMS and the implementation schedule of the DSRIP activities in Year 0, these providers would not have appeared on a safety net designation list. Upon approval of 1915(i) services for these providers, they will easily qualify as safety net in accordance with the safety net definition outlined in the STCs.

Administrative Considerations

- New York's state-level appeal process rejected providers that did not have creditable narratives in their application. If a provider expressed that the surrounding community will not be served if the provider is not approved for an exception and didn't give an accurate description/depiction of the community, the appeal was rejected. Other appeals simply did not have enough information in the narrative to make a determination.

- New York received additional materials from providers that were not provided to CMS.
- A provider approved for a safety net exception is not guaranteed more of the 95 percent project value than what would have been expected as part of the 5 percent project value. For example, if as a non-qualified provider, Dr. Jones would have received \$.10 of the \$5.00 shared between non-qualified providers, the PPS may still only give Dr. Jones \$.10 for his participation in the overall \$100 project.