

# TRANSITION PLAN

## For Complying with the CMS Home- and Community-Based Services Medicaid Rule

### FOR THE STATE OF MONTANA

The CMS-approved Montana transition plan can be found at: <https://www.medicaid.gov/sites/default/files/2023-05/mt-appvd-plan.pdf>

The CMS-approved Montana Corrective Action Plan (CAP) can be found at: <https://www.medicaid.gov/sites/default/files/2023-09/mt-appvd-cap.pdf>

#### SITE-SPECIFIC ASSESSMENTS

*The Centers for Medicare & Medicaid Services (CMS) required states to conduct validated, site-specific assessments of all provider-owned or controlled settings.*

<b>Types of Settings/ Residents and Funding Authorities</b>	<p>The Montana Department of Public Health and Human Services Senior and Long Term (SLTC) Division and the Behavioral Health and Developmental Disabilities (BHDD) Division operate three HCBS waivers:</p> <ul style="list-style-type: none"><li>• Waiver for Severe and Disabling Mental Illness (SDMI)</li><li>• Individuals with Developmental Disabilities Waiver (DD)</li><li>• Montana Big Sky Waiver (Aged, Blind, Physically Disabled)</li></ul> <p>Waiver settings: Adult Foster Care Homes, Assisted Living Facilities, Group Homes, Residential Habilitation, Supported Employment, Supported Living and Vocational Services, Adult Day Health, Day Habilitation and Day Supports</p>
<b>Compliant/Non-Compliant</b>	<p><u>Developmental Disabilities Waiver:</u></p> <p>Total number of provider settings presumed fully compliant with HCBS characteristics:</p> <ul style="list-style-type: none"><li>• Day supports: 5</li><li>• Vocational: 38</li><li>• Group home: 73</li><li>• Supported living: 26</li><li>• Assisted living: 1</li></ul> <p>Total number of provider settings who do not comply, but could with modifications:</p> <ul style="list-style-type: none"><li>• Day supports: 8</li><li>• Vocational: 7</li><li>• Group home: 48</li><li>• Supported living: 10</li><li>• Assisted living: 0</li></ul> <p>No settings found that do not and cannot meet HCBS characteristics.</p>

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	<p><u>Big Sky Waiver:</u></p> <p>Total number of provider settings presumed fully compliant with HCBS characteristics:</p> <ul style="list-style-type: none"> <li>• Day supports: 7</li> <li>• Supported employment: 4</li> <li>• Supported living: 2</li> <li>• Assisted living: 165</li> <li>• Adult foster care homes: 2</li> </ul> <p>No provider settings who do not comply but could with modifications.</p> <p>Settings requiring heightened scrutiny: 5 assisted living</p> <p>Settings where heightened scrutiny assessment found provider was community based: 5 assisted living</p> <p><u>SDMI Waiver*</u></p> <p>*The Big Sky Waiver and the SDMI Waiver share certain providers and settings. All shared settings included in the Big Sky Waiver counts only to avoid duplication.</p> <p>Total number of provider settings presumed fully compliant with HCBS characteristics:</p> <ul style="list-style-type: none"> <li>• Group homes: 24</li> <li>• Adult foster care homes: 2</li> </ul> <p>No provider settings who do not comply but could with modifications.</p> <p>No settings found that do not and cannot meet HCBS characteristics.</p> <p><b>NOTE:</b> Montana received approval of its corrective action plan (CAP) on September 15, 2023. The CAP provides updated timeframes for completion of site-specific assessments and the heightened scrutiny review process. Therefore, setting classifications in the STP may be out of date. The updated CAP sets November 30, 2023 as the date for completion of reassessments and revalidations of providers with state-level corrective action plans. The state was set to post for public comment presumptively institutional settings by September 30, 2023, and will submit the list to CMS by November 15, 2023. According to the CAP, the state will address heightened scrutiny findings within 6 months of the date CMS issues heightened scrutiny findings.</p>
<p><b>Reasons for Non-Compliance</b></p>	<p>Specific reasons for non-compliance were not included in the summary report.</p>
<p><b>Transition plans</b></p>	<p>DPHHS completed a comprehensive review of the state standards governing HCBS services in the Montana Medicaid program. The program managers identified potential changes necessary for compliance with the HCBS requirements. Each state standard was documented as met, partially met, silent, or did not meet. DPHHS reviewed potential resolution options for improved alignment of the Medicaid policy and State licensing rules with the HCBS Settings Final Rule. On a provider level, DPHHS drafted a provider self-</p>

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	<p>assessment (PSA) tool to estimate a provider’s level of compliance. Providers were required to complete self-assessments for each discrete setting operated by the provider. Once a setting completes the Provider Self-Assessment, the document is returned for initial desk-level review. The department completes Montana’s Validation Tool with the provider by method of telephone conversations, e-mail communications, video calls (if technology allows), and photographic evidence. Last, the department will also engage several resources to include, at a minimum, case management teams, program officers/managers, and advocates. All provider settings, regardless of level of compliance, are included in the ongoing person-centered planning, member feedback, and monitoring processes the HCBS settings criteria is being monitored for. If a setting was identified as requiring heightened scrutiny, DPHHS requested additional information from the provider such as setting photographs, descriptions of surrounding areas, and community integration efforts. For settings not found in compliance, the provider will be required to submit a corrective action plan to DPHHS that describes the steps to be taken and expected timelines to achieve compliance. Technical assistance will be provided via telephone calls, letters, and other methods as appropriate to ensure setting comes into compliance. Should the setting not comply, assistance will be given to residents and participants to ensure a successful transition to a setting in compliance.</p>
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**SETTINGS PRESUMED INSTITUTIONAL**

*CMS presumes some settings have qualities that are institutional or isolating in nature. These settings must go through a heightened scrutiny review by CMS.*

*CMS presumes the following types of settings have institutional or isolating qualities:*

- Category 1: Located in a hospital, nursing facility, or other institutional setting.
- Category 2: Located adjacent to a public hospital, nursing facility, or other institutional setting.
- Category 3: Have the effect of isolating people from the broader community.

<p><b>% Presumed Institutional (No. of Residents Affected)</b></p>	<p>13 settings were initially identified as meeting one or more of the criteria above. After additional research was performed by DPHHS staff, the number of settings presumptively institutional and requiring a Heightened Scrutiny evaluation decreased to 5.</p> <p><b>NOTE:</b> Montana received approval of its corrective action plan (CAP) on September 15, 2023. The CAP provides updated timeframes for completion of site-specific assessments and the heightened scrutiny review process. Therefore, setting classifications in the STP may be out of date. The state was set to post for public comment presumptively institutional settings by September 30, 2023, and will submit the list to CMS by November 15, 2023. According to the CAP, the state will address heightened scrutiny findings within 6 months of the date CMS issues heightened scrutiny findings.</p>
<p><b>Type of Setting/Residents</b></p>	<p>The five settings are located in a building that is also a publicly or privately operated facility that provides institutional care.</p>

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<p><b>Reason for Presumption</b></p>	<p>All 5 settings reside in a building that is also a publicly or privately operated facility that provides institutional care, but have been determined by Montana to meet the settings standards for HCB Services.</p>
<p><b>Heightened Scrutiny Process</b></p>	<p>Prior to making a final referral to CMS for heightened scrutiny, DMH and/or DHSS will:</p> <ul style="list-style-type: none"> <li>• Convene a review team of state staff and stakeholders to validate if a setting is presumed to have institutional qualities.</li> <li>• Decisions whether a setting would move forward or come off the potential heightened scrutiny case list were made by a subject matter expert (SME) team and required unanimous agreement.</li> <li>• If the setting was identified as requiring heightened scrutiny, the Department can required additional information to make determination.</li> <li>• If the state determines the setting passes the heightened scrutiny evaluation and is a HCBS setting, DPHHS will submit the package for CMS review.</li> </ul>

**NON-COMPLIANCE COMMUNICATION**

*States must describe their process for notifying residents when a setting is unwilling or unable to comply with the rule, and supporting residents to select and transition to a new setting.*

<p><b>% Cannot/Will Not Comply (No. of Residents Affected)</b></p>	<p>As of November 2022, all providers identified and unable to comply by the close of the transition period have discontinued service. Therefore, Montana has no members estimated to need a transition plan at this time.</p>
<p><b>Type of Setting/Residents</b></p>	<p>N/A</p>
<p><b>Reason for Determination</b></p>	<p>N/A</p>
<p><b>Communication Strategy</b></p>	<p>If needed, DPHHS will issue letters via certified mail notifying people who receive services, legal representatives, and providers of a setting’s anticipated inability to meet compliance 120 days before an expected transition.</p>
<p><b>Assistance to Residents?</b></p>	<ul style="list-style-type: none"> <li>• The notices will include contact information for the HBCS Program, the LTC Ombudsman Office, the HCBS transition website and the HCBS specific email box.</li> <li>• The HCBS case manager will facilitate team transition planning for affected people using Person-Centered Planning.</li> <li>• Information on alternative services and setting choices, including non-disability specific settings be provided to the member.</li> <li>• A priority of the member transition plan process will be providing sufficient communication and support to the member.</li> <li>• Transition team will work with members and newly selected setting support staff to assure that critical services/supports are in place in advance of the individual's transition.</li> <li>• DPHHS will issue a second notice via email and certified mail, no later than 60 days before the transition to notify: The provider of the</li> </ul>

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	<p>intent to transition people from their current service(s) and/or setting.</p> <ul style="list-style-type: none"> <li>• The HCBS program will provide each member and their legal representatives appeal rights information.</li> <li>• Members are transitioned to compliant settings and services of their choosing.</li> </ul>
<p><b>ONGOING MONITORING</b></p>	
<p><b>Monitoring Procedures [done]</b></p>	<p>Strategies to ensure ongoing compliance will include:</p> <ul style="list-style-type: none"> <li>• HCBS Program Officers and HCBS Case Management Teams provide oversight of member health and safety, community integration and member satisfaction on an ongoing basis and in response to critical incidents. Potential HCBS Setting compliance risks will be noted as part of the visit documentation. These monitoring notes will be followed up on by HCBS program officers and may lead to an increase site risk assessment.</li> <li>• Member communications will be evaluated by HCBS officers for indications of potential HCBS Setting non-compliance.</li> <li>• Licensure Bureau staff will monitor for potential HCBS compliance risks during referral, complaint, or other credible evidence investigations.</li> </ul>
<p><b>Quality Assurance Measures</b></p>	<p>Quality Assurance monitoring methodologies will incorporate the addition of monitoring performance measures that ensure compliance with HCBS Settings Rule.</p>