

Webinar with Residential Operations on Heightened Monitoring (HM): Questions

Introduction

While DFPS and HHSC wish to inform you of the court's expectations and provide as much clarity and transparency as possible, be aware that all FAQ's listed here as well as any inquiry responses received from the Residential Contracts In-Box are preliminary. These FAQs and responses are subject to modification as directed by the court.

Communication:

- **How do we ask questions?**

Please reduce to writing and submit to the following email address:

DFPSRESIDENT@dfps.state.tx.us

This will help ensure we capture all questions and will help inform the FAQ.

- **What are the phases and timeframes for notifications to operations about their heightened monitoring status?**

- Operations who are identified for heightened monitoring will receive a phone call and then a notice letter via email.
- Phase One operations were notified June 11th, 2020.
- If the Court approves a phased in approach, operations on Phase Two and Phase Three heightened monitoring lists will also be notified. Timing of phased in approach still under review.

- **Who is responsible for notifying the CPS worker that the operation is on heightened monitoring?**

The CPS Placement staff will notify the CPS caseworker or SSCC Liaison.

- **Who from the operation will be notified?**

The contract signatory is called, and both the signatory and LCCA are provided written notice.

- **Will SSCCs receive a copy of the plans?**

The Heightened Monitoring Team will provide the SSCCs with a copy of the Heightened Monitoring plans for their subcontracted operations.

- **Which page on your website will you post this PowerPoint on?**

The PowerPoint will be located at this link:

http://www.dfps.state.tx.us/Doing_Business/Purchased_Client_Services/Residential_Child_Care_Contracts/default.asp

Associate Commissioner Approval Process

- **Do TMC placements need approval?**

All placements into an operation on HM must be approved by the CPS Associate Commissioner.

- **Can you describe how the CPS Associate Commissioner will approve placements for operations on heightened monitoring? How will requiring this approval impact SSCCs?**

The CPS Placement Program and Support Team will receive the request for placement from the Caseworker or SSCC Placement Staff and forward to the CPS Associate Commissioner for approval. The Associate Commissioner for CPS will review the placement for approval or denial. The CPS Placement staff will inform the Caseworker or SSCC Placement Staff of the Associate Commissioner's decision. A process for emergency requests has been developed.

Accreditation

- **If an operation is accredited, will the accrediting body be notified of heightened monitoring status?**

At this time, notification to accrediting bodies is not a requirement of heightened monitoring.

Conflict of Interest

- **What if there is conflict of interest as to who is assigned to their FITS team?**

As state agencies DFPS and HHSC agency staff are subject to nondisclosure and conflict of interest requirements as per Texas Government Code Chapter §573 and Texas Government Code Chapter §2261.

If you have concerns, contact:

- For DFPS: The Office of Consumer Relations at (800) 720-7777, Monday-Friday 8:00 am to 4:30 pm
- For HHSC: The Office of Inspector General at (800) 436-618

Fines and other Financial Concerns

- **All operations are subject to fines currently through RCCL and DFPS contracts. Are there additional potential fines that are being considered for heightened monitoring?**

According to the court order, if the operation does not come into compliance with their plan during the heightened monitoring period, fines are a possible penalty.

- **Will additional resources be provided or requested for operations to navigate the new layer of compliance and cover additional staffing needed for monitors on such a frequent basis?**

DFPS leadership is committed to working with operations to better understand the impact.

Phases of Heightened Monitoring

- **During Phase I will children be removed from the RTC/GRO-at the request of the CW?**

Caseworkers are required to consistently assess the appropriateness of the placement and make decisions according to the child's best interest.

- **Can you summarize what Phase I entails?**

Phase I is a limited rollout of Heightened Monitoring for a small number of providers given current resources.

- **When does Phase II begin?**

This is pending approval from the Court. As of this writing implementation is beginning in a phased-in approach and the timing of increase is unknown.

How operations are identified for heightened monitoring

- **What are the 12 subgroups that are being averaged?**

Small size GRO - Emergency Shelter and Child Care Services	Medium size GRO - Emergency Shelter and Child Care Services	Large size GRO - Emergency Shelter and Child Care Services
Small size GRO - RTC	Medium size GRO – RTC	Large size GRO – RTC
Small size GRO – Multiple Services	Medium size GRO – Multiple Services	Large size GRO – Multiple Services
Small size Child Placing Agency	Medium size Child Placing Agency	Large size Child Placing Agency

- **What is considered the first subset? What is the criteria for that subset?**

Operations identified as meeting the Court’s definition of a pattern of violations for Heightened Monitoring were grouped into phases based on a risk stratification model. The model included 13 different variables measuring each operation’s recent performance around child safety and quality of services, along with historic rates of abuse and neglect, prior RCCL corrective actions and a history of elevated concerns from DFPS.

- **How is a high rate defined?**

As ordered by the Court, an operation whose violation rate is above the average violation rate for its subgroup in 3 of the last 5 years.

- **Can you review how average calculations for operations was determined for a subset? What was the final formula used in making the decision for the list?**

For each subgroup, the average was determined as follows:

- Sum the total violations for all operations in the sub-category and divide by the sum of licensed capacity/active homes for all operations in the sub-category;
- Multiply the average rate by 10.

- **Are there any plans to review how standards were weighted and determine if changes are needed? The rating for medium through high were not identified with this type of use in mind.**

Child Care Regulation has begun its comprehensive review of minimum standards and is currently accepting stakeholder input on minimum standards that should be deleted, added, or changed. Stakeholders are welcome to provide comments on the weights of the standards.

- **Can you clarify if you are looking at violations for minimum standards that have a weight of medium and above or medium-high and above?**

As ordered by Court, the Heightened Monitoring pattern analysis includes all minimum standards violations that are weighted medium, medium-high, and high.

- **Does this consider RTCs and LOC (e.g., Intense, IPTP, Intense Plus)? Will an IPTP RTC be compared to a Specialized RTC who doesn't work with IPTP?**
 All GROs licensed as an RTC will be included in the RTC category (and then broken into sub-categories based on licensed capacity size) regardless of the level of care of the children placed in the facility.
- **How will violations be grouped to establish a pattern of concern?**
 For each operation in each year, DFPS summed the count of all violations and divided by the operation's licensed capacity for GROs and active homes for CPAs to get a rate and then multiplied that rate by 10. In each year, DFPS then grouped each operation into a sub-category and compared the rate of each operation in each sub-category to the average rate for that sub-category. As ordered by the Court, operations that were above the average rate for their sub-category in 3 of the last 5 years were identified as having a pattern of violations.
- **If an operation was on a plan of action, will that be taken into consideration?**
 As ordered by the court, the methodology does not take into account whether the operation has been or is currently on a plan of action or corrective action. However, this is considered when developing the heightened monitoring plan.
- **Is there any distinction between the weight of the violation?**
 As ordered by the court, all violations included in the analysis of a pattern are weighted equally.
- **What if our RTC was transitioned to an Emergency Shelter? Will they be calculated separately in their subgroups?**
 In each year, every operation was categorized based on their license type and licensed capacity in that year.
- **What if an operation has several licensed facilities under it? Will each licensed facility be reviewed separately, or will all licensed facilities be lumped under the operation?**
 For GROs, each operation that has a license is counted as a separate operation. For CPAs, all violations for all branches are rolled up into an aggregate count.
- **For CPAs, is the operation calculated as a whole "large" or are branch offices calculated separately? Does it matter if the capacity is much larger than 50?**
 For CPAs, the active home count includes active homes in all branches. As ordered by the court, the designation of a "Large" CPA includes any CPA with more than 50 active homes during the year.
- **What is the 5-year date range? Is 2020 data included?**
 At this point – subject to change based on further guidance from the court the 5-year date range includes calendar years 2015-2019. It does not include any data from calendar year 2020.

- Does this only apply to operations that have been in operation for five years or longer? How will operations that have been open less than five years be handled?**

Each operation was included in every year in which it had an active contract with DFPS or a SSCC provider. Any operation that was above the average rate for its sub-category in 3 of the last 5 years was identified as meeting the definition of a pattern of violations.
- How will it be calculated if our capacity changed over the 5 years?**

Capacity is based on the capacity in the applicable calendar year.
- For capacity, how do you calculate the number of licensed foster homes for a CPA?**

Any foster home that was active at any point during the applicable calendar year.
- If issues were occurring three years ago or more and nothing of concern has happened more recently, how is that taken into consideration?**

The heightened monitoring team will consider this in the development of the monitoring plan and will consider improvements made in the past.
- What if any of those violations were previously overturned or are still under administrative review?**

Any violations or confirmed allegations of abuse or neglect that had a status of overturned at the time the data was pulled were not included. Minimum standard violations that are in a “requested” administrative status when the data is pulled are excluded. If a violation that was in “requested” status at the end of the time period is subsequently upheld in a subsequent year, it will be counted when the data is refreshed for each annual run of the pattern analysis.
- What if the home that received the deficiencies is no longer verified by my operation?**

All minimum standards cited during the year are included unless the violation has been overturned or is in a “requested” administrative status at the time the data was pulled. Any applicable violation will be counted in the calculation and the actions taken by the operation, if subject to heightened monitoring, will be taken into account when developing the HM plan.
- If this is a process that is repeated every year, then wouldn't operations get put back on the heightened monitoring after they've already gone through the year of heightened monitoring?**

The list for heightened monitoring is run independently each year meaning facilities are considered regardless of if they were previously on the list.
- When an agency home transfers from one CPA to another, does the new CPA assume the violations associated with the transferring agency home?**

Child Care Regulation issues violation to the CPA, not the agency home. The violations do not transfer to the new CPA.
- Does the heightened monitoring process apply to non DFPS contracted facilities? Is there a difference between facilities with CPS children and privately placed children?**

Generally, operations included in the pattern analysis in each year are primarily those that had an active contract with DFPS or an SSCC provider and were licensed by Residential Child Care Licensing (RCCL) or, for out of state licensed by an RCCL equivalent in their state. CPS as a CPA and any operation an SSCC provider operated directly that RCCL licensed was included in the calculations.

- **If an organization self-reports will this be taken into consideration?**

All minimum standards violations and all contract violations are counted, regardless of how the violation was reported.

Placement Issues/Concerns with Capacity

- **If the placements could be temporarily suspended, has it been considered that in a placement like a shelter that may eventually discharge all children and not be able to accept any new placement? How will such an operation be monitored?**

It is DFPS's hope that this scenario does not happen. DFPS will be monitoring operation capacity throughout this process, as well as maintaining close communication with the members of the HM team to ensure that, as soon as on-going health and safety issues that resulted in a placement suspension are resolved, the placement hold is lifted, and placements may resume. This combination of contact, close monitoring of required changes, and frequent communication should reduce the likelihood of the described scenario. Additional information about how a placement hold is determined and monitored is answered in the next question.

- **Will all operations receive a placement hold? What factors go into making this decision? Any idea how quickly placements will be able to be approved for this group?**

No, not all operations on HM will go on a placement hold. The Court's order does require placements be suspended if there are on-going health and safety concerns. Generally, placement suspensions are short term interventions that are accompanied with additional requirements for remedy and regular communication with placement and contract leadership. Additionally, during a placement suspension, there is increased contact at the placement to provide frequent updates about required changes.

Increased visits and unannounced visits:

- **If we have multiple branch offices under our CPA license, are the weekly unannounced visits to be at each of those locations or would the visits rotate?**

It is reasonable to anticipate unannounced visits could occur at any branch office.

- **What will the unannounced visits be checking weekly?**

Unannounced visits will be utilized to review the Heightened Monitoring Plan with the operation, identify improvements and accomplishments being made, identify areas where the operation may need additional support or technical assistance to be successful, test for completion of tasks outlined in the HM Plan, complete a walkthrough of the facility which may include discussions with staff and children. This may also include ensuring the HM team has the most current information and status of the operation.

- **If we have no violations within the first six months, will the remainder of the year be announced visits?**

The heightened monitoring plan's duration is at least one year and until the operation satisfies the conditions of the plan. In the scenario above where an organization has no violations and is in compliance with the plan within 6 months of implementation, the remainder of the year will consist of assessing continued compliance and conducting both announced and unannounced visits.

- **Is the 3 unannounced visits over 3 months for all facilities?**

This is for any facility that has been released from a heightened monitoring plan.

- **What are the timeframes HHSC or DFPS Staff will be present at a CPA? Ex: how long 8am-5pm? Daily? One a week?**

Unannounced visits conducted by HHSC and DFPS will occur weekly. The length of time may vary **and may occur at any hour of the day or night**. DFPS and HHSC are cognizant that our presence and required tasks do take staff away from their duties and will be mindful of this. Please share this information with your staff so they are not caught off guard when we arrive to your facility.

Miscellaneous Questions:

- **Does DFPS foresee this as the new normal, or is there a termination date for Heightened Monitoring as per the court order?**

The court's order is in effect until we are notified otherwise. Our hope going forward is that we are improving our partnership, improving services to our kids, and not losing quality operations.

- **After receiving formal notification, how long before the FITS team creates the plan?**

We anticipate it will take a couple weeks to develop the Heightened Monitoring Plan, we will then work with the operation to finalize the plan.

- **How does the heightened monitoring differ from what both departments have in place: ie corrective action plans?**

Heightened Monitoring is a multi-agency response as opposed to an independent agency response. Corrective action plans may be used to inform the heightened monitoring plan.

- **Will operations identified for heightened monitoring be subject to a mandated safety plan from the FITS team?**

Not necessarily. Operations will be put on a safety plan if they identify an ongoing concern for safety or health of children.